(129th General Assembly)
(Amended Substitute House Bill Number 153)

AN ACT

To amend sections 7.10, 7.11, 7.12, 9.06, 9.231, 9.24, 9.33, 9.331, 9.332, 9.333, 9.82, 9.823, 9.833, 9.90, 9.901, 101.532, 101.82, 102.02, 105.41, 107.09, 109.36, 109.43, 109.57, 109.572, 109.64, 109.71, 109.801, 111.12, 111.16, 111.18, 117.101, 117.13, 118.023, 118.04, 118.05, 118.06, 118.12, 118.17, 118.99, 119.032, 120.40, 121.03, 121.04, 121.22, 121.37, 121.40, 121.401, 121.402, 121.403, 121.404, 122.121, 122.171, 122.76, 122.861, 123.01, 123.011, 123.10, 124.09, 124.23, 124.231, 124.24, 124.25, 124.26, 124.27, 124.31, 124.34, 124.393, 124.85, 125.021, 125.15, 125.18, 125.28, 125.89, 126.11, 126.12, 126.21, 126.24, 126.45, 126.46, 126.50, 127.14, 127.16, 131.02, 131.23, 131.44, 131.51, 133.01, 133.06, 133.09, 133.18, 133.20, 133.55, 135.05, 135.61, 135.65, 135.66, 145.27, 145.56, 149.01, 149.091, 149.11, 149.311, 149.351, 149.38, 149.39, 149.41, 149.411, 149.412, 149.42, 149.43, 153.01, 153.02, 153.03, 153.07, 153.08, 153.50, 153.51, 153.52, 153.54, 153.56, 153.581, 153.65, 153.66, 153.67, 153.69, 153.70, 153.71, 153.80, 154.02, 154.07, 154.11, 166.02, 173.14, 173.21, 173.26, 173.35, 173.351, 173.36, 173.391, 173.40, 173.401, 173.403, 173.404, 173.42, 173.45, 173.46, 173.47, 173.48, 173.501, 183.30, 183.51, 185.01, 185.03, 185.06, 185.10, 187.01, 187.02, 187.03, 187.09, 301.02, 301.15, 301.28, 305.171, 306.35, 306.43, 306.70, 307.022, 307.041, 307.10, 307.12, 307.676, 307.70, 307.79, 307.791, 307.80, 307.801, 307.802, 307.803, 307.806, 307.81, 307.82, 307.83, 307.84, 307.842,

307.843, 307.846, 307.86, 308.13, 311.29, 311.31, 317.20, 319.11, 319.301, 319.54, 321.18, 321.261, 322.02, 322.021, 323.08, 323.73, 323.75, 324.02, 324.021, 325.20, 340.02, 340.03, 340.05, 340.091, 340.11, 341.192, 343.08, 345.03, 349.03, 501.07, 503.05, 503.162, 503.41, 504.02, 504.03, 504.12, 504.16, 504.21, 505.101, 505.105, 505.106, 505.107, 505.108, 505.109, 505.17, 505.172, 505.24, 505.264, 505.267, 505.28, 505.373, 505.43, 505.48, 505.481, 505.49, 505.491, 505.492, 505.493, 505.494, 505.495, 505.50, 505.51, 505.511, 505.52, 505.53, 505.54, 505.541, 505.55, 505.60, 505.601, 505.603, 505.61, 505.67, 505.73, 507.09, 509.15, 511.01, 511.12, 511.23, 511.235, 511.236, 511.25, 511.28, 511.34, 513.14, 515.01, 515.04, 515.07, 517.06, 517.12, 517.22, 521.03, 521.05, 705.16, 709.43, 709.44, 711.35, 715.011, 715.47, 718.01, 718.09, 718.10, 719.012, 719.05, 721.03, 721.15, 721.20, 723.07, 727.011, 727.012, 727.08, 727.14, 727.46, 729.08, 729.11, 731.14, 731.141, 731.20, 731.21, 731.211, 731.22, 731.23, 731.24, 731.25, 735.05, 735.20, 737.022, 737.04, 737.041, 737.32, 737.40, 742.41, 745.07, 747.05, 747.11, 747.12, 755.16, 755.29, 755.41, 755.42, 755.43, 759.47, 901.09, 924.52, 927.69, 951.11, 955.011, 955.012, 1309.528, 1327.46, 1327.50, 1327.51, 1327.511, 1327.54, 1327.57, 1327.62, 1327.99, 1329.04, 1329.42, 1332.24, 1345.52, 1345.73, 1501.01, 1501.022, 1501.40, 1503.05, 1503.141, 1505.01, 1505.04, 1505.06, 1505.09, 1505.11, 1505.99, 1506.21, 1509.01, 1509.02, 1509.021, 1509.03, 1509.04, 1509.041, 1509.05, 1509.06, 1509.061, 1509.062, 1509.07, 1509.071, 1509.072, 1509.073, 1509.08, 1509.09, 1509.10, 1509.11, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, 1509.181, 1509.19, 1509.21,

1509.22, 1509.221, 1509.222, 1509.223, 1509.224, 1509.225, 1509.226, 1509.23, 1509.24, 1509.25, 1509.26, 1509.27, 1509.28, 1509.29, 1509.31, 1509.32, 1509.33, 1509.34, 1509.36, 1509.38, 1509.40, 1509.50, 1510.01, 1510.08, 1515.08, 1515.14, 1515.24, 1517.02, 1517.03, 1531.04, 1533.10, 1533.11, 1533.111, 1533.32, 1533.731, 1533.83, 1541.03, 1541.05, 1545.071, 1545.09, 1545.12, 1545.131, 1545.132, 1547.01, 1547.30, 1547.301, 1547.302, 1547.303, 1547.304, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1561.06, 1561.12, 1561.13, 1561.35, 1561.49, 1563.06, 1563.24, 1563.28, 1571.01, 1571.02, 1571.03, 1571.04, 1571.05, 1571.06, 1571.08, 1571.09, 1571.10, 1571.11, 1571.14, 1571.16, 1571.18, 1571.99, 1701.07, 1702.01, 1702.59, 1703.031, 1703.07, 1705.01, 1707.11, 1707.17, 1711.05, 1711.07, 1711.18, 1711.30, 1728.06, 1728.07, 1751.01, 1751.04, 1751.11, 1751.111, 1751.12, 1751.13, 1751.15, 1751.17, 1751.20, 1751.31, 1751.34, 1751.60, 1761.04, 1776.83, 1785.06, 1901.02, 1901.06, 1901.261, 1901.262, 1901.41, 1907.13, 1907.261, 1907.262, 1907.53, 2105.09, 2117.25, 2151.011, 2151.3515, 2151.412, 2151.421, 2151.424, 2151.541, 2152.72, 2301.01, 2301.031, 2303.201, 2305.232, 2317.02, 2317.422, 2329.26, 2335.05, 2335.06, 2501.02, 2503.01, 2744.05, 2901.01, 2903.33, 2917.40, 2919.271, 2929.71, 2935.01, 2935.03, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2945.402, 2949.14, 2981.11, 2981.12, 2981.13, 3109.16, 3111.04, 3113.06, 3119.54, 3121.48, 3123.44, 3123.45, 3123.55, 3123.56, 3123.58, 3123.59, 3123.63, 3301.07, 3301.071, 3301.079, 3301.0710, 3301.0711, 3301.0712, 3301.0714, 3301.16, 3301.162, 3301.70, 3301.921, 3302.02, 3302.031,

3302.032, 3302.04, 3302.05, 3302.07, 3304.181, 3304.182, 3305.08, 3306.12, 3307.20, 3307.31, 3307.41, 3307.64, 3309.22, 3309.41, 3309.48, 3309.51, 3309.66, 3310.02, 3310.03, 3310.05, 3310.08, 3310.41, 3311.05, 3311.054, 3311.056, 3311.06, 3311.19, 3311.21, 3311.213, 3311.214, 3311.29, 3311.50, 3311.52, 3311.53, 3311.73, 3311.76, 3313.29, 3313.372, 3313.41, 3313.46, 3313.482, 3313.533, 3313.55, 3313.603, 3313.61, 3313.611, 3313.612, 3313.614, 3313.64, 3313.642, 3313.6410, 3313.65, 3313.75, 3313.816, 3313.842, 3313.843, 3313.845, 3313.911, 3313.97, 3313.975, 3313.978, 3313.981, 3314.012, 3314.013, 3314.015, 3314.02, 3314.021, 3314.023, 3314.03, 3314.05, 3314.051, 3314.07, 3314.08, 3314.087, 3314.088, 3314.091, 3314.10, 3314.13, 3314.19, 3314.22, 3314.35, 3314.36, 3315.01, 3316.041, 3316.06, 3316.08, 3316.20, 3317.01, 3317.013, 3317.014, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.03, 3317.031, 3317.05, 3317.051, 3317.053, 3317.06, 3317.061, 3317.07, 3317.08, 3317.081, 3317.082, 3317.09, 3317.11, 3317.12, 3317.14, 3317.16, 3317.18, 3317.19, 3317.20, 3317.201, 3318.011, 3318.032, 3318.034, 3318.05, 3318.051, 3318.08, 3318.12, 3318.31, 3318.36, 3318.37, 3318.38, 3318.41, 3318.44, 3319.02, 3319.08, 3319.081, 3319.11, 3319.111, 3319.141, 3319.17, 3319.18, 3319.19, 3319.227, 3319.26, 3319.31, 3319.311, 3319.39, 3319.57, 3319.71, 3323.09, 3323.091, 3323.14, 3323.142, 3323.31, 3324.05, 3325.08, 3326.11, 3326.33, 3326.39, 3327.02, 3327.04, 3327.05, 3329.08, 3331.01, 3333.03, 3333.043, 3333.31, 3333.66, 3333.81, 3333.82, 3333.83, 3333.84, 3333.85, 3333.87, 3333.90, 3334.19, 3345.061, 3345.14,

3349.29, 3353.04, 3354.12, 3354.16, 3355.09, 3357.16, 3365.01, 3365.08, 3375.41, 3381.11, 3501.03, 3501.17, 3505.13, 3506.05, 3701.021, 3701.023, 3701.07, 3701.61, 3701.74, 3701.83, 3702.52, 3702.57, 3702.59, 3704.06, 3704.14, 3705.24, 3709.09, 3709.092, 3709.21, 3717.53, 3719.141, 3719.41, 3721.01, 3721.011, 3721.02, 3721.022, 3721.04, 3721.16, 3721.50, 3721.51, 3721.511, 3721.512, 3721.513, 3721.52, 3721.53, 3721.55, 3721.561, 3721.58, 3722.01, 3722.011, 3722.02, 3722.021, 3722.022, 3722.04, 3722.041, 3722.05, 3722.06, 3722.07, 3722.08, 3722.09, 3722.10, 3722.11, 3722.12, 3722.13, 3722.14, 3722.15, 3722.151, 3722.16, 3722.17, 3722.18, 3733.41, 3733.99, 3734.02, 3734.05, 3734.06, 3734.18, 3734.19, 3734.20, 3734.21, 3734.22, 3734.23, 3734.24, 3734.25, 3734.26, 3734.27, 3734.28, 3734.282, 3734.57, 3734.85, 3734.901, 3735.36, 3735.66, 3737.73, 3737.83, 3737.841, 3737.87, 3737.88, 3743.06, 3743.19, 3743.52, 3743.53, 3743.54, 3743.64, 3745.015, 3745.11, 3746.02, 3750.081, 3767.32, 3769.08, 3769.20, 3769.26, 3770.03, 3770.05, 3772.032, 3772.062, 3781.183, 3791.043, 3793.04, 3793.06, 3793.21, 3901.3814, 3903.01, 3923.28, 3923.281, 3923.30, 3924.10, 3937.41, 3963.01, 3963.11, 4113.11, 4113.61, 4115.03, 4115.033, 4115.034, 4115.04, 4115.05, 4115.10, 4115.101, 4115.13, 4115.16, 4116.01, 4117.01, 4117.03, 4121.03, 4121.12, 4121.121, 4121.125, 4121.128, 4121.44, 4123.27, 4123.341, 4123.342, 4123.35, 4131.03, 4141.08, 4141.11, 4141.33, 4301.12, 4301.43, 4301.62, 4301.80, 4301.81, 4503.06, 4503.235, 4503.70, 4503.93, 4504.02, 4504.021, 4504.15, 4504.16, 4504.18, 4505.181, 4506.071, 4507.111, 4507.164, 4511.191, 4511.193, 4513.39, 4513.60, 4513.61, 4513.62, 4513.63, 4513.64,

4513.66, 4517.01, 4517.02, 4517.04, 4517.09, 4517.10, 4517.12, 4517.13, 4517.14, 4517.23, 4517.24, 4517.44, 4549.17, 4582.12, 4582.31, 4585.10, 4705.021, 4709.13, 4725.34, 4725.48, 4725.50, 4725.52, 4725.57, 4729.52, 4729.552, 4731.054, 4731.15, 4731.16, 4731.17, 4731.171, 4731.19, 4731.222, 4731.65, 4731.71, 4733.15, 4733.151, 4735.01, 4735.02, 4735.03, 4735.05, 4735.052, 4735.06, 4735.07, 4735.09, 4735.10, 4735.13, 4735.14, 4735.141, 4735.142, 4735.15, 4735.16, 4735.17, 4735.18, 4735.181, 4735.182, 4735.19, 4735.20, 4735.21, 4735.211, 4735.32, 4735.55, 4735.58, 4735.59, 4735.62, 4735.68, 4735.71, 4735.74, 4736.12, 4740.14, 4757.31, 4776.01, 4906.01, 4911.02, 4927.17, 4928.20, 4929.26, 4929.27, 4931.40, 4931.51, 4931.52, 4931.53, 5101.16, 5101.181, 5101.182, 5101.183, 5101.244, 5101.26, 5101.27, 5101.271, 5101.272, 5101.28, 5101.30, 5101.341, 5101.342, 5101.35, 5101.37, 5101.46, 5101.47, 5101.571, 5101.573, 5101.58, 5101.60, 5101.61, 5101.98, 5104.01, 5104.011, 5104.012, 5104.013, 5104.03, 5104.04, 5104.05, 5104.13, 5104.30, 5104.32, 5104.34, 5104.341, 5104.35, 5104.37, 5104.38, 5104.39, 5104.42, 5104.43, 5104.99, 5111.011, 5111.012, 5111.013, 5111.0112, 5111.0116, 5111.021, 5111.023, 5111.025, 5111.031, 5111.06, 5111.061, 5111.113, 5111.13, 5111.151, 5111.16, 5111.17, 5111.172, 5111.20, 5111.21, 5111.211, 5111.22, 5111.221, 5111.222, 5111.23, 5111.231, 5111.232, 5111.235, 5111.24, 5111.241, 5111.244, 5111.25, 5111.251, 5111.254, 5111.255, 5111.258, 5111.262, 5111.27, 5111.28, 5111.29, 5111.291, 5111.33, 5111.35, 5111.52, 5111.54, 5111.62, 5111.65, 5111.66, 5111.67, 5111.671, 5111.672, 5111.68, 5111.681, 5111.687, 5111.689, 5111.85, 5111.871,

5111.872, 5111.873, 5111.874, 5111.877, 5111.88, 5111.89, 5111.891, 5111.894, 5111.911, 5111.912, 5111.913, 5111.94, 5111.941, 5111.97, 5112.30, 5112.31, 5112.37, 5112.371, 5112.39, 5112.40, 5112.41, 5112.46, 5112.99, 5119.01, 5119.02, 5119.06, 5119.18, 5119.22, 5119.61, 5119.611, 5119.612, 5119.613, 5119.62, 5119.621, 5119.99, 5120.105, 5120.135, 5120.17, 5120.22, 5120.28, 5120.29, 5122.01, 5122.15, 5122.21, 5122.31, 5123.01, 5123.0412, 5123.0413, 5123.0417, 5123.051, 5123.171, 5123.18, 5123.19, 5123.191, 5123.194, 5123.352, 5123.42, 5123.45, 5123.60, 5126.01, 5126.029, 5126.04, 5126.042, 5126.05, 5126.054, 5126.0510, 5126.0511, 5126.0512, 5126.08, 5126.11, 5126.12, 5126.24, 5126.41, 5126.42, 5139.11, 5139.43, 5310.35, 5501.44, 5501.73, 5502.52, 5502.522, 5502.61, 5502.68, 5505.04, 5505.22, 5525.04, 5540.01, 5540.03, 5540.031, 5540.05, 5543.10, 5549.21, 5552.06, 5553.05, 5553.19, 5553.23, 5553.42, 5555.07, 5555.27, 5555.42, 5559.06, 5559.10, 5559.12, 5561.04, 5561.08, 5571.011, 5573.02, 5573.10, 5575.01, 5575.02, 5591.15, 5593.08, 5701.13, 5703.05, 5703.056, 5703.37, 5703.57, 5703.58, 5705.01, 5705.14, 5705.16, 5705.19, 5705.191, 5705.194, 5705.196, 5705.21, 5705.211, 5705.214, 5705.218, 5705.25, 5705.251, 5705.261, 5705.29, 5705.314, 5705.392, 5705.412, 5705.71, 5707.031, 5709.07, 5709.084, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.82, 5709.83, 5713.01, 5715.17, 5715.23, 5715.26, 5719.04, 5721.01, 5721.03, 5721.04, 5721.18, 5721.19, 5721.30, 5721.31, 5721.32, 5721.37, 5721.38, 5721.42, 5722.13, 5723.05, 5723.18, 5725.151, 5725.24, 5725.98, 5727.57, 5727.75, 5727.84, 5727.85, 5727.86, 5729.98, 5731.02, 5731.19, 5731.21, 5731.39,

5733.0610, 5733.23, 5733.351, 5739.01, 5739.02, 5739.021, 5739.022, 5739.026, 5739.07, 5739.101, 5739.19, 5739.30, 5747.01, 5747.058, 5747.113, 5747.451, 5747.46, 5747.51, 5747.98, 5748.01, 5748.02, 5748.021, 5748.04, 5748.05, 5748.08, 5748.081, 5751.01, 5751.011, 5751.20, 5751.21, 5751.22, 5751.23, 5751.50, 5919.34, 5919.341, 6101.16, 6103.04, 6103.05, 6103.06, 6103.081, 6103.31, 6105.131, 6109.21, 6111.038, 6111.044, 6115.01, 6115.20, 6117.05, 6117.06, 6117.07, 6117.251, 6117.49, 6119.10, 6119.18, 6119.22, 6119.25, and 6119.58; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 124.85 (9.04), 173.35 (5119.69), 173.351 (5119.691), 173.36 (5119.692), 505.481 (505.482), 505.482 (505.481), 3306.12 (3317.0212), 3314.20 (3313.473), 3721.561 (3721.56), 3722.01 (5119.70), 3722.011 (5119.701), 3722.02 (5119.71), 3722.021 (5119.711), 3722.022 (5119.712), 3722.03 (5119.72), 3722.04 (5119.73), 3722.041 (5119.731), 3722.05 (5119.74), 3722.06 (5119.75), 3722.07 (5119.76), 3722.08 (5119.77), 3722.09 (5119.78), 3722.10 (5119.79), 3722.11 (5119.80), 3722.12 (5119.81), 3722.13 (5119.82), 3722.14 (5119.83), 3722.15 (5119.84), 3722.151 (5119.85), 3722.16 (5119.86), 3722.17 (5119.87), 3722.18 (5119.88), 5101.271 (5101.272), 5101.272 (5101.273), 5111.14 (5111.141), 5111.261 (5111.263), 5111.892 (5111.893), 5119.612 (5119.613), and 5119.613 (5119.614); to enact new sections 3314.016, 3319.112, 5101.271, 5111.14, 5111.261, 5111.861, 5111.892, 5119.612, and 5126.18, and sections 7.16, 9.334, 9.335, 9.482, 101.711, 111.181, 111.28, 111.29, 118.025, 118.31, 122.175, 122.86, 123.101,

124.394, 125.182, 125.213, 126.141, 126.60, 126.601, 126.602, 126.603, 126.604, 126.605, 127.162, 127.19, 131.024, 149.308, 149.381, 153.501, 153.502, 153.503, 153.53, 153.55, 153.692, 153.693, 153.694, 153.72, 153.73, 154.24, 154.25, 167.081, 173.41, 187.13, 189.01, 189.02, 189.03, 189.04, 189.05, 189.06, 189.07, 189.08, 189.09, 189.10, 305.23, 306.322, 306.55, 306.551, 307.847, 317.06, 505.483, 505.484, 505.551, 523.01, 523.02, 523.03, 523.04, 523.05, 523.06, 523.07, 709.451, 709.452, 1327.501, 1505.05, 1509.022, 1571.012, 1571.013, 1571.014, 1702.461, 1702.462, 2151.429, 2335.061, 3123.591, 3302.042, 3302.06, 3302.061, 3302.062, 3302.063, 3302.064, 3302.065, 3302.066, 3302.067, 3302.068, 3302.12, 3302.20, 3302.21, 3302.22, 3302.25, 3302.30, 3310.51, 3310.52, 3310.521, 3310.522, 3310.53, 3310.54, 3310.55, 3310.56, 3310.57, 3310.58, 3310.59, 3310.60, 3310.61, 3310.62, 3310.63, 3310.64, 3311.0510, 3313.411, 3313.538, 3313.617, 3313.846, 3313.88, 3314.029, 3314.102, 3314.23, 3317.141, 3318.054, 3318.371, 3318.48, 3318.49, 3318.60, 3318.70, 3319.0810, 3319.228, 3319.229, 3319.58, 3323.052, 3324.08, 3326.111, 3328.01 to 3328.04, 3328.11 to 3328.15, 3328.17 to 3328.19, 3328.191, 3328.192, 3328.193, 3328.20 to 3328.26, 3328.31 to 3328.36, 3328.41, 3328.45, 3328.50, 3328.99, 3333.0411, 3333.43, 3345.023, 3345.54, 3345.55, 3345.81, 3353.15, 3701.0211, 3701.032, 3702.523, 3709.341, 3721.531, 3721.532, 3721.533, 3734.577, 3745.016, 3770.031, 3793.061, 3901.56, 3903.301, 4313.01, 4313.02, 4729.50, 4911.021, 5101.57, 5111.0122, 5111.0123, 5111.0124, 5111.0125, 5111.0212, 5111.0213, 5111.0214, 5111.0215, 5111.035, 5111.051, 5111.052, 5111.053,

5111.054, 5111.063, 5111.086, 5111.161, 5111.1711, 5111.212, 5111.224, 5111.225, 5111.226, 5111.259, 5111.271, 5111.331, 5111.511, 5111.83, 5111.862, 5111.863, 5111.864, 5111.865, 5111.944, 5111.945, 5111.981, 5112.991, 5119.012, 5119.013, 5119.622, 5119.623, 5119.693, 5120.092, 5122.341, 5123.0418, 5123.0419, 5703.059, 5725.34, 5729.17, 5747.81, 5748.09, 6115.321, and 6119.061; and to repeal sections 7.14, 122.0818, 122.452, 126.04, 126.501, 126.502, 126.507, 165.031, 179.01, 179.02, 179.03, 179.04, 181.22, 181.23, 181.24, 181.25, 340.08, 701.04, 1501.031, 1551.13, 3123.52, 3123.61, 3123.612, 3123.613, 3123.614, 3301.82, 3301.922, 3306.01, 3306.011, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3306.11, 3306.13, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.29, 3306.291, 3306.292, 3306.50, 3306.51, 3306.52, 3306.53, 3306.54, 3306.55, 3306.56, 3306.57, 3306.58, 3306.59, 3311.059, 3313.674, 3314.014, 3314.016, 3314.017, 3314.025, 3314.082, 3314.085, 3314.11, 3314.111, 3317.011, 3317.016, 3317.017, 3317.0216, 3317.04, 3317.17, 3319.112, 3319.62, 3329.16, 3335.45, 3349.242, 3706.042, 3721.56, 3722.99, 3733.21, 3733.22, 3733.23, 3733.24, 3733.25, 3733.26, 3733.27, 3733.28, 3733.29, 3733.30, 3923.90, 3923.91, 4115.032, 4121.75, 4121.76, 4121.77, 4121.78, 4121.79, 4582.37, 4731.18, 4981.23, 5101.5211, 5101.5212, 5101.5213, 5101.5214, 5101.5215, 5101.5216, 5111.243, 5111.34, 5111.861, 5111.893, 5111.971, 5122.36, 5123.172, 5123.181, 5123.193, 5123.211, 5126.18, and 5126.19 of the Revised Code; to amend Section 5 of Am. Sub. H.B. 1 of the

129th General Assembly, Section 205.10 of Am. Sub. H.B. 114 of the 129th General Assembly, Section 211 of Sub. H.B. 123 of the 129th General Assembly, Section 5 of Am. Sub. S.B. 2 of the 129th General Assembly, Sections 125.10 and 753.60 of Am. Sub. H.B. 1 of the 128th General Assembly, Section 105.20 of Sub. H.B. 462 of the 128th General Assembly, Section 105.45.70 of Sub. H.B. 462 of the 128th General Assembly, as subsequently amended, Section 6 of Am. Sub. S.B. 124 of the 128th General Assembly, Section 5 of Sub. S.B. 162 of the 128th General Assembly, Section 5 of Sub. H.B. 125 of the 127th General Assembly, as subsequently amended, and Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently amended; to repeal Section 6 of Sub. S.B. 162 of the 128th General Assembly and Section 5 of Sub. H.B. 2 of the 127th General Assembly; to amend the versions of sections 3721.16, 5122.01, 5122.31, 5123.19, 5123.191, and 5123.60 of the Revised Code that result from Section 101.01 of this act and to amend sections 5111.709, 5119.221, 5122.02, 5122.27, 5122.271, 5122.29, 5122.32, 5123.092, 5123.35, 5123.61, 5123.63, 5123.64, 5123.69, 5123.701, 5123.86, 5123.99, and 5126.33, to amend section 5123.60 (5123.601) for the purpose of adopting a new section number as indicated in parentheses, to enact new sections 5123.60 and 5123.602, and to repeal sections 5123.601, 5123.602, 5123.603, 5123.604, and 5123.605 of the Revised Code on October 1, 2012; to make operating appropriations for the biennium beginning July 1, 2011, and ending June 30, 2013; and to provide authorization and conditions for the operation of programs, including reforms for the efficient and

effective operation of state and local government.

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

SECTION 101.01. That sections 7.10, 7.11, 7.12, 9.06, 9.231, 9.24, 9.33, 9.331, 9.332, 9.333, 9.82, 9.823, 9.833, 9.90, 9.901, 101.532, 101.82, 102.02, 105.41, 107.09, 109.36, 109.43, 109.57, 109.572, 109.64, 109.71, 109.801, 111.12, 111.16, 111.18, 117.101, 117.13, 118.023, 118.04, 118.05, 118.06, 118.12, 118.17, 118.99, 119.032, 120.40, 121.03, 121.04, 121.22, 121.37, 121.40, 121.401, 121.402, 121.403, 121.404, 122.121, 122.171, 122.76, 122.861, 123.01, 123.011, 123.10, 124.09, 124.23, 124.231, 124.24, 124.25, 124.26, 124.27, 124.31, 124.34, 124.393, 124.85, 125.021, 125.15, 125.18, 125.28, 125.89, 126.11 126.12, 126.21, 126.24, 126.45, 126.46, 126.50, 127.14, 127.16, 131.02, 131.23, 131.44, 131.51, 133.01, 133.06, 133.09, 133.18, 133.20, 133.55, 135.05, 135.61, 135.65, 135.66, 145.27, 145.56, 149.01, 149.091, 149.11, 149.311, 149.351, 149.38, 149.39, 149.41, 149.411, 149.412, 149.42, 149.43, 153.01, 153.02, 153.03, 153.07, 153.08, 153.50, 153.51, 153.52, 153.54, 153.56, 153.581, 153.65, 153.66, 153.67, 153.69, 153.70, 153.71, 153.80, 154.02, 154.07, 154.11, 166.02, 173.14, 173.21, 173.26, 173.35, 173.351, 173.36, 173.391, 173.40, 173.401, 173.403, 173.404, 173.42, 173.45, 173.46, 173.47, 173.48, 173.501, 183.30, 183.51, 185.01, 185.03, 185.06, 185.10, 187.01, 187.02, 187.03, 187.09, 301.02, 301.15, 301.28, 305.171, 306.35, 306.43, 306.70, 307.022, 307.041, 307.10, 307.12, 307.676, 307.70, 307.79, 307.791, 307.80, 307.801, 307.802, 307.803, 307.806, 307.81, 307.82, 307.83, 307.84, 307.842, 307.843, 307.846, 307.86, 308.13, 311.29, 311.31, 317.20, 319.11, 319.301, 319.54, 321.18, 321.261, 322.02, 322.021, 323.08, 323.73, 323.75, 324.02, 324.021, 325.20, 340.02, 340.03, 340.05, 340.091, 340.11, 341.192, 343.08, 345.03, 349.03, 501.07, 503.05, 503.162, 503.41, 504.02, 504.03, 504.12, 504.16, 504.21, 505.101, 505.105, 505.106, 505.107, 505.108, 505.109, 505.17, 505.172, 505.24, 505.264, 505.267, 505.28, 505.373, 505.43, 505.48, 505.481, 505.49, 505.491, 505.492, 505.493, 505.494, 505.495, 505.50, 505.51, 505.511, 505.52, 505.53, 505.54, 505.541, 505.55, 505.60, 505.601, 505.603, 505.61, 505.67, 505.73, 507.09, 509.15, 511.01, 511.12, 511.23, 511.235, 511.236, 511.25, 511.28, 511.34, 513.14, 515.01, 515.04, 515.07, 517.06, 517.12, 517.22, 521.03, 521.05, 705.16, 709.43, 709.44, 711.35, 715.011, 715.47, 718.01, 718.09, 718.10, 719.012, 719.05, 721.03, 721.15, 721.20, 723.07, 727.011, 727.012, 727.08, 727.14, 727.46, 729.08, 729.11, 731.14, 731.141, 731.20, 731.21, 731.211, 731.22, 731.23, 731.24,

731.25, 735.05, 735.20, 737.022, 737.04, 737.041, 737.32, 737.40, 742.41, 745.07, 747.05, 747.11, 747.12, 755.16, 755.29, 755.41, 755.42, 755.43, 759.47, 901.09, 924.52, 927.69, 951.11, 955.011, 955.012, 1309.528, 1327.46, 1327.50, 1327.51, 1327.511, 1327.54, 1327.57, 1327.62, 1327.99, 1329.04, 1329.42, 1332.24, 1345.52, 1345.73, 1501.01, 1501.022, 1501.40, 1503.05, 1503.141, 1505.01, 1505.04, 1505.06, 1505.09, 1505.11, 1505.99, 1506.21, 1509.01, 1509.02, 1509.021, 1509.03, 1509.04, 1509.041, 1509.05, 1509.06, 1509.061, 1509.062, 1509.07, 1509.071, 1509.072, 1509.073, 1509.08, 1509.09, 1509.10, 1509.11, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, 1509.181, 1509.19, 1509.21, 1509.22, 1509.221, 1509.222, 1509.223, 1509.224, 1509.225, 1509.226, 1509.23, 1509.24, 1509.25, 1509.26, 1509.27, 1509.28, 1509.29, 1509.31, 1509.32, 1509.33, 1509.34, 1509.36, 1509.38, 1509.40, 1509.50, 1510.01, 1510.08, 1515.08, 1515.14, 1515.24, 1517.02, 1517.03, 1531.04, 1533.10, 1533.11, 1533.111, 1533.32, 1533.731, 1533.83, 1541.03, 1541.05, 1545.071, 1545.09, 1545.12, 1545.131, 1545.132, 1547.01, 1547.30, 1547.301, 1547.302, 1547.303, 1547.304, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1561.06, 1561.12, 1561.13, 1561.35, 1561.49, 1563.06, 1563.24, 1563.28, 1571.01, 1571.02, 1571.03, 1571.04, 1571.05, 1571.06, 1571.08, 1571.09, 1571.10, 1571.11, 1571.14, 1571.16, 1571.18, 1571.99, 1701.07, 1702.01, 1702.59, 1703.031, 1703.07, 1705.01, 1707.11, 1707.17, 1711.05, 1711.07, 1711.18, 1711.30, 1728.06, 1728.07, 1751.01, 1751.04, 1751.11, 1751.111, 1751.12, 1751.13, 1751.15, 1751.17, 1751.20, 1751.31, 1751.34, 1751.60, 1761.04, 1776.83, 1785.06, 1901.02, 1901.06, 1901.261, 1901.262, 1901.41, 1907.13, 1907.261, 1907.262, 1907.53, 2105.09, 2117.25, 2151.011, 2151.3515, 2151.412, 2151.421, 2151.424, 2151.541, 2152.72, 2301.01, 2301.031, 2303.201, 2305.232, 2317.02, 2317.422, 2329.26, 2335.05, 2335.06, 2501.02, 2503.01, 2744.05, 2901.01, 2903.33, 2917.40, 2919.271, 2929.71, 2935.01, 2935.03, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2945.402, 2949.14, 2981.11, 2981.12, 2981.13, 3109.16, 3111.04, 3113.06, 3119.54, 3121.48, 3123.44, 3123.45, 3123.55, 3123.56, 3123.58, 3123.59, 3123.63, 3301.07, 3301.071, 3301.079, 3301.0710, 3301.0711, 3301.0712, 3301.0714, 3301.16, 3301.162, 3301.70, 3301.921, 3302.02, 3302.031, 3302.032, 3302.04, 3302.05, 3302.07, 3304.181, 3304.182, 3305.08, 3306.12, 3307.20, 3307.31, 3307.41, 3307.64, 3309.22, 3309.41, 3309.48, 3309.51, 3309.66, 3310.02, 3310.03, 3310.05, 3310.08, 3310.41, 3311.05, 3311.054, 3311.056, 3311.06, 3311.19, 3311.21, 3311.213, 3311.214, 3311.29, 3311.50, 3311.52, 3311.53, 3311.73, 3311.76, 3313.29, 3313.372, 3313.41, 3313.46, 3313.482, 3313.533, 3313.55,

3313.603, 3313.61, 3313.611, 3313.612, 3313.614, 3313.64, 3313.642, 3313.6410, 3313.65, 3313.75, 3313.816, 3313.842, 3313.843, 3313.845, 3313.911, 3313.97, 3313.975, 3313.978, 3313.981, 3314.012, 3314.013, 3314.015, 3314.02, 3314.021, 3314.023, 3314.03, 3314.05, 3314.051, 3314.07, 3314.08, 3314.087, 3314.088, 3314.091, 3314.10, 3314.13, 3314.19, 3314.22, 3314.35, 3314.36, 3315.01, 3316.041, 3316.06, 3316.08, 3316.20, 3317.01, 3317.013, 3317.014, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.03, 3317.031, 3317.05, 3317.051, 3317.053, 3317.06, 3317.061, 3317.07, 3317.08, 3317.081, 3317.082, 3317.09, 3317.11, 3317.12, 3317.14, 3317.16, 3317.18, 3317.19, 3317.20, 3317.201, 3318.011, 3318.032, 3318.034, 3318.05, 3318.051, 3318.08, 3318.12, 3318.31, 3318.36, 3318.37, 3318.38, 3318.41, 3318.44, 3319.02, 3319.08, 3319.081, 3319.11, 3319.111, 3319.141, 3319.17, 3319.18, 3319.19, 3319.227, 3319.26, 3319.31, 3319.311, 3319.39, 3319.57, 3319.71, 3323.09, 3323.091, 3323.14, 3323.142, 3323.31, 3324.05, 3325.08, 3326.11, 3326.33, 3326.39, 3327.02, 3327.04, 3327.05, 3329.08, 3331.01, 3333.03, 3333.043, 3333.31, 3333.66, 3333.81, 3333.82, 3333.83, 3333.84, 3333.85, 3333.87, 3333.90, 3334.19, 3345.061, 3345.14, 3349.29, 3353.04, 3354.12, 3354.16, 3355.09, 3357.16, 3365.01, 3365.08, 3375.41, 3381.11, 3501.03, 3501.17, 3505.13, 3506.05, 3701.021, 3701.023, 3701.07, 3701.61, 3701.74, 3701.83, 3702.52, 3702.57, 3702.59, 3704.06, 3704.14, 3705.24, 3709.09, 3709.092, 3709.21, 3717.53, 3719.141, 3719.41, 3721.01, 3721.011, 3721.02, 3721.022, 3721.04, 3721.16, 3721.50, 3721.51, 3721.511, 3721.512, 3721.513, 3721.52, 3721.53, 3721.55, 3721.561, 3721.58, 3722.01, 3722.011, 3722.02, 3722.021, 3722.022, 3722.04, 3722.041, 3722.05, 3722.06, 3722.07, 3722.08, 3722.09, 3722.10, 3722.11, 3722.12, 3722.13, 3722.14, 3722.15, 3722.151, 3722.16, 3722.17, 3722.18, 3733.41, 3733.99, 3734.02, 3734.05, 3734.06, 3734.18, 3734.19, 3734.20, 3734.21, 3734.22, 3734.23, 3734.24, 3734.25, 3734.26, 3734.27, 3734.28, 3734.282, 3734.57, 3734.85, 3734.901, 3735.36, 3735.66, 3737.73, 3737.83, 3737.841, 3737.87, 3737.88, 3743.06, 3743.19, 3743.52, 3743.53, 3743.54, 3743.64, 3745.015, 3745.11, 3746.02, 3750.081, 3767.32, 3769.08, 3769.20, 3769.26, 3770.03, 3770.05, 3772.032, 3772.062, 3781.183, 3791.043, 3793.04, 3793.06, 3793.21, 3901.3814, 3903.01, 3923.28, 3923.281, 3923.30, 3924.10, 3937.41, 3963.01, 3963.11, 4113.11, 4113.61, 4115.03, 4115.033, 4115.034, 4115.04, 4115.05, 4115.10, 4115.101, 4115.13, 4115.16, 4116.01, 4117.01, 4117.03, 4121.03, 4121.12, 4121.121, 4121.125, 4121.128, 4121.44, 4123.27, 4123.341, 4123.342, 4123.35, 4131.03, 4141.08, 4141.11, 4141.33, 4301.12, 4301.43, 4301.62,

4301.80, 4301.81, 4503.06, 4503.235, 4503.70, 4503.93, 4504.02, 4504.021, 4504.15, 4504.16, 4504.18, 4505.181, 4506.071, 4507.111, 4507.164, 4511.191, 4511.193, 4513.39, 4513.60, 4513.61, 4513.62, 4513.63, 4513.64, 4513.66, 4517.01, 4517.02, 4517.04, 4517.09, 4517.10, 4517.12, 4517.13, 4517.14, 4517.23, 4517.24, 4517.44, 4549.17, 4582.12, 4582.31, 4585.10, 4705.021, 4709.13, 4725.34, 4725.48, 4725.50, 4725.52, 4725.57, 4729.52, 4729.552, 4731.054, 4731.15, 4731.16, 4731.17, 4731.171, 4731.19, 4731.222, 4731.65, 4731.71, 4733.15, 4733.151, 4735.01, 4735.02, 4735.03, 4735.05, 4735.052, 4735.06, 4735.07, 4735.09, 4735.10, 4735.13, 4735.14, 4735.141, 4735.142, 4735.15, 4735.16, 4735.17, 4735.18, 4735.181, 4735.182, 4735.19, 4735.20, 4735.21, 4735.211, 4735.32, 4735.55, 4735.58, 4735.59, 4735.62, 4735.68, 4735.71, 4735.74, 4736.12, 4740.14, 4757.31, 4776.01, 4906.01, 4911.02, 4927.17, 4928.20, 4929.26, 4929.27, 4931.40, 4931.51, 4931.52, 4931.53, 5101.16, 5101.181, 5101.182, 5101.183, 5101.244, 5101.26, 5101.27, 5101.271, 5101.272, 5101.28, 5101.30, 5101.341, 5101.342, 5101.35, 5101.37, 5101.46, 5101.47, 5101.571, 5101.573, 5101.58, 5101.60, 5101.61, 5101.98, 5104.01, 5104.011, 5104.012, 5104.013, 5104.03, 5104.04, 5104.05, 5104.13, 5104.30, 5104.32, 5104.34, 5104.341, 5104.35, 5104.37, 5104.38, 5104.39, 5104.42, 5104.43, 5104.99, 5111.011, 5111.012, 5111.013, 5111.0112, 5111.0116, 5111.021, 5111.023, 5111.025, 5111.031, 5111.06, 5111.061, 5111.113, 5111.13, 5111.151, 5111.16, 5111.17, 5111.172, 5111.20, 5111.21, 5111.211, 5111.22, 5111.221, 5111.222, 5111.23, 5111.231, 5111.232, 5111.235, 5111.24, 5111.241, 5111.244, 5111.25, 5111.251, 5111.254, 5111.255, 5111.258, 5111.262, 5111.27, 5111.28, 5111.29, 5111.291, 5111.33, 5111.35, 5111.52, 5111.54, 5111.62, 5111.65, 5111.66, 5111.67, 5111.671, 5111.672, 5111.68, 5111.681, 5111.687, 5111.689, 5111.85, 5111.871, 5111.872, 5111.873, 5111.874, 5111.877, 5111.88, 5111.89, 5111.891, 5111.894, 5111.911, 5111.912, 5111.913, 5111.94, 5111.941, 5111.97, 5112.30, 5112.31, 5112.37, 5112.371, 5112.39, 5112.40, 5112.41, 5112.46, 5112.99, 5119.01, 5119.02, 5119.06, 5119.18, 5119.22, 5119.61, 5119.611, 5119.613, 5119.62, 5119.621, 5119.99, 5120.105, 5120.135, 5120.17, 5120.22, 5120.28, 5120.29, 5122.01, 5122.15, 5122.21, 5122.31, 5123.01, 5123.0412, 5123.0413, 5123.0417, 5123.051, 5123.171, 5123.18, 5123.19, 5123.191, 5123.194, 5123.352, 5123.42, 5123.45, 5123.60, 5126.01, 5126.029, 5126.04, 5126.042, 5126.05, 5126.054, 5126.0510, 5126.0511, 5126.0512, 5126.08, 5126.11, 5126.12, 5126.24, 5126.41, 5126.42, 5139.11, 5139.43, 5310.35, 5501.44, 5501.73, 5502.52, 5502.522, 5502.61, 5502.68, 5505.04, 5505.22, 5525.04, 5540.01, 5540.03, 5540.031, 5540.05, 5543.10,

5549.21, 5552.06, 5553.05, 5553.19, 5553.23, 5553.42, 5555.07, 5555.27, 5555.42, 5559.06, 5559.10, 5559.12, 5561.04, 5561.08, 5571.011, 5573.02, 5573.10, 5575.01, 5575.02, 5591.15, 5593.08, 5701.13, 5703.05, 5703.056, 5703.37, 5703.57, 5703.58, 5705.01, 5705.14, 5705.16, 5705.19, 5705.191, 5705.194, 5705.196, 5705.21, 5705.211, 5705.214, 5705.218, 5705.25, 5705.251, 5705.261, 5705.29, 5705.314, 5705.392, 5705.412, 5705.71, 5707.031, 5709.07, 5709.084, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.82, 5709.83, 5713.01, 5715.17, 5715.23, 5715.26, 5719.04, 5721.01, 5721.03, 5721.04, 5721.18, 5721.19, 5721.30, 5721.31, 5721.32, 5721.37, 5721.38, 5721.42, 5722.13, 5723.05, 5723.18, 5725.151, 5725.24, 5725.98, 5727.57, 5727.75, 5727.84, 5727.85, 5727.86, 5729.98, 5731.02, 5731.19, 5731.21, 5731.39, 5733.0610, 5733.23, 5733.351, 5739.01, 5739.02, 5739.021, 5739.022, 5739.026, 5739.07, 5739.101, 5739.19, 5739.30, 5747.01, 5747.058, 5747.113, 5747.451, 5747.46, 5747.51, 5747.98, 5748.01, 5748.02, 5748.021, 5748.04, 5748.05, 5748.08, 5748.081, 5751.01, 5751.011, 5751.20, 5751.21, 5751.22, 5751.23, 5751.50, 5919.34, 5919.341, 6101.16, 6103.04, 6103.05, 6103.06, 6103.081, 6103.31, 6105.131, 6109.21, 6111.038, 6111.044, 6115.01, 6115.20, 6117.05, 6117.06, 6117.07, 6117.251, 6117.49, 6119.10, 6119.18, 6119.22, 6119.25, and 6119.58 be amended; sections 124.85 (9.04), 173.35 (5119.69), 173.351 (5119.691), 173.36 (5119.692), 505.481 (505.482), 505.482 (505.481), 3306.12 (3317.0212), 3314.20 (3313.473), 3721.561 (3721.56), 3722.01 (5119.70), 3722.011 (5119.701), 3722.02 (5119.71), 3722.021 (5119.711), 3722.022 (5119.712), 3722.03 (5119.72), 3722.04 (5119.73), 3722.041 (5119.731), 3722.05 (5119.74), 3722.06 (5119.75), 3722.07 (5119.76), 3722.08 (5119.77), 3722.09 (5119.78), 3722.10 (5119.79), 3722.11 (5119.80), 3722.12 (5119.81), 3722.13 (5119.82), 3722.14 (5119.83), 3722.15 (5119.84), 3722.151 (5119.85), 3722.16 (5119.86), 3722.17 (5119.87), 3722.18 (5119.88), 5101.271 (5101.272), 5101.272 (5101.273), 5111.14 (5111.141), 5111.261 (5111.263), 5111.892 (5111.893), 5119.612 (5119.613), and 5119.613 (5119.614) be amended for the purpose of adopting new section numbers as indicated in parentheses; that new sections 3314.016, 3319.112, 5101.271, 5111.14, 5111.261, 5111.861, 5111.892, 5119.612, and 5126.18 and sections 7.16, 9.334, 9.335, 9.482, 101.711, 111.181, 111.28, 111.29, 118.025, 118.31, 122.175, 122.86, 123.101, 124.394, 125.182, 125.213, 126.141, 126.60, 126.601, 126.602, 126.603, 126.604, 126.605, 127.162, 127.19, 131.024, 149.308, 149.381, 153.501, 153.502, 153.503, 153.53, 153.55, 153.692, 153.693, 153.694, 153.72, 153.73, 154.24, 154.25, 167.081, 173.41, 187.13, 189.01, 189.02,

189.03, 189.04, 189.05, 189.06, 189.07, 189.08, 189.09, 189.10, 305.23, 306.322, 306.55, 306.551, 307.847, 317.06, 505.483, 505.484, 505.551, 523.01, 523.02, 523.03, 523.04, 523.05, 523.06, 523.07, 709.451, 709.452, 1327.501, 1505.05, 1509.022, 1571.012, 1571.013, 1571.014, 1702.461, 1702.462, 2151.429, 2335.061, 3123.591, 3302.042, 3302.06, 3302.061, 3302.062, 3302.063, 3302.064, 3302.065, 3302.066, 3302.067, 3302.068, 3302.12, 3302.20, 3302.21, 3302.22, 3302.25, 3302.30, 3310.51, 3310.52, 3310.521, 3310.522, 3310.53, 3310.54, 3310.55, 3310.56, 3310.57, 3310.58, 3310.59, 3310.60, 3310.61, 3310.62, 3310.63, 3310.64, 3311.0510, 3313.411, 3313.538, 3313.617, 3313.846, 3313.88, 3314.029, 3314.102, 3314.23, 3317.141, 3318.054, 3318.371, 3318.48, 3318.49, 3318.60, 3318.70, 3319.0810, 3319.228, 3319.229, 3319.58, 3323.052, 3324.08, 3326.111, 3328.01, 3328.02, 3328.03, 3328.04, 3328.11, 3328.12, 3328.13, 3328.14, 3328.15, 3328.17, 3328.18, 3328.19, 3328.191, 3328.192, 3328.193, 3328.20, 3328.21, 3328.22, 3328.23, 3328.24, 3328.25, 3328.26, 3328.31, 3328.32, 3328.33, 3328.34, 3328.35, 3328.36, 3328.41, 3328.45, 3328.50, 3328.99, 3333.0411, 3333.43, 3345.023, 3345.54, 3345.55, 3345.81, 3353.15, 3701.0211, 3701.032, 3702.523, 3709.341, 3721.531, 3721.532, 3721.533, 3734.577, 3745.016, 3770.031, 3793.061, 3901.56, 3903.301, 4313.01, 4313.02, 4729.50, 4911.021, 5101.57, 5111.0122, 5111.0123, 5111.0124, 5111.0125, 5111.0212, 5111.0213, 5111.0214, 5111.0215, 5111.035, 5111.051, 5111.052, 5111.053, 5111.054, 5111.063, 5111.086, 5111.161, 5111.1711, 5111.212, 5111.224, 5111.225, 5111.226, 5111.259, 5111.271, 5111.331, 5111.511, 5111.83, 5111.862, 5111.863, 5111.864, 5111.865, 5111.944, 5111.945, 5111.981, 5112.991, 5119.012, 5119.013, 5119.622, 5119.623, 5119.693, 5120.092, 5122.341, 5123.0418, 5123.0419, 5703.059, 5725.34, 5729.17, 5747.81, 5748.09, 6115.321, and 6119.061 of the Revised Code be enacted to read as follows:

Sec. 7.10. For the publication of advertisements, notices, and proclamations, except those relating to proposed amendments to the Ohio ~~constitution~~ Constitution, required to be published by a public officer of the state, ~~county, municipal corporation, township, school~~, a benevolent or other public institution, ~~or by~~ a trustee, assignee, executor, or administrator, or by or in any court of record, except when the rate is otherwise fixed by law, publishers of newspapers may charge and receive for such advertisements, notices, and proclamations rates charged on annual contracts by them for a like amount of space to other advertisers who advertise in its general display advertising columns. ~~Legal~~

For the publication of advertisements, notices, or proclamations

required to be published by a public officer of a county, municipal corporation, township, school, or other political subdivision, publishers of newspapers shall establish a government rate, which shall include free publication of advertisements, notices, or proclamations on the newspaper's internet web site, if the newspaper has one. The government rate shall not exceed the lowest classified advertising rate and lowest insert rate paid by other advertisers.

Legal advertising, except that relating to proposed amendments to the Ohio ~~constitution~~ Constitution, shall be set up in a compact form, without unnecessary spaces, blanks, or headlines, and printed in not smaller than six-point type. The type used must be of such proportions that the body of the capital letter M is no wider than it is high and all other letters and characters are in proportion.

Except as provided in section 2701.09 of the Revised Code, all legal advertisements or notices shall be printed in newspapers ~~published in the English language only~~ of general circulation and also shall be posted on the state public notice web site created under section 125.182 of the Revised Code, and on a newspaper's internet web site, if the newspaper has one.

Sec. 7.11. A proclamation for an election, an order fixing the time of holding court, notice of the rates of taxation, bridge and pike notices, notice to contractors, and such other advertisements of general interest to the taxpayers as the county auditor, county treasurer, probate judge, or board of county commissioners deems proper shall be published in ~~two newspapers~~ a newspaper of ~~opposite politics of~~ general circulation, as defined in section ~~5721.01~~ 7.12 of the Revised Code at the county seat ~~if there are such newspapers published thereat. If there are not two newspapers of opposite politics and of general circulation published in said county seat, such publication shall be made in one newspaper published in said county seat and in any other newspaper of general circulation in said county as defined in section 5721.01 of the Revised Code, wherever published, without regard to the politics of such other newspaper~~. In counties having cities of eight thousand inhabitants or more, not the county seat of such counties, additional publication of such notice shall be made in ~~two newspapers~~ a newspaper of ~~opposite politics and of~~ general circulation ~~in such city,~~ as defined in such section, in such city. ~~For purposes of this section, a newspaper independent in politics is a newspaper of opposite politics to a newspaper of designated political affiliation. Sections 7.10 to 7.13, inclusive, of the Revised Code, do not apply to the publication of notices of delinquent and forfeited land sales.~~

The cost of any publication authorized by this section, which ~~is~~ shall be

printed in display form, shall be the ~~commercial~~ government rate ~~charged~~ established by such newspaper under section 7.10 of the Revised Code.

Sec. 7.12. (A) Whenever ~~any legal publication~~ a state agency or a political subdivision of the state is required by law to ~~be made~~ make any legal publication in a newspaper ~~published in a municipal corporation, county, or other political subdivision~~, the newspaper shall ~~also~~ be a newspaper of general circulation ~~in the municipal corporation, county, or other political subdivision, without further restriction or limitation upon a selection of the newspaper to be used. If no newspaper is published in such municipal corporation, county, or other political subdivision, such legal publication shall be made in any newspaper of general circulation therein. If there are less than two newspapers published in any municipal corporation, county, or other political subdivision in the manner defined by this section, then any legal publication required by law to be made in a newspaper published in a municipal corporation, county, or other political subdivision may be made in any newspaper regularly issued at stated intervals from a known office of publication located within the municipal corporation, county, or other political subdivision. As used in this section, a known office of publication is a public office where the business of the newspaper is transacted during the usual business hours, and such office shall be shown by the publication itself~~. As used in the Revised Code,

~~In addition to all other requirements, a~~ "newspaper" or "newspaper of general circulation," except ~~those publications~~ daily law journals in existence on or before July 1, 2011, and performing the functions described in section 2701.09 of the Revised Code for a period of ~~one year~~ three years immediately preceding any such legal publication required to be made, ~~shall be~~ is a publication bearing a title or name~~,~~ that is regularly issued ~~as frequently as~~ at least once a week ~~for a definite price or consideration paid for by not less than fifty per cent of those to whom distribution is made, having a second class mailing privilege, being not less than four pages, published continuously during the immediately preceding one-year period, and circulated generally in the political subdivision in which it is published. Such publication must be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices~~, and that meets all of the following requirements:

(1) It is printed in the English language using standard printing methods, being not less than eight pages in the broadsheet format or sixteen pages in the tabloid format.

(2) It contains at least twenty-five per cent editorial content, which includes, but is not limited to, local news, political information, and local sports.

(3) It has been published continuously for at least three years immediately preceding legal publication by the state agency or political subdivision.

(4) The publication has the ability to add subscribers to its distribution list.

(5) The publication is circulated generally by United States mail or carrier delivery in the political subdivision responsible for legal publication or in the state, if legal publication is made by a state agency, by proof of the filing of a United States postal service "Statement of Ownership, Management, and Circulation" (PS form 3526) with the local postmaster, or by proof of an independent audit of the publication performed, within the twelve months immediately preceding legal publication.

(B) A person who disagrees that a publication is a "newspaper of general circulation" in which legal publication may be made under this section may deliver a written request for mediation to the publisher of the publication and to the court of common pleas of the county in which is located the political subdivision in which the publication is circulated, or in the Franklin county court of common pleas if legal publication is to be made by a state agency. The court of common pleas shall appoint a mediator, and the parties shall follow the procedures of the mediation program operated by the court.

Sec. 7.16. (A) If a section of the Revised Code or an administrative rule requires a state agency or a political subdivision of the state to publish a notice or advertisement two or more times in a newspaper of general circulation and the section or administrative rule refers to this section, the first publication of the notice or advertisement shall be made in its entirety in a newspaper of general circulation and may be made in a preprinted insert in the newspaper, but the second publication otherwise required by that section or administrative rule may be made in abbreviated form in a newspaper of general circulation in the state or in the political subdivision, as designated in that section or administrative rule, and on the newspaper's internet web site, if the newspaper has one. The state agency or political subdivision may eliminate any further newspaper publications required by that section or administrative rule, provided that the second, abbreviated notice or advertisement meets all of the following requirements:

(1) It is published in the newspaper of general circulation in which the first publication of the notice or advertisement was made and is published

on that newspaper's internet web site, if the newspaper has one.

(2) It includes a title, followed by a summary paragraph or statement that clearly describes the specific purpose of the notice or advertisement, and includes a statement that the notice or advertisement is posted in its entirety on the state public notice web site established under section 125.182 of the Revised Code. The notice or advertisement also may be posted on the state agency's or political subdivision's internet web site.

(3) It includes the internet addresses of the state public notice web site, and of the newspaper's and state agency's or political subdivision's internet web site if the notice or advertisement is posted on those web sites, and the name, address, telephone number, and electronic mail address of the state agency, political subdivision, or other party responsible for publication of the notice or advertisement.

(B) A notice or advertisement published under this section on an internet web site shall be published in its entirety in accordance with the section of the Revised Code or the administrative rule that requires the publication.

(C) If a state agency or political subdivision does not operate and maintain, or ceases to operate and maintain, an internet web site, and if the state public notice web site established under section 125.182 of the Revised Code is not operational, the state agency or political subdivision shall not publish a notice or advertisement under this section, but instead shall comply with the publication requirements of the section of the Revised Code or the administrative rule that refers to this section.

Sec. ~~124.85~~ 9.04. (A) As used in this section:

(1) "Nontherapeutic abortion" means an abortion that is performed or induced when the life of the mother would not be endangered if the fetus were carried to term or when the pregnancy of the mother was not the result of rape or incest reported to a law enforcement agency.

(2) "Policy, contract, or plan" means a policy, contract, or plan of one or more insurance companies, medical care corporations, health care corporations, health maintenance organizations, preferred provider organizations, or other entities that provides health, medical, hospital, or surgical coverage, benefits, or services to elected or appointed officers or employees of the state~~, including~~ or any political subdivision thereof. "Policy, contract, or plan" includes a plan that is associated with a self-insurance program and a policy, contract, or plan that implements a collective bargaining agreement.

(3) "Political subdivision" means any body corporate and politic that is responsible for governmental activities in a geographic area smaller than the

state, except that "political subdivision" does not include either of the following:

(a) A municipal corporation;

(b) A county that has adopted a charter under Section 3 of Article X, Ohio Constitution, to the extent that it is exercising the powers of local self-government as provided in that charter and is subject to Section 3 of Article XVIII, Ohio Constitution.

(4) "State" ~~has the same meaning as in section 2744.01 of the Revised Code~~ means the state of Ohio, including the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

(B) Subject to division (C) of this section, but notwithstanding other provisions of the Revised Code that conflict with the prohibition specified in this division, funds of the state or any political subdivision thereof shall not be expended directly or indirectly to pay the costs, premiums, or charges associated with a policy, contract, or plan if the policy, contract, or plan provides coverage, benefits, or services related to a nontherapeutic abortion.

(C) Division (B) of this section does not preclude the state or any political subdivision thereof from expending funds to pay the costs, premiums, or charges associated with a policy, contract, or plan that includes a rider or other provision offered on an individual basis under which an elected or appointed official or employee who accepts the offer of the rider or provision may obtain coverage of a nontherapeutic abortion through the policy, contract, or plan if the individual pays for all of the costs, premiums, or charges associated with the rider or provision, including all administrative expenses related to the rider or provision and any claim made for a nontherapeutic abortion.

(D) In addition to the laws specified in division (A) of section 4117.10 of the Revised Code that prevail over conflicting provisions of agreements between employee organizations and public employers, divisions (B) and (C) of this section shall prevail over conflicting provisions of that nature.

Sec. 9.06. (A)(1) The department of rehabilitation and correction may contract for the private operation and management pursuant to this section of the initial intensive program prison established pursuant to section 5120.033 of the Revised Code, if one or more intensive program prisons are established under that section, and may contract for the private operation and management of any other facility under this section. Counties and municipal corporations to the extent authorized in sections 307.93, 341.35,

753.03, and 753.15 of the Revised Code may contract for the private operation and management of a facility under this section. A contract entered into under this section shall be for an initial term ~~of not more than two years~~ specified in the contract with an option to renew for additional periods of two years.

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

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

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

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

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

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

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

adopted by the department of rehabilitation and correction pursuant to division (A)(2) of this section;

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

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

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

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

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

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

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

(5) A requirement that the contractor immediately report all escapes from the facility, and the apprehension of all escapees, by telephone and in writing to all local law enforcement agencies with jurisdiction over the place at which the facility is located, to the prosecuting attorney of the county in which the facility is located, to the state highway patrol, to a daily newspaper having general circulation in the county in which the facility is located, and, if the facility is a state correctional institution, to the department of rehabilitation and correction. The written notice may be by either facsimile transmission or mail. A failure to comply with this

requirement regarding an escape is a violation of section 2921.22 of the Revised Code.

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

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

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

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

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

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

(12) If the facility is a state correctional institution, a requirement that the contractor impose discipline on inmates housed in ~~a state correctional institution~~ the facility only in accordance with rules promulgated by the department of rehabilitation and correction;

(13) A requirement that the facility be staffed at all times with a staffing pattern approved by the public entity and adequate both to ensure supervision of inmates and maintenance of security within the facility and to provide for programs, transportation, security, and other operational needs.

In determining security needs, the contractor shall be required to consider, among other things, the proximity of the facility to neighborhoods and schools.

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

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

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

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

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

(19) ~~Authorization~~ If the facility is a state correctional institution, authorization for the department to establish one or more prison industries at ~~a~~ the facility ~~operated and managed by a contractor for the department~~;

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

(21) If the ~~institution~~ facility is a state correctional institution, a requirement that the contractor provide clothing for all inmates housed in the facility that is conspicuous in its color, style, or color and style, that conspicuously identifies its wearer as an inmate, and that is readily distinguishable from clothing of a nature that normally is worn outside the facility by non-inmates, that the contractor require all inmates housed in the facility to wear the clothing so provided, and that the contractor not permit any inmate, while inside or on the premises of the facility or while being transported to or from the facility, to wear any clothing of a nature that does

not conspicuously identify its wearer as an inmate and that normally is worn outside the facility by non-inmates.

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

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

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

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

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

(5) Approving inmates for work release;

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

(D) A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 of the Revised Code to be operated by a contractor that has been approved to operate the prison under this section, shall provide an adequate policy of insurance specifically including, but not limited to, insurance for civil rights claims as determined by a risk management or actuarial firm with demonstrated experience in public liability for state governments. The insurance policy shall provide that the state, including all state agencies, and all political subdivisions of the state with jurisdiction over the facility or in which a facility is located are named as insured, and that the state and its political subdivisions shall be sent any notice of cancellation. The contractor may not self-insure.

A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized

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

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

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

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

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

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

(E) Private correctional officers of a contractor operating and managing a facility pursuant to a contract entered into under this section may carry and use firearms in the course of their employment only after being certified as satisfactorily completing an approved training program as described in division (A) of section 109.78 of the Revised Code.

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

the contractor. The contractor shall also reimburse the state or its political subdivisions for all reasonable costs incurred relating to the temporary detention of the escapee following recapture.

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

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

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

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

(2) Divisions (A)(2), (B), and (C) of this section do not apply in relation to any specialized services contract, except to the extent that the provisions of those divisions clearly are relevant to the specialized services to be provided under the specialized services contract. Division (D) of this section applies in relation to each specialized services contract.

(J) <u>If, on or after the effective date of this amendment, a contractor enters into a contract with the department of rehabilitation and correction under this section for the operation and management of any facility described in Section 753.10 of the act in which this amendment was adopted, if the contract provides for the sale of the facility to the contractor, if the facility is sold to the contractor subsequent to the execution of the contract, and if the contractor is privately operating and managing the facility, notwithstanding the contractor's private operation and management</u>

of the facility, all of the following apply:

(1) Except as expressly provided to the contrary in this section, the facility being privately operated and managed by the contractor shall be considered for purposes of the Revised Code as being under the control of, or under the jurisdiction of, the department of rehabilitation and correction.

(2) Any reference in this section to "state correctional institution," any reference in Chapter 2967. of the Revised Code to "state correctional institution," other than the definition of that term set forth in section 2967.01 of the Revised Code, or to "prison," and any reference in Chapter 2929., 5120., 5145., 5147., or 5149. or any other provision of the Revised Code to "state correctional institution" or "prison" shall be considered to include a reference to the facility being privately operated and managed by the contractor, unless the context makes the inclusion of that facility clearly inapplicable.

(3) Upon the sale and conveyance of the facility, the facility shall be returned to the tax list and duplicate maintained by the county auditor, and the facility shall be subject to all real property taxes and assessments. No exemption from real property taxation pursuant to Chapter 5709. of the Revised Code shall apply to the facility conveyed. The gross receipts and income of the contractor to whom the facility is conveyed that are derived from operating and managing the facility under this section shall be subject to gross receipts and income taxes levied by the state and its subdivisions, including the taxes levied pursuant to Chapters 718., 5747., 5748., and 5751. of the Revised Code. Unless exempted under another section of the Revised Code, transactions involving a contractor as a consumer or purchaser are subject to any tax levied under Chapters 5739. and 5741. of the Revised Code.

(4) After the sale and conveyance of the facility, all of the following apply:

(a) Before the contractor may resell or otherwise transfer the facility and the real property on which it is situated, any surrounding land that also was transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that was transferred under the contract, the contractor first must offer the state the opportunity to repurchase the facility, real property, and surrounding land that is to be resold or transferred and must sell the facility, real property, and surrounding land to the state if the state so desires, pursuant to and in accordance with the repurchase clause included in the contract.

(b) Upon the default by the contractor of any financial agreement for the purchase of the facility and the real property on which it is situated, any

surrounding land that also was transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that was transferred under the contract, upon the default by the contractor of any other term in the contract, or upon the financial insolvency of the contractor or inability of the contractor to meet its contractual obligations, the state may repurchase the facility, real property, and surrounding land, if the state so desires, pursuant to and in accordance with the repurchase clause included in the contract.

(c) If the contract entered into under this section for the operation and management of a state correctional institution is terminated, both of the following apply:

(i) The operation and management responsibilities of the state correctional institution shall be transferred to another contractor under the same terms and conditions as applied to the original contractor or to the department of rehabilitation and correction.

(ii) The department of rehabilitation and correction or the new contractor, whichever is applicable, may enter into an agreement with the terminated contractor to purchase the terminated contractor's equipment, supplies, furnishings, and consumables.

(K) Any action asserting that section 9.06 of the Revised Code or section 753.10 of the act in which this amendment was adopted violates any provision of the Ohio constitution and any claim asserting that any action taken by the governor or the department of administrative services or the department of rehabilitation and correction pursuant to section 9.06 of the Revised Code or section 753.10 of the act in which this amendment was adopted violates any provision of the Ohio constitution or any provision of the Revised Code shall be brought in the court of common pleas of Franklin county. The court shall give any action filed pursuant to this division priority over all other civil cases pending on its docket and expeditiously make a determination on the claim. If an appeal is taken from any final order issued in a case brought pursuant to this division, the court of appeals shall give the case priority over all other civil cases pending on its docket and expeditiously make a determination on the appeal.

(L) As used in this section:

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

(2) "Local public entity" means a county or municipal corporation, or a combination of counties and municipal corporations, that has jurisdiction

over a jail, workhouse, or other correctional facility used only for misdemeanants that is the subject of a contract entered into under this section.

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

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

(5) "Facility" means ~~the~~ any of the following:

(a) The specific county, multicounty, municipal, municipal-county, or multicounty-municipal jail, workhouse, prison, or other type of correctional institution or facility used only for misdemeanants~~, or a~~ that is the subject of a contract entered into under this section;

(b) Any state correctional institution~~,~~ that is the subject of a contract entered into under this section, including any facility described in Section 753.10 of the act in which this amendment was adopted at any time prior to or after any sale to a contractor of the state's right, title, and interest in the facility, the land situated thereon, and specified surrounding land.

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

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

governmental entity shall enter into the written contract with the person at the beginning of the governmental entity's fiscal year, if, during the immediately preceding fiscal year, the governmental entity disbursed to that person an aggregate amount totaling at least seventy-five thousand dollars.

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

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

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

(i) The amount received for the services is a set fee for each time the services are provided, is determined in accordance with a fixed rate per unit of time or per service, or is a capitated rate, and the fee or rate is established by competitive bidding or by a market rate survey of similar services provided in a defined market area. The market rate survey may be one conducted by or on behalf of the governmental entity or an independent survey accepted by the governmental entity as statistically valid and reliable.

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

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

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

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

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

(iii) The program's guidelines describe types of expenditures that are allowable and not allowable under the program and delineate which costs

are acceptable as direct costs for purposes of calculating the reimbursement rate.

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

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

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

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

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

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

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

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

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

(d) Educational services provided by a school to children eligible to attend that school. For purposes of division (B)(2)(d) of this section, "school" means any school operated by a school district board of education, any community school established under Chapter 3314. of the Revised

Code, or any nonpublic school for which the state board of education prescribes minimum education standards under section 3301.07 of the Revised Code.

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

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

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

~~(h) Services, including administrative and management services, provided under the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code~~.

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

(C) With respect to a nonprofit association, corporation, or organization established for the purpose of providing educational, technical, consulting, training, financial, or other services to its members in exchange for membership dues and other fees, any of the services provided to a member that is a governmental entity shall, for purposes of this section, be considered services "for the primary benefit of a governmental entity or the employees of a governmental entity.

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

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

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

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

(2) The debtor has entered into a repayment plan that is approved by the

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

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

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

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

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

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

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

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

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

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

the information required under this division for calendar years 2001, 2002, and 2003.

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

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

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

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

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

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

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

(a) The cost for the goods, services, or construction provided under the

contract is estimated to exceed twenty-five thousand dollars.

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

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

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

(H) As used in this section:

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

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

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

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

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

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

Sec. 9.33. As used in sections 9.33 to ~~9.333~~ 9.335 of the Revised Code:

(A) "Construction manager" means a person with substantial discretion and authority to plan, coordinate, manage, and direct all phases of a project for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement, but does not mean the person who provides the professional design services or who actually performs the construction, demolition, alteration, repair, or reconstruction work on the project.

(B)(1) "Construction manager at risk" means a person with substantial discretion and authority to plan, coordinate, manage, direct, and construct all phases of a project for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement and

who provides the public authority a guaranteed maximum price as determined in section 9.334 of the Revised Code.

(2) As used in division (B)(1) of this section:

(a) "Construct" includes performing, or subcontracting for performing, construction, demolition, alteration, repair, or reconstruction.

(b) "Manage" includes approving bidders and awarding subcontracts for furnishing materials regarding, or for performing, construction, demolition, alteration, repair, or reconstruction.

(C) "Construction management contract" means a contract between a public authority and another person obligating the person to provide construction management services.

(D) "Construction management services" or "management services" means the range of services that either a construction manager or a construction manager at risk may provide.

(E) "Qualified" means having the following qualifications:

(1) Competence to perform the required management services as indicated by the technical training, education, and experience of the construction manager's or construction manager at risk's personnel, especially the technical training, education, and experience of the construction manager's or construction manager at risk's employees who would be assigned to perform the services;

(2) Ability in terms of workload and the availability of qualified personnel, equipment, and facilities to perform the required management services competently and expeditiously;

(3) Past performance as reflected by the evaluations of previous clients with respect to factors such as control of costs, quality of work, and meeting of deadlines;

(4) Financial responsibility as evidenced by the capability to provide a letter of credit pursuant to Chapter 1305. of the Revised Code, a surety bond, certified check, or cashier's check in an amount equal to the value of the construction management contract, or by other means acceptable to the public ~~owner~~ authority;

(5) Other similar factors.

~~(C)~~(F)(1) "Public ~~owner~~ authority" means the state, ~~or~~ any state institution of higher education as defined in section 3345.011 of the Revised Code, any county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special purpose district of the state or of a political subdivision.

(2) "Public authority" does not include the Ohio turnpike commission.

(G) "Open book pricing method" means a method in which a construction manager at risk provides the public authority, at the public authority's request, all books, records, documents, and other data in its possession pertaining to the bidding, pricing, or performance of a construction management contract awarded to the construction manager at risk.

Sec. 9.331. (A) Before entering into a contract to employ a construction manager or construction manager at risk, a public ~~owner~~ authority shall advertise, in a newspaper of general circulation in the county where the contract is to be performed, and may advertise by electronic means pursuant to rules adopted by the director of administrative services, notice of its intent to employ a construction manager or construction manager at risk. The notice shall invite interested parties to submit proposals for consideration and shall be published at least thirty days prior to the date for accepting the proposals. The public ~~owner~~ authority also may advertise the information contained in the notice in appropriate trade journals and otherwise notify persons believed to be interested in employment as a construction manager or construction manager at risk.

(B) The advertisement shall include a general description of the project, a statement of the specific management services required, and a description of the qualifications required for the project.

Sec. 9.332. ~~For every construction management contract, the~~ Every public ~~owner~~ authority planning to contract for construction management services with a construction manager shall evaluate the proposals submitted and may hold discussions with individual construction managers to explore further their proposals, the scope and nature of the services they would provide, and the various technical approaches they may take regarding the project. Following this evaluation, the public ~~owner~~ authority shall:

(A) Select and rank no fewer than three construction managers that it considers to be the most qualified to provide the required construction management services, except when the public ~~owner~~ authority determines in writing that fewer than three qualified construction managers are available in which case it shall select and rank them;

(B) Negotiate a contract with the construction manager ranked most qualified to perform the required services at a compensation determined in writing to be fair and reasonable. Contract negotiations shall be directed toward:

(1) Ensuring that the construction manager and the public ~~owner~~ authority have a mutual understanding of the essential requirements involved in providing the required services;

(2) Determining that the construction manager will make available the necessary personnel, equipment, and facilities to perform the services within the required time.

(C) Upon failure to negotiate a contract with the construction manager ranked most qualified, the public ~~owner~~ authority shall inform the construction manager in writing of the termination of negotiations and enter into negotiations with the construction manager ranked next most qualified. If negotiations again fail, the same procedure ~~shall~~ may be followed with each next most qualified construction manager selected and ranked pursuant to division (A) of this section, in order of ranking, until a contract is negotiated.

(D) If the public ~~owner~~ authority fails to negotiate a contract with any of the construction managers selected pursuant to division (A) of this section, the public ~~owner shall~~ authority may select and rank additional construction managers, based on their qualifications, and negotiations ~~shall~~ may continue as with the construction managers selected and ranked initially until a contract is negotiated.

(E) Nothing in this section affects a public authority's right to accept or reject any or all proposals in whole or in part.

Sec. 9.333. (A) No public ~~owner~~ authority shall enter into a construction management contract with a construction manager unless the construction manager provides a letter of credit pursuant to Chapter 1305. of the Revised Code, a surety bond pursuant to sections 153.54 and 153.57 of the Revised Code, a certified check or cashier's check in an amount equal to the value of the construction management contract for the project, or provides other reasonable financial assurance of a nature and in an amount satisfactory to the ~~owner~~ public authority. The public ~~owner~~ authority may waive this requirement for good cause.

(B) Before construction begins pursuant to a construction management contract with a construction manager at risk, the construction manager at risk shall provide a surety bond to the public authority in accordance with rules adopted by the director of administrative services under Chapter 119. of the Revised Code.

Sec. 9.334. (A) Every public authority planning to contract for construction management services with a construction manager at risk shall evaluate the proposals submitted and select not fewer than three construction managers at risk the public authority considers to be the most qualified to provide the required construction management services, except that the public authority shall select and rank fewer than three when the public authority determines in writing that fewer than three qualified

construction managers at risk are available.

(B) The public authority shall provide each construction manager at risk selected under division (A) of this section with a description of the project, including a statement of available design detail, a description of how the guaranteed maximum price for the project shall be determined, including the estimated level of design detail upon which the guaranteed maximum price shall be based, the form of the construction management contract, and a request for a pricing proposal.

(C) The pricing proposal of each construction manager at risk shall include at least the following regarding the construction manager at risk:

(1) A list of key personnel for the project;

(2) A statement of the general conditions and contingency requirements;

(3) A fee proposal divided into a preconstruction fee, a construction fee, and the portion of the construction fee to be at risk in a guaranteed maximum price.

(D) The public authority shall evaluate the submitted pricing proposals and may hold discussions with individual construction managers at risk to explore their proposals further, including the scope and nature of the proposed services and potential technical approaches.

(E) After evaluating the pricing proposals, the public authority shall rank the selected construction managers at risk based on its evaluation of the value of each pricing proposal, with such evaluation considering the proposed cost and qualifications.

(F) The public authority shall enter into negotiations for a construction management contract with the construction manager at risk whose pricing proposal the public authority determines to be the best value under division (E) of this section. Contract negotiations shall be directed toward:

(1) Ensuring that the construction manager at risk and the public authority mutually understand the essential requirements involved in providing the required construction management services, including the provisions for the use of contingency funds and the possible distribution of savings in the final costs of the project;

(2) Ensuring that the construction manager at risk will be able to provide the necessary personnel, equipment, and facilities to perform the construction management services within the time required by the construction management contract;

(3) Agreeing upon a procedure and schedule for determining a guaranteed maximum price using an open book pricing method that shall represent the total maximum amount to be paid by the public authority to the construction manager at risk for the project and that shall include the costs

of all the work, the cost of its general conditions, the contingency, and the fee payable to the construction manager at risk.

(G)(1) If the public authority fails to negotiate a construction management contract with the construction manager at risk whose pricing proposal the public authority determines to be the best value under division (E) of this section, the public authority shall inform the construction manager at risk, in writing, of the termination of negotiations.

(2) Upon terminating negotiations, the public authority may enter into negotiations as provided in this section with the construction manager at risk that the public authority ranked next highest under division (E) of this section. If negotiations fail, the public authority may enter into negotiations as provided in this section with the construction manager at risk the public authority ranked next highest under division (E) of this section.

(3) If a public authority fails to negotiate a construction management contract with a construction manager at risk whose pricing proposal the public authority determines to be the best value under division (E) of this section, the public authority may select additional construction managers at risk to provide pricing proposals to the public authority pursuant to this section or may select an alternative delivery method for the project.

(H) If the public authority and construction manager at risk fail to agree on a guaranteed maximum price, nothing in this section shall prohibit the public authority from allowing the construction manager at risk to provide the management services that a construction manager is authorized to provide.

(I) Nothing in this section affects a public authority's right to accept or reject any or all proposals in whole or in part.

Sec. 9.335. The requirements set forth in sections 9.33 to 9.334 of the Revised Code for the bidding, selection, and award of a construction management contract by a public authority prevail in the event of any conflict with a provision of Chapter 153. of the Revised Code.

Sec. 9.482. (A) As used in this section, "political subdivision" has the meaning defined in section 2744.01 of the Revised Code.

(B) When authorized by their respective legislative authorities, a political subdivision may enter into an agreement with another political subdivision whereby a contracting political subdivision agrees to exercise any power, perform any function, or render any service for another contracting recipient political subdivision that the contracting recipient political subdivision is otherwise legally authorized to exercise, perform, or render.

In the absence in the agreement of provisions determining by what

officer, office, department, agency, or other authority the powers and duties of a contracting political subdivision shall be exercised or performed, the legislative authority of the contracting political subdivision shall determine and assign the powers and duties.

An agreement shall not suspend the possession by a contracting recipient political subdivision of any power or function that is exercised or performed on its behalf by another contracting political subdivision under the agreement.

A political subdivision shall not enter into an agreement to levy any tax or to exercise, with regard to public moneys, any investment powers, perform any investment function, or render any investment service on behalf of a contracting subdivision. Nothing in this paragraph prohibits a political subdivision from entering into an agreement to collect, administer, or enforce any tax on behalf of another political subdivision or to limit the authority of political subdivisions to create and operate joint economic development zones or joint economic development districts as provided in sections 715.69 to 715.83 of the Revised Code.

(C) No power shall be exercised, no function shall be performed, and no service shall be rendered by a contracting political subdivision pursuant to an agreement entered into under this section within a political subdivision that is not a party to the agreement, without first obtaining the written consent of the political subdivision that is not a party to the agreement and within which the power is to be exercised, a function is to be performed, or a service is to be rendered.

(D) Chapter 2744. of the Revised Code, insofar as it applies to the operation of a political subdivision, applies to the political subdivisions that are parties to an agreement and to their employees when they are rendering a service outside the boundaries of their employing political subdivision under the agreement. Employees acting outside the boundaries of their employing political subdivision while providing a service under an agreement may participate in any pension or indemnity fund established by the political subdivision to the same extent as while they are acting within the boundaries of the political subdivision, and are entitled to all the rights and benefits of Chapter 4123. of the Revised Code to the same extent as while they are performing a service within the boundaries of the political subdivision.

Sec. 9.82. As used in sections 9.82 to 9.83 of the Revised Code:

(A) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio. "State" does not include

political subdivisions.

For purposes of the judicial liability program, "state" means the supreme court, the courts of appeals, the courts of common pleas and any division of courts of common pleas, municipal courts, and county courts.

(B) "Political subdivision" means a county, city, village, township, park district, or school district.

(C) "Personal property" means tangible personal property owned, leased, controlled, or possessed by a state agency and includes, but is not limited to, chattels, movable property, merchandise, furniture, goods, livestock, vehicles, watercraft, aircraft, movable machinery, movable tools, movable equipment, general operating supplies, and media.

(D) "Media" means all active information processing material, including all forms of data, program material, and related engineering specifications employed in any state agency's information processing operation.

(E) "Property" means real and personal property as defined in divisions (C) and (F) of this section and any other property in which the state determines it has an insurable interest.

(F) "Real property" means land or interests in land whose title is vested in the state or that is under the control of the state through a lease purchase agreement, installment purchase, mortgage, lien, or otherwise, and includes, but is not limited to, all buildings, structures, improvements, machinery, equipment, or fixtures erected on, above, or under such land.

(G) "State agency" means every department, bureau, board, commission, office, or other organized body established by the constitution or laws of this state for the exercise of any function of state government, the general assembly, all legislative agencies, the supreme court, and the court of claims. "State agency" does not include any state-supported institutions of higher education, the public employees retirement system, the Ohio police and ~~and Fire~~ fire pension fund, the state teachers retirement system, the school employees retirement system, the state highway patrol retirement system, or the city of Cincinnati retirement system.

Sec. 9.823. (A) All contributions collected by the director of administrative services under division (E) of this section shall be deposited into the state treasury to the credit of the risk management reserve fund, which is hereby created. The fund shall be used to provide insurance and self-insurance for the state under sections 9.822 and 9.83 of the Revised Code. All investment earnings of the fund shall be credited to it.

(B) The director, through the office of risk management, shall operate the risk management reserve fund on an actuarially sound basis.

(C) Reserves shall be maintained in the risk management reserve fund in

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

(D) A report of the amounts reserved and disbursements made from the reserves, together with a written report of a competent property and casualty actuary, shall be submitted, on or before the last day of March for the preceding calendar year, to the speaker of the house of representatives and the president of the senate. The actuary shall certify the adequacy of the rates of contributions, the sufficiency of excess insurance, and whether the amounts reserved conform to the requirements of this section, are computed in accordance with accepted loss reserving standards, and are fairly stated in accordance with sound loss reserving principles. The report shall include disbursements made for the administration of the fund, including claims paid, cost of legal representation of state agencies and employees, and fees paid to consultants.

(E) The director shall collect from each state agency or any participating state body its contribution to the risk management reserve fund for the purpose of purchasing insurance or administering self-insurance programs for coverages authorized under sections 9.822 and 9.83 of the Revised Code. The contribution shall be determined by the director, with the approval of the director of budget and management, and shall be based upon actuarial assumptions and the relative risk and loss experience of each state agency or participating state body. The contribution shall further include a reasonable sum to cover the department's administrative costs.

Sec. 9.833. (A) As used in this section, "political subdivision" ~~means a municipal corporation, township, county, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state, and agencies and instrumentalities of these entities~~ has the meaning defined in sections 2744.01 and 3905.36 of the Revised Code. For purposes of this section, "political subdivision" includes municipal corporations as defined in section 5705.01 of the Revised Code.

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

(1) Establish and maintain an individual self-insurance program with public moneys to provide authorized health care benefits, including but not

limited to, health care, prescription drugs, dental care, and vision care, in accordance with division (C) of this section;

(2) Establish and maintain a health savings account program whereby employees or officers may establish and maintain health savings accounts in accordance with section 223 of the Internal Revenue Code. Public moneys may be used to pay for or fund federally qualified high deductible health plans that are linked to health savings accounts or to make contributions to health savings accounts. A health savings account program may be a part of a self-insurance program.

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

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

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

(6) Use in any combination any of the policies, contracts, plans, or programs authorized under this division.

(7) Any agreement made under divisions (B)(3), (4), (5), or (6) of this section shall be in writing, comply with division (C) of this section, and contain best practices established in consultation with and approved by the department of administrative services. The best practices may be reviewed and amended at the discretion of the political subdivisions in consultation with the department. Detailed information regarding the best practices shall be made available to any employee upon that employee's request.

(8) Purchase plans approved by the department of administrative services under section 9.901 of the Revised Code.

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

(1) Such funds shall be reserved as are necessary, in the exercise of sound and prudent actuarial judgment, to cover potential cost of health care benefits for the officers and employees of the political subdivision. A certified audited financial statement and a report of amounts so reserved and

disbursements made from such funds, together with a written report of a member of the American academy of actuaries certifying whether the amounts reserved conform to the requirements of this division, are computed in accordance with accepted loss reserving standards, and are fairly stated in accordance with sound loss reserving principles, shall be prepared and maintained, within ninety days after the last day of the fiscal year of the entity for which the report is provided for that fiscal year, in the office of the program administrator described in division (C)(3) of this section.

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

The program administrator described in division (C)(3) of this section shall make the report required by this division available for inspection by any person at all reasonable times during regular business hours, and, upon the request of such person, shall make copies of the report available at cost within a reasonable period of time. The program administrator shall further provide the report to the auditor of state under Chapter 117. of the Revised Code.

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

(3) A contract may be awarded, without the necessity of competitive bidding, to any person, political subdivision, nonprofit corporation organized under Chapter 1702. of the Revised Code, or regional council of governments created under Chapter 167. of the Revised Code for purposes of administration of an individual or joint self-insurance program. No such contract shall be entered into without full, prior, public disclosure of all terms and conditions. The disclosure shall include, at a minimum, a statement listing all representations made in connection with any possible savings and losses resulting from the contract, and potential liability of any

political subdivision or employee. The proposed contract and statement shall be disclosed and presented at a meeting of the political subdivision not less than one week prior to the meeting at which the political subdivision authorizes the contract.

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

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

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

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

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

(8) A political subdivision is not liable under a joint self-insurance program for any amount in excess of amounts payable pursuant to the written agreement for the participation of the political subdivision in the joint self-insurance program. Under a joint self-insurance program agreement, a political subdivision may, to the extent permitted under the written agreement, assume the risks of any other political subdivision. A joint self-insurance program established under this section is deemed a separate legal entity for the public purpose of enabling the members of the joint self-insurance program to obtain insurance or to provide for a formalized, jointly administered self-insurance fund for its members. An entity created pursuant to this section is exempt from all state and local taxes.

(9) Any political subdivision, other than an agency or instrumentality,

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

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

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

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

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

(E) ~~Divisions (C)(1), (2), and (4) of this~~ This section ~~do~~ does not apply to individual self-insurance programs ~~in~~ created solely by municipal corporations~~, townships, or counties~~ as defined in section 5705.01 of the Revised Code.

(F) A public official or employee of a political subdivision who is or becomes a member of the governing body of the program administrator of a joint self-insurance program in which the political subdivision participates is not in violation of division (D) or (E) of section 102.03, division (C) of section 102.04, or section 2921.42 of the Revised Code as a result of either of the following:

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

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

Sec. 9.90. (A) ~~The governing board of any public institution of higher education, including without limitation state universities and colleges, community college districts, university branch districts, technical college districts, and municipal universities,~~ The following applies until the department of administrative services implements healthcare plans designed under section 9.901 of the Revised Code. If those plans do not include or address any benefits listed in this section, or if the board of trustees or other governing body of a state institution of higher education, as defined in section 3345.011 of the Revised Code, board of education of a school district, or governing board of an educational service center do not elect to be covered under a plan offered by the department of administrative services under section 9.901 of the Revised Code, the following provisions continue in effect for those benefits. The board of trustees or other governing body of a state institution of higher education, as defined in section 3345.011 of the Revised Code, board of education of a school district, or governing board of an educational service center may, in addition to all other powers provided in the Revised Code:

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

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

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

(B) All or any portion of the cost, premium, or charge therefor may be paid in such other manner or combination of manners as the ~~governing~~ board or governing body may determine, including direct payment by the employee in cases under division (A)(1) of this section, and, if authorized in writing by the employee in cases under division (A)(1) or (2) of this section, by ~~such governing~~ the board or governing body with moneys made available by deduction from or reduction in salary or wages or by the foregoing of a salary or wage increase. Nothing in section 3917.01 or section 3917.06 of the Revised Code shall prohibit the issuance or purchase of group life insurance authorized by this section by reason of payment of premiums therefor by the ~~governing~~ board or governing body from its funds, and such group life insurance may be so issued and purchased if otherwise consistent with the provisions of sections 3917.01 to 3917.07 of the Revised Code.

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

(D) Once the department of administrative services releases in final form health care plans designed under section 9.901 of the Revised Code, all health care benefits provided to persons employed by state institutions of higher education, school districts, or educational service centers may be through those plans.

Sec. 9.901. (A)(1) All health care benefits provided to persons employed by the political subdivisions and public school districts of this state shall be provided by health care plans that contain best practices established pursuant to this section by the school employees health care board or the department of administrative services. Twelve months after the release of best practices by the board all policies or contracts for health care

benefits provided to public school district employees that are issued or renewed after the expiration of any applicable collective bargaining agreement must contain best practices established pursuant to this section by the board. Any or all of the health care plans that contain best practices specified by the board may be self-insured. ~~As used in this section, a "public school district" means a city, local, exempted village, or joint vocational school district, and includes the educational service centers associated with those districts but not charter schools.~~

(2) ~~The board shall determine what strategies are used by the existing medical plans to manage health care costs and shall study the potential benefits of state or regional consortiums of public schools offering multiple health care plans.~~ Upon completion of the consultant's report under division (E) of this section and once the plans are released in final form by the department, all health care benefits provided to persons employed by political subdivisions, public school districts, and state institutions of higher education may be provided by health care plans designed under this section by the department. The department, in consultation with the superintendent of insurance, may negotiate with and, in accordance with the competitive selection procedures of Chapter 125. of the Revised Code, contract with one or more insurance companies authorized to do business in this state for the issuance of the plans. Any or all of the health care plans designed by the department may be self-insured. All self-insured plans adopted shall be administered by the department in accordance with this section. The plans shall incorporate the best practices adopted by the department under division (C)(3) of this section.

(3) Before soliciting proposals from insurance companies for the issuance of health care plans, the department, in consultation with the superintendent of insurance, shall determine what geographic regions exist in the state based on the availability of providers, networks, costs, and other factors relating to providing health care benefits. The department shall then determine what health care plans offered by political subdivisions, public school districts, state institutions, and existing consortiums in the region offer the most cost-effective plan.

(4) The department, in consultation with the superintendent of insurance, shall develop a request for proposals and solicit bids for health care plans for political subdivisions, public school districts, and state institutions in a region similar to the existing plans. The department shall also determine the benefits offered by existing health care plans, the employees' costs, and the cost-sharing arrangements used by political subdivisions, schools, and institutions participating in a consortium. The

department shall determine what strategies are used by the existing plans to manage health care costs and shall study the potential benefits of state or regional consortiums offering multiple health care plans. When options exist in a defined regional service area that meet the benchmarks or best practices prescribed by the department, public employees shall be given the option of selecting from two or more health plans.

(5) No political subdivision, public school district, or state institution may be required to offer the health care plans designed under this section until action is taken under division (E) of this section.

In addition, political subdivisions, public school districts, or state institutions offering employee health care benefits through a plan offered by a consortium of two or more political subdivisions, districts, or state institutions, or a consortium of one or more political subdivisions, districts, or state institutions and one or more other political subdivisions may continue offering consortium plans to the political subdivisions', districts', or institutions' employees if plans contain best practices required under this section.

(6) As used in this section:

(a) "Public school district" means a city, local, exempted village, or joint vocational school district; a STEM school established under Chapter 3326. of the Revised Code; or an educational service center. "Public school district" does not mean a community school established under Chapter 3314. of the Revised Code.

(b) "State institution of higher education" or "state institution" means a state institution of higher education as defined in section 3345.011 of the Revised Code.

(c) "Political subdivision" has the same meaning as defined in section 9.833 of the Revised Code.

(d) A "health care plan" includes group policies, contracts, and agreements that provide hospital, surgical, or medical expense coverage, including self-insured plans. A "health care plan" does not include an individual plan offered to the employees of a political subdivision, public school district, or state institution, or a plan that provides coverage only for specific disease or accidents, or a hospital indemnity, medicare supplement, or other plan that provides only supplemental benefits, paid for by the employees of a political subdivision, public school district, or state institution.

~~(b)~~(e) A "health plan sponsor" means a political subdivision, public school district, a state institution of higher education, a consortium of political subdivisions, public school districts, or state institutions, or a

council of governments.

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

~~(1) Four members appointed by the governor, one of whom shall be representative of nonadministrative public school district employees;~~

~~(2) Four members appointed by the president of the senate, one of whom shall be representative of nonadministrative public school district employees;~~

~~(3) Four members appointed by the speaker of the house of representatives, one of whom shall be representative of nonadministrative public school district employees.~~

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

~~(C)~~(1) ~~Members of the school employees health care board shall serve four-year terms, but may be reappointed, except as otherwise specified in division (B) of this section.~~

~~A member shall continue to serve subsequent to the expiration of the member's term until a successor is appointed. Any vacancy occurring during a member's term shall be filled in the same manner as the original appointment, except that the person appointed to fill the vacancy shall be appointed to the remainder of the unexpired term.~~

~~(2) Members shall receive compensation fixed pursuant to division (J) of section 124.15 of the Revised Code and shall be reimbursed from the school employees health care fund for actual and necessary expenses incurred in the performance of their official duties as members of the board.~~

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

~~(D)~~(1) ~~At the first meeting of the board after the first day of January of each calendar year, the board shall elect a chairperson and may elect members to other positions on the board as the board considers necessary or appropriate. The board shall meet at least nine times each calendar year and shall also meet at the call of the chairperson or four or more board members. The chairperson shall provide reasonable advance notice of the time and place of board meetings to all members.~~

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

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

~~(F)~~ The ~~school~~ political subdivisions and public employees health care fund is hereby created in the state treasury. The ~~board~~ department shall use all funds in the ~~school~~ political subdivisions and public employees health care fund solely to carry out the provisions of this section and related administrative costs.

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

(1) Include disease management and consumer education programs, which programs shall include, but are not limited to, wellness programs and other measures designed to encourage the wise use of medical plan coverage. These programs are not services or treatments for purposes of section 3901.71 of the Revised Code.

(2) After action is taken under division (E) of this section, design health care plans for political subdivisions, public school districts, and state institutions of higher education in accordance with division (A) of this section separate from the plans for state agencies;

(3) Adopt and release a set of standards that shall be considered the best practices ~~to which public school districts shall adhere in the selection and implementation of~~ for health care plans offered to employees of political subdivisions, public school districts, and state institutions.

~~(2)~~(4) Require that the plans the health plan sponsors administer make readily available to the public all cost and design elements of the plan;

~~(3) Work with health plan sponsors through educational outlets and consultation;~~

~~(4) Maintain a commitment to transparency and public access of its meetings and activity pursuant to division (E) of this section;~~

(5) Set employee and employer health care plan premiums for the plans designed under division (C)(2) of this section;

(6) Promote cooperation among all organizations affected by this section in identifying the elements for the successful implementation of this section;

~~(6)~~(7) Promote cost containment measures aligned with patient, plan, and provider management strategies in developing and managing health care plans;

~~(7)~~(8) Prepare and disseminate to the public an annual report on the status of health plan sponsors' effectiveness in making progress to reduce the rate of increase in insurance premiums and employee out of pocket expenses, as well as progress in improving the health status of political subdivision, public school district, and state institution employees and their families.

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

~~(I) The board may contract with one or more independent consultants to analyze costs related to employee health care benefits provided by existing public school district plans in this state. The consultants may evaluate the benefits offered by existing health care plans, the employees' costs, and the cost-sharing arrangements used by public school districts either participating in a consortium or by other means. The consultants may evaluate what strategies are used by the existing health care plans to manage health care costs and the potential benefits of state or regional consortiums of public schools offering multiple health care plans. Based on the findings of the analysis, the consultants may submit written recommendations to the board for the development and implementation of successful best practices and programs for improving school districts' purchasing power for the acquisition of employee health care plans~~ (E) Before the department's release of the initial health care plans, the department shall contract with an independent consultant to analyze costs related to employee health care benefits provided by existing political subdivision, public school district, and state institution plans. All political subdivisions shall provide information requested by the department that the department determines is needed to complete this study. The information requested shall be held confidentially by the department and shall not be considered a public record under Chapter 149. of the Revised Code. The department may release the information after redacting all personally identifiable information. The consultant shall determine the benefits offered by existing plans, the employees' costs, and the cost-sharing arrangements used by political subdivisions, schools, and institutions participating in a consortium. The consultant shall determine what strategies are used by the existing plans to manage health care costs and shall study the potential benefits of state or regional consortiums of political subdivisions, public schools, and institutions offering multiple health care plans. Based on the findings of the analysis, the consultant shall submit written recommendations to the department for the development and implementation of a successful

program for pooling purchasing power for the acquisition of employee health care plans. The consultant's recommendations shall address, at a minimum, all of the following issues:

(1) The development of a plan for regional coordination of the health care plans;

(2) The establishment of regions for the provision of health care plans, based on the availability of providers and plans in the state at the time;

(3) The viability of voluntary and mandatory participation by political subdivisions, public schools, and institutions of higher education;

(4) The use of regional preferred provider and closed panel plans, health savings accounts, and alternative health care plans, to stabilize both costs and the premiums charged to political subdivisions, public school districts, and state institutions and their employees;

(5) The use of the competitive bidding process for regional health care plans;

(6) The use of information on claims and costs and of information reported by political subdivisions, public school districts, and state institutions pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA) 100 Stat. 227, 29 U.S.C. 1161, as amended in analyzing administrative and premium costs;

(7) The experience of states that have statewide health care plans for political subdivision, public school district, and state institution employees, including the implementation strategies used by those states;

(8) Recommended strategies for the use of first-year roll-in premiums in the transition from political subdivision, district, and state institution health care plans to department plans;

(9) The option of allowing political subdivisions, public school districts, and state institutions to join an existing regional consortium as an alternative to department plans;

(10) Mandatory and optional coverages to be offered by the department's plans;

(11) Potential risks to the state from the use of plans developed under this section;

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

(13) The potential impacts of any changes to the existing purchasing structure on all of the following:

(a) Existing health care pooling and consortiums;

(b) Political subdivision, school district, and state institution employees;

(c) Individual political subdivisions, school districts, and state

institutions.

(14) Issues that could arise when political subdivisions, school districts, and state institutions transition from the existing purchasing structure to a new purchasing structure;

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

(16) Impact on eliminating the premium tax or excise currently received on behalf of a public employer under division (A) of section 5725.18 and division (A) of 5729.03 of the Revised Code;

(17) How development of the federal health exchange in Ohio may impact public employees;

(18) Impact of joint health insurance regional program on insurance carriers and agents;

(19) The benefits, including any cost savings to the state of establishing a benchmark for public employers to meet in lieu of establishing new plans administered by the department.

~~(J)~~(F) The public ~~schools~~ health care advisory committee is hereby created under the ~~school employees health care board~~ department of administrative services. The committee shall make recommendations to the ~~school employees health care board related to the board's accomplishment of the duties assigned to the board~~ director of administrative services or the director's designee on the development and adoption of best practices under this section. The committee shall consist of ~~eighteen~~ fifteen members appointed by the speaker of the house of representatives, the president of the senate, and the governor and shall include representatives from state and local government employers, state and local government employees, insurance agents, health insurance companies, and joint purchasing arrangements currently in existence. ~~The governor shall appoint two representatives each from the Ohio education association, the Ohio school boards association, and a health insuring corporation licensed to do business in Ohio and recommended by the Ohio association of Health Plans. The speaker shall appoint two representatives each from the Ohio association of school business officials, the Ohio federation of teachers, and the buckeye association of school administrators. The president of the senate shall appoint two representatives each from the Ohio association of health underwriters, an existing health care consortium serving public schools, and the Ohio association of public school employees. The initial appointees shall serve until December 31, 2007; subsequent two-year appointments, to commence on the first day of January of each year thereafter, and shall be~~

~~made in the same manner. A member shall continue to serve subsequent to the expiration of the member's term until the member's successor is appointed. Any vacancy occurring during a member's term shall be filled in the same manner as the original appointment, except that the person appointed to fill the vacancy shall be appointed to the remainder of the unexpired term. The advisory committee shall elect a chairperson at its first meeting after the first day of January each year who shall call the time and place of future committee meetings in addition to the meetings that are to be held jointly with the school employees health care board. Committee members are not subject to the conditions for eligibility set by division (B) of this section for members of the school employees health care board.~~ Nothing in this section prohibits a political subdivision from adopting a delivery system of benefits that is not in accordance with the department's adopted best practices if it is considered to be most financially advantageous to the political subdivision.

~~(K)~~(G) The ~~board~~ department may adopt rules for the enforcement of health plan sponsors' compliance with the best practices standards adopted by the ~~board~~ department pursuant to this section.

~~(L) Any districts providing health care plan coverage for the employees of public school districts shall provide nonidentifiable aggregate claims data for the coverage to the school employees health care board, without charge, within sixty days after receiving a written request from the board.~~ (H) Any health care plan providing coverage for the employees of political subdivisions, public school districts, or state institutions of higher education, or that have provided coverage within two years before the effective date of this amendment, shall provide nonidentifiable aggregate claims and administrative data for the coverage provided as required by the department, without charge, within thirty days after receiving a written request from the department. The claims data shall include data relating to employee group benefit sets, demographics, and claims experience.

~~(M)~~(I)(1) The ~~school employees health care board~~ department may contract with other state agencies for services as the ~~board~~ department deems necessary for the implementation and operation of this section, based on demonstrated experience and expertise in administration, management, data handling, actuarial studies, quality assurance, or for other needed services. ~~The school employees health care board may contract with the department of administrative services for central services until such time the board deems itself able to obtain such services from its own staff or from other sources. The board shall reimburse the department of administrative services for the reasonable cost of those services.~~

(2) The ~~board~~ department shall hire staff as necessary to provide administrative support to the ~~board~~ department and the public ~~school~~ employee health care plan program established by this section.

~~(N)~~(J) Not more than ninety days before coverage begins for political subdivision, public school district, and state institution employees under health care plans ~~containing best practices prescribed~~ designed by the ~~school employees health care board~~ department, a political subdivision's governing body, public school district's board of education, and a state institution's board of trustees or managing authority shall provide detailed information about the health care plans to the employees.

~~(O)~~(K) Nothing in this section shall be construed as prohibiting political subdivisions, public school districts, or state institutions from consulting with and compensating insurance agents and brokers for professional services or from establishing a self-insurance program.

~~(P)(1)~~(L) Pursuant to Chapter 117. of the Revised Code, the auditor of state shall conduct all necessary and required audits of the ~~board~~ department. The auditor of state, upon request, also shall furnish to the ~~board~~ department copies of audits of political subdivisions, public school districts, or consortia performed by the auditor of state.

Sec. 101.532. The main operating appropriations bill shall not contain appropriations for the industrial commission~~, the workers' compensation council,~~ or the bureau of workers' compensation. Appropriations for the bureau ~~and the council~~ shall be enacted in one bill, and appropriations for the industrial commission shall be enacted in a separate bill.

Sec. 101.711. (A) As used in this section:

(1) "Legislative agent" has the meaning defined in section 101.70 of the Revised Code.

(2) "State agency" has the meaning defined in section 117.01 of the Revised Code.

(3) "State institution of higher education" means any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college established under Chapter 3354. of the Revised Code, state community college established under Chapter 3358. of the Revised Code, university branch established under Chapter 3355. of the Revised Code, or technical college established under Chapter 3357. of the Revised Code.

(B) No state agency or state institution of higher education shall enter into a contract with a legislative agent, with a cost exceeding fifty thousand dollars in a calendar year, without the approval of the controlling board.

This section does not apply to an employment contract pursuant to

which an individual is employed directly by a state agency or state institution of higher education as a legislative agent.

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

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

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

(2) Any court;

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

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

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

(6) The public utilities commission of Ohio;

(7) The consumers' ~~council~~ counsel governing board;

(8) The Ohio board of regents;

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

(10) Any board of elections;

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

(12) The Ohio public employees deferred compensation board;

(13) The Ohio retirement study council;

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

(15) The industrial commission;

(16) The parole board;

(17) The board of tax appeals;

(18) The controlling board;

(19) The release authority of department of youth services;

(20) The environmental review appeals commission;

(21) The Ohio ethics commission;

(22) The Ohio public works commission;

(23) The self-insuring employers evaluation board;

(24) The state board of deposit;

(25) The state employment relations board~~;~~

~~(26) The workers' compensation council~~.

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

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

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

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

Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the executive director and the members of the capitol square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; all members of the Ohio casino control commission, the executive director of the commission, all professional employees of the commission, and all technical employees of the commission who perform an internal audit function; the individuals set forth in division (B)(2) of section 187.03 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study council, other than employees who perform purely administrative or clerical functions; the administrator of workers'

compensation and each member of the bureau of workers' compensation board of directors; the bureau of workers' compensation director of investments; the chief investment officer of the bureau of workers' compensation; ~~the director appointed by the workers' compensation council;~~ all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district that is established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use, and that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; all members appointed to the Ohio livestock care standards board under section 904.02 of the Revised Code; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section.

The disclosure statement shall include all of the following:

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

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section and except as otherwise provided in section 102.022 of the Revised Code, identification of every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. If the person filing the statement is a member of the general assembly, the

statement shall identify the amount of every source of income received in accordance with the following ranges of amounts: zero or more, but less than one thousand dollars; one thousand dollars or more, but less than ten thousand dollars; ten thousand dollars or more, but less than twenty-five thousand dollars; twenty-five thousand dollars or more, but less than fifty thousand dollars; fifty thousand dollars or more, but less than one hundred thousand dollars; and one hundred thousand dollars or more. Division (A)(2)(a) of this section shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or profession, except for those individual items of income that are attributable to the person's or, if the income is shared with the person, the partner's, solicitation of services or goods or performance, arrangement, or facilitation of services or provision of goods on behalf of the business or profession of clients, including corporate clients, who are legislative agents. A person who files the statement under this section shall disclose the identity of and the amount of income received from a person who the public official or employee knows or has reason to know is doing or seeking to do business of any kind with the public official's or employee's agency.

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

(c) Except as otherwise provided in division (A)(2)(c) of this section, division (A)(2)(a) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are

required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose in the brief description of the nature of services required by division (A)(2)(a) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

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

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

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in the person's own name or in the name of any other person, more than one thousand dollars. Division

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

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

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

(8) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses incurred for travel to destinations inside or outside this state that is received by the person in the person's own name or by any other person for the person's use or benefit and that is incurred in connection with the person's

official duties, except for expenses for travel to meetings or conventions of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues;

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

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

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

employment. No person shall be required to file with the appropriate ethics commission more than one statement or pay more than one filing fee for any one calendar year.

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

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

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

Except for disclosure statements filed by members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation, disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any such school district or educational service center pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by the individuals set forth in division (B)(2) of section 187.03 of the Revised Code shall be kept confidential. The

Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this division.

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

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

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

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

For state office, except member of the state board of education	~~$65~~95
For office of member of general assembly	$40
For county office	~~$40~~60
For city office	~~$25~~35
For office of member of the state board of education	$25
For office of member of the Ohio livestock care standards board	~~$25~~.....
For office of member of a city, local, exempted village, or cooperative education board of education or educational service	

center governing board	$~~20~~30
For position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or educational service center	$~~20~~30

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

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

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

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

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

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

(H) Division (A) of this section does not apply to a person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517. of the Revised Code; a presidential elector; a delegate

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

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

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

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

(3) Five members appointed by the governor, with the advice and consent of the senate, not more than three of whom shall be members of the same political party, one of whom shall be the chief of staff of the governor's office, one of whom shall represent the Ohio arts council, one of whom shall represent the Ohio historical society, one of whom shall represent the Ohio building authority, and one of whom shall represent the public at large;

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

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

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

(B) Terms of office of each appointed member of the board shall be for three years, except that members of the general assembly appointed to the board shall be members of the board only so long as they are members of the general assembly and the chief of staff of the governor's office shall be a member of the board only so long as the appointing governor remains in office. Each member shall hold office from the date of the member's

appointment until the end of the term for which the member was appointed. In case of a vacancy occurring on the board, the president of the senate, the speaker of the house of representatives, or the governor, as the case may be, shall in the same manner prescribed for the regular appointment to the commission, fill the vacancy by appointing a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(C) The board shall hold meetings in a manner and at times prescribed by the rules adopted by the board. A majority of the board constitutes a quorum, and no action shall be taken by the board unless approved by at least six members or by at least seven members if a person is appointed under division (A)(4) or (5) of this section. At its first meeting, the board shall adopt rules for the conduct of its business and the election of its officers, and shall organize by selecting a chairperson and other officers as it considers necessary. Board members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

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

(1) Employ or hire on a consulting basis professional, technical, and clerical employees as are necessary for the performance of its duties~~;~~. All employees of the board are in the unclassified service and serve at the pleasure of the board. For purposes of section 4117.01 of the Revised Code, employees of the board shall be considered employees of the general assembly, except that employees who are covered by a collective bargaining agreement on the effective date of this amendment shall remain subject to the agreement until the agreement expires on its terms, and the agreement shall not be extended or renewed. Upon expiration of the agreement, the employees are considered employees of the general assembly for purposes of section 4117.01 of the Revised Code and are in the unclassified service and serve at the pleasure of the board.

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

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

(4) Sponsor, conduct, and support such social events as the board may authorize and consider appropriate for the employees of the board, employees and members of the general assembly, employees of persons

under contract with the board or otherwise engaged to perform services on the premises of capitol square, or other persons as the board may consider appropriate. Subject to the requirements of Chapter 4303. of the Revised Code, the board may provide beer, wine, and intoxicating liquor, with or without charge, for those events and may use funds only from the sale of goods and services fund to purchase the beer, wine, and intoxicating liquor the board provides;

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

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

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

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

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

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

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

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

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

(F)(1) The board shall lease capital facilities improved or financed by the Ohio building authority pursuant to Chapter 152. of the Revised Code for the use of the board, and may enter into any other agreements with the

authority ancillary to improvement, financing, or leasing of those capital facilities, including, but not limited to, any agreement required by the applicable bond proceedings authorized by Chapter 152. of the Revised Code. Any lease of capital facilities authorized by this section shall be governed by division (D) of section 152.24 of the Revised Code.

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

(3) All moneys received by the treasurer of state on account of the board and required by the applicable bond proceedings or by separate agreement with the board to be deposited, transferred, or credited to the bond service fund or bond service reserve fund established by the bond proceedings shall be transferred by the treasurer of state to such fund, whether or not it is in the custody of the treasurer of state, without necessity for further appropriation, upon receipt of notice from the Ohio building authority as prescribed in the bond proceedings.

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

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

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

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

square;

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

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

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

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

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

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

Sec. 107.09. Immediately after the determination of each decennial apportionment for members of the general assembly the governor shall cause such apportionment to be published for four consecutive weeks, or as provided in section 7.16 of the Revised Code, in three newspapers, one in Cincinnati, one in Cleveland, and one in Columbus.

Sec. 109.36. As used in this section and sections 109.361 to 109.366 of the Revised Code:

(A)(1) "Officer or employee" means any of the following:

(a) A person who, at the time a cause of action against the person arises, is serving in an elected or appointed office or position with the state or is employed by the state.

(b) A person that, at the time a cause of action against the person, partnership, or corporation arises, is rendering medical, nursing, dental, podiatric, optometric, physical therapeutic, psychiatric, or psychological services pursuant to a personal services contract or purchased service contract with a department, agency, or institution of the state.

(c) A person that, at the time a cause of action against the person, partnership, or corporation arises, is rendering peer review, utilization review, or drug utilization review services in relation to medical, nursing, dental, podiatric, optometric, physical therapeutic, psychiatric, or psychological services pursuant to a personal services contract or purchased service contract with a department, agency, or institution of the state.

(d) A person who, at the time a cause of action against the person arises, is rendering medical, nursing, dental, podiatric, optometric, physical therapeutic, psychiatric, or psychological services to patients in a state institution operated by the department of mental health~~, is a member of the institution's staff, and is performing the services~~ pursuant to an agreement ~~between the state institution and a board of alcohol, drug addiction, and mental health services described in section 340.021 of the Revised Code~~ with the department.

(2) "Officer or employee" does not include any person elected, appointed, or employed by any political subdivision of the state.

(B) "State" means the state of Ohio, including but not limited to, the general assembly, the supreme court, courts of appeals, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

(C) "Political subdivisions" of the state means municipal corporations, townships, counties, school districts, and all other bodies corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.

(D) "Employer" means the general assembly, the supreme court, courts of appeals, any office of an elected state officer, or any department, board, office, commission, agency, institution, or other instrumentality of the state of Ohio that employs or contracts with an officer or employee or to which

an officer or employee is elected or appointed.

Sec. 109.43. (A) As used in this section:

(1) "Designee" means a designee of the elected official in the public office if that elected official is the only elected official in the public office involved or a designee of all of the elected officials in the public office if the public office involved includes more than one elected official.

(2) "Elected official" means an official elected to a local or statewide office. "Elected official" does not include the chief justice or a justice of the supreme court, a judge of a court of appeals, court of common pleas, municipal court, or county court, or a clerk of any of those courts.

(3) "Public office" has the same meaning as in section 149.011 of the Revised Code.

(4) "Public record" has the same meaning as in section 149.43 of the Revised Code.

(B) The attorney general shall develop, provide, and certify training programs and seminars for all elected officials or their appropriate designees in order to enhance the officials' knowledge of the duty to provide access to public records as required by section 149.43 of the Revised Code. The training shall be three hours for every term of office for which the elected official was appointed or elected to the public office involved. The training shall provide elected officials or their appropriate designees with guidance in developing and updating their offices' policies as required under section 149.43 of the Revised Code. The successful completion by an elected official or by an elected official's appropriate designee of the training requirements established by the attorney general under this section shall satisfy the education requirements imposed on elected officials or their appropriate designees under division (E) of section 149.43 of the Revised Code. Prior to providing the training programs and seminars under this section to satisfy the education requirements imposed on elected officials or their appropriate designees under division (E) of section 149.43 of the Revised Code, the attorney general shall ensure that the training programs and seminars are accredited by the commission on continuing legal education established by the supreme court.

(C) The attorney general shall not charge any elected official or the appropriate designee of any elected official any fee for attending the training programs and seminars that the attorney general conducts under this section. The attorney general may allow the attendance of any other interested persons at any of the training programs or seminars that the attorney general conducts under this section and shall not charge the person any fee for attending the training program or seminar.

(D) In addition to developing, providing, and certifying training programs and seminars as required under division (B) of this section, the attorney general may contract with one or more other state agencies, political subdivisions, or other public or private entities to conduct the training programs and seminars for elected officials or their appropriate designees under this section. The contract may provide for the attendance of any other interested persons at any of the training programs or seminars conducted by the contracting state agency, political subdivision, or other public or private entity. The contracting state agency, political subdivision, or other public or private entity may charge an elected official, an elected official's appropriate designee, or an interested person a registration fee for attending the training program or seminar conducted by that contracting agency, political subdivision, or entity pursuant to a contract entered into under this division. The attorney general shall determine a reasonable amount for the registration fee based on the actual and necessary expenses associated with the training programs and seminars. If the contracting state agency, political subdivision, or other public or private entity charges an elected official or an elected official's appropriate designee a registration fee for attending the training program or seminar conducted pursuant to a contract entered into under this division by that contracting agency, political subdivision, or entity, the public office for which the elected official was appointed or elected to represent may use the public office's own funds to pay for the cost of the registration fee.

(E) The attorney general shall develop and provide to all public offices a model public records policy for responding to public records requests in compliance with section 149.43 of the Revised Code in order to provide guidance to public offices in developing their own public record policies for responding to public records requests in compliance with that section.

(F) The attorney general may provide any other appropriate training or educational programs about Ohio's "Sunshine Laws," sections 121.22, 149.38, 149.381, and 149.43 of the Revised Code, as may be developed and offered by the attorney general or by the attorney general in collaboration with one or more other state agencies, political subdivisions, or other public or private entities.

(G) The auditor of state, in the course of an annual or biennial audit of a public office pursuant to Chapter 117. of the Revised Code, shall audit the public office for compliance with this section and division (E) of section 149.43 of the Revised Code.

Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and

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

(2) Every clerk of a court of record in this state, other than the supreme court or a court of appeals, shall send to the superintendent of the bureau a

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

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

(b) The style and number of the case;

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

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

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

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

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

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony,

any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

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

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

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

(C)(1) The superintendent may operate a center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to be known as the Ohio law enforcement gateway to gather and disseminate information, data, and statistics for the use of law enforcement agencies and for other uses specified in this division. The superintendent may gather, store, retrieve, and disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections.

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

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

(4) The attorney general may adopt rules under Chapter 119. of the Revised Code establishing guidelines for the operation of and participation in the Ohio law enforcement gateway. The rules may include criteria for granting and restricting access to information gathered and disseminated through the Ohio law enforcement gateway. The attorney general shall permit the state medical board and board of nursing to access and view, but not alter, information gathered and disseminated through the Ohio law enforcement gateway.

The attorney general may appoint a steering committee to advise the attorney general in the operation of the Ohio law enforcement gateway that

is comprised of persons who are representatives of the criminal justice agencies in this state that use the Ohio law enforcement gateway and is chaired by the superintendent or the superintendent's designee.

(D)(1) The following are not public records under section 149.43 of the Revised Code:

(a) Information and materials furnished to the superintendent pursuant to division (A) of this section;

(b) Information, data, and statistics gathered or disseminated through the Ohio law enforcement gateway pursuant to division (C)(1) of this section;

(c) Information and materials furnished to any board or person under division (F) or (G) of this section.

(2) The superintendent or the superintendent's designee shall gather and retain information so furnished under division (A) of this section that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for the purposes described in division (C)(2) of this section.

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

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

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, division (C) of section 3310.58, or section 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code or that is made under section 3314.41, 3319.392, ~~or~~ 3326.25, or 3328.20 of the Revised Code, the board of education of any school district; the director of developmental disabilities; any county board of developmental disabilities; any entity under contract with a county board of developmental disabilities; the chief administrator of any chartered

nonpublic school; the chief administrator of a registered private provider that is not also a chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general assembly; the chief administrator of any head start agency; the executive director of a public children services agency; a private company described in section 3314.41, 3319.392, ~~or~~ 3326.25, or 3328.20 of the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(b) When a board of education or a registered private provider is required to receive information under this section as a prerequisite to employment of an individual pursuant to division (C) of section 3310.58 or section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in

order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of that nature, a district or provider only shall accept a certified copy of records of that nature within one year after the date of their issuance by the bureau.

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

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

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

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

(G) In addition to or in conjunction with any request that is required to be made under section 3701.881, 3712.09, 3721.121, 5119.693, or ~~3722.151~~ 5119.85 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult or adult resident, the chief administrator of a home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code, adult foster home, or adult care facility may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after January 27,

1997, for employment in a position that does not involve providing direct care to an older adult or adult resident, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

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

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

On receipt of a request under this division, the superintendent shall determine whether that information exists and, on request of the individual requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to the applicant. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, the superintendent shall send to the requester a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the requester a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

(J) As used in this section~~, "sexually~~:

(1) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

(2) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.

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

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

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

(2) On receipt of a request pursuant to section 5123.081 of the Revised Code with respect to an applicant for employment in any position with the department of developmental disabilities, pursuant to section 5126.28 of the

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

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

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

(3) On receipt of a request pursuant to section 173.27, 173.394, 3712.09, 3721.121, 5119.693, or ~~3722.151~~ 5119.85 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25,

2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

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

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

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

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

(5) On receipt of a request pursuant to section 5111.032, 5111.033, or 5111.034 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of

entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction:

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

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

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

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

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

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

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

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

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, two or more OVI or OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request,

or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

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

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

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

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

(10) Upon receipt of a request pursuant to section 5153.111 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner

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

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

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

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

(12) On receipt of a request pursuant to section 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised Code, a completed

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

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

(14) On receipt of a request pursuant to section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2)

of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any criminal offense under any existing or former law of this state, any other state, or the United States.

(15) On receipt of a request for a criminal records check from an appointing or licensing authority under section 3772.07 of the Revised Code, a completed form prescribed under division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner prescribed in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty or no contest to any offense under any existing or former law of this state, any other state, or the United States that is a disqualifying offense as defined in section 3772.07 of the Revised Code or substantially equivalent to such an offense.

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

Not later than thirty days after the superintendent receives a request for a criminal records check pursuant to section 113.041 of the Revised Code, the completed form, and the fingerprint impressions, the superintendent

shall send the treasurer of state any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exist with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state.

(B) The superintendent shall conduct any criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151,~~ 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the request, including, if the criminal records check was requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151,~~ 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code, any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

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

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

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is requested under section 113.041 of the Revised Code or required by section 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151,~~ 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is requested under section 113.041 of the Revised Code or required by section 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151,~~ 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is requested under or required by any of those sections shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible

format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151,~~ 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The person making a criminal records request under any of those sections shall pay the fee prescribed pursuant to this division. A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request. In the case of a request under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the fee shall be paid in the manner specified in that section.

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

(D) A determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or (b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), (A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15) of this section, or that indicates that a person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state regarding a criminal records check of a type described in division (A)(13) of this section, and that is made by the superintendent with respect to information considered in a criminal records check in accordance with this section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another request under this section is made for a criminal records check for that person, the superintendent shall provide the

information that is the basis for the superintendent's initial determination at a lower fee than the fee prescribed for the initial criminal records check.

(E) When the superintendent receives a request for information from a registered private provider, the superintendent shall proceed as if the request was received from a school district board of education under section 3319.39 of the Revised Code. The superintendent shall apply division (A)(7) of this section to any such request for an applicant who is a teacher.

(F) As used in this section:

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

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

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

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

(5) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.

Sec. 109.64. The bureau of criminal identification and investigation shall prepare a periodic information bulletin concerning missing children whom it determines may be present in this state. The bureau shall compile the bulletin from information contained in the national crime information center computer. The bulletin shall indicate the names and addresses of these minors who are the subject of missing children cases and other information that the superintendent of the bureau considers appropriate. The bulletin shall contain a reminder to law enforcement agencies of their responsibilities under section 2901.30 of the Revised Code.

The bureau shall send a copy of each periodic information bulletin to the missing children clearinghouse established under section 109.65 of the Revised Code for use in connection with its responsibilities under division (E) of that section. Upon receipt of each periodic information bulletin from the bureau, the missing children clearinghouse shall send a copy of the bulletin to each sheriff, marshal, police department of a municipal corporation, police force of a township police district or joint ~~township~~ police district, and township constable in this state, to the board of education

of each school district in this state, and to each nonpublic school in this state. The bureau shall provide a copy of the bulletin, upon request, to other persons or entities. The superintendent of the bureau, with the approval of the attorney general, may establish a reasonable fee for a copy of a bulletin provided to persons or entities other than law enforcement agencies in this or other states or of the federal government, the department of education, governmental entities of this state, and libraries in this state. The superintendent shall deposit all such fees collected ~~by him~~ into the missing children fund created by section 109.65 of the Revised Code.

As used in this section, "missing children," "information," and "minor" have the same meanings as in section 2901.30 of the Revised Code.

Sec. 109.71. There is hereby created in the office of the attorney general the Ohio peace officer training commission. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate and selected as follows: one member representing the public; two members who are incumbent sheriffs; two members who are incumbent chiefs of police; one member from the bureau of criminal identification and investigation; one member from the state highway patrol; one member who is the special agent in charge of a field office of the federal bureau of investigation in this state; and one member from the department of education, trade and industrial education services, law enforcement training.

This section does not confer any arrest authority or any ability or authority to detain a person, write or issue any citation, or provide any disposition alternative, as granted under Chapter 2935. of the Revised Code.

As used in sections 109.71 to 109.801 of the Revised Code:

(A) "Peace officer" means:

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

(2) A police officer who is employed by a railroad company and appointed and commissioned by the secretary of state pursuant to sections

4973.17 to 4973.22 of the Revised Code;

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

(4) An undercover drug agent;

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

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

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

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

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

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

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

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

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

(14) A member of a campus police department appointed under section

1713.50 of the Revised Code;

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

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

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

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

(19) A special police officer employed by a municipal corporation who has been awarded a certificate by the executive director of the Ohio peace officer training commission for satisfactory completion of an approved peace officer basic training program and who is employed on a permanent basis on or after March 19, 2003, at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended;

(20) A police officer who is employed by an owner or operator of an amusement park that has an average yearly attendance in excess of six hundred thousand guests and that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by a judge of the appropriate municipal court or county court pursuant to section 4973.17 of the Revised Code;

(21) A police officer who is employed by a bank, savings and loan

association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions, who has been appointed and commissioned by the secretary of state pursuant to sections 4973.17 to 4973.22 of the Revised Code, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of a state, county, municipal, or department of natural resources peace officer basic training program;

(22) An investigator, as defined in section 109.541 of the Revised Code, of the bureau of criminal identification and investigation who is commissioned by the superintendent of the bureau as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers pursuant to authority granted under that section;

(23) A state fire marshal law enforcement officer appointed under section 3737.22 of the Revised Code or a person serving as a state fire marshal law enforcement officer on a permanent basis on or after July 1, 1982, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(24) A gaming agent employed under section 3772.03 of the Revised Code.

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

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

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

Sec. 109.801. (A)(1) Each year, any of the following persons who are authorized to carry firearms in the course of their official duties shall complete successfully a firearms requalification program approved by the executive director of the Ohio peace officer training commission in accordance with rules adopted by the attorney general pursuant to section 109.743 of the Revised Code: any peace officer, sheriff, chief of police of an organized police department of a municipal corporation or township, chief of police of a township police district <u>or joint police district</u> police force, superintendent of the state highway patrol, state highway patrol trooper, or chief of police of a university or college police department; any parole or probation officer who carries a firearm in the course of official duties; the house of representatives sergeant at arms if the house of representatives

sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code; any assistant house of representatives sergeant at arms; or any employee of the department of youth services who is designated pursuant to division (A)(2) of section 5139.53 of the Revised Code as being authorized to carry a firearm while on duty as described in that division.

(2) No person listed in division (A)(1) of this section shall carry a firearm during the course of official duties if the person does not comply with division (A)(1) of this section.

(B) The hours that a sheriff spends attending a firearms requalification program required by division (A) of this section are in addition to the sixteen hours of continuing education that are required by division (E) of section 311.01 of the Revised Code.

(C) As used in this section, "firearm" has the same meaning as in section 2923.11 of the Revised Code.

Sec. 111.12. ~~(A) Except as otherwise provided in division (B) of this section, the~~ The secretary of state shall compile and publish biennially in a paper, book, or ~~other nonelectronic~~ electronic format ~~twenty-five hundred copies of~~ the election statistics of Ohio, ~~four thousand copies of~~ the official roster of federal, state, and county officers, and ~~twenty-five hundred copies of~~ the official roster of township and municipal officers.

~~(B) The secretary of state may compile and publish biennially the election statistics of Ohio, the official roster of federal, state, and county officers, and the official roster of township and municipal officers in an electronic format instead of compiling and publishing these documents biennially in a paper, book, or other nonelectronic format in the numbers specified in division (A) of this section. If the secretary of state does so, the secretary of state shall maintain the ability to provide copies of the election statistics of Ohio, the official roster of federal, state, and county officers, and the official roster of township and municipal officers in accordance with section 149.43 of the Revised Code.~~

Sec. 111.16. The secretary of state shall charge and collect, for the benefit of the state, the following fees:

(A) For filing and recording articles of incorporation of a domestic corporation, including designation of agent:

(1) Wherein the corporation shall not be authorized to issue any shares of capital stock, one hundred twenty-five dollars;

(2) Wherein the corporation shall be authorized to issue shares of capital stock, with or without par value:

(a) Ten cents for each share authorized up to and including one

thousand shares;

(b) Five cents for each share authorized in excess of one thousand shares up to and including ten thousand shares;

(c) Two cents for each share authorized in excess of ten thousand shares up to and including fifty thousand shares;

(d) One cent for each share authorized in excess of fifty thousand shares up to and including one hundred thousand shares;

(e) One-half cent for each share authorized in excess of one hundred thousand shares up to and including five hundred thousand shares;

(f) One-quarter cent for each share authorized in excess of five hundred thousand shares; provided no fee shall be less than one hundred twenty-five dollars or greater than one hundred thousand dollars.

(B) For filing and recording a certificate of amendment to or amended articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization, a certificate of dissolution, or an amendment to a foreign license application:

(1) If the domestic corporation is not authorized to issue any shares of capital stock, fifty dollars;

(2) If the domestic corporation is authorized to issue shares of capital stock, fifty dollars, and in case of any increase in the number of shares authorized to be issued, a further sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued by the corporation; provided no fee under division (B)(2) of this section shall be greater than one hundred thousand dollars;

(3) If the foreign corporation is not authorized to issue any shares of capital stock, fifty dollars;

(4) If the foreign corporation is authorized to issue shares of capital stock, fifty dollars.

(C) For filing and recording articles of incorporation of a savings and loan association, one hundred twenty-five dollars; and for filing and recording a certificate of amendment to or amended articles of incorporation of a savings and loan association, fifty dollars;

(D) For filing and recording a certificate of conversion, including a designation of agent, a certificate of merger, or a certificate of consolidation, one hundred twenty-five dollars and, in the case of any new corporation resulting from a consolidation or any surviving corporation that has an increased number of shares authorized to be issued resulting from a merger, an additional sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for

the number of shares previously authorized to be issued or represented in this state by each of the corporations for which a consolidation or merger is effected by the certificate;

(E) For filing and recording articles of incorporation of a credit union or the American credit union guaranty association, one hundred twenty-five dollars, and for filing and recording a certificate of increase in capital stock or any other amendment of the articles of incorporation of a credit union or the association, fifty dollars;

(F) For filing and recording articles of organization of a limited liability company, for filing and recording an application to become a registered foreign limited liability company, for filing and recording a registration application to become a domestic limited liability partnership, or for filing and recording an application to become a registered foreign limited liability partnership, one hundred twenty-five dollars;

(G) For filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership, or for filing an initial statement of partnership authority pursuant to section 1776.33 of the Revised Code, one hundred twenty-five dollars.

(H) For filing a copy of papers evidencing the incorporation of a municipal corporation or of annexation of territory by a municipal corporation, five dollars, to be paid by the municipal corporation, the petitioners therefor, or their agent;

(I) For filing and recording any of the following:

(1) A license to transact business in this state by a foreign corporation for profit pursuant to section 1703.04 of the Revised Code or a foreign nonprofit corporation pursuant to section 1703.27 of the Revised Code, one hundred twenty-five dollars;

(2) A biennial report or biennial statement pursuant to section 1775.63, 1776.83, or 1785.06 of the Revised Code, twenty-five dollars;

(3) Except as otherwise provided in this section or any other section of the Revised Code, any other certificate or paper that is required to be filed and recorded or is permitted to be filed and recorded by any provision of the Revised Code with the secretary of state, twenty-five dollars.

(J) For filing any certificate or paper not required to be recorded, five dollars;

(K)(1) For making copies of any certificate or other paper filed in the office of the secretary of state, a fee not to exceed one dollar per page, except as otherwise provided in the Revised Code, and for creating and affixing the seal of the office of the secretary of state to any good standing or other certificate, five dollars. For copies of certificates or papers required

by state officers for official purpose, no charge shall be made.

(2) For creating and affixing the seal of the office of the secretary of state to the certificates described in division (E) of section 1701.81, division (E) of section 1701.811, division (E) of section 1705.38, division (E) of section 1705.381, division (D) of section 1702.43, division (E) of section 1775.47, division (E) of section 1775.55, division (E) of section 1776.70, division (E) of section 1776.74, division (E) of section 1782.433, or division (E) of section 1782.4310 of the Revised Code, twenty-five dollars.

(L) For a minister's license to solemnize marriages, ten dollars;

(M) For examining documents to be filed at a later date for the purpose of advising as to the acceptability of the proposed filing, fifty dollars;

(N) Fifty dollars for filing and recording any of the following:

(1) A certificate of dissolution and accompanying documents, or a certificate of cancellation, under section 1701.86, 1702.47, 1705.43, 1776.65, or 1782.10 of the Revised Code;

(2) A notice of dissolution of a foreign licensed corporation or a certificate of surrender of license by a foreign licensed corporation under section 1703.17 of the Revised Code;

(3) The withdrawal of registration of a foreign or domestic limited liability partnership under section 1775.61, 1775.64, 1776.81, or 1776.86 of the Revised Code, or the certificate of cancellation of registration of a foreign limited liability company under section 1705.57 of the Revised Code;

(4) The filing of a statement of denial under section 1776.34 of the Revised Code, a statement of dissociation under section 1776.57 of the Revised Code, a statement of disclaimer of general partner status under Chapter 1782. of the Revised Code, or a cancellation of disclaimer of general partner status under Chapter 1782. of the Revised Code.

(O) For filing a statement of continued existence by a nonprofit corporation, twenty-five dollars;

(P) For filing a restatement under section 1705.08 or 1782.09 of the Revised Code, an amendment to a certificate of cancellation under section 1782.10 of the Revised Code, an amendment under section 1705.08 or 1782.09 of the Revised Code, or a correction under section 1705.55, 1775.61, 1775.64, 1776.12, or 1782.52 of the Revised Code, fifty dollars;

(Q) For filing for reinstatement of an entity cancelled by operation of law, by the secretary of state, by order of the department of taxation, or by order of a court, twenty-five dollars;

(R) For filing ~~a~~ and recording any of the following:

(1) A change of agent, resignation of agent, or change of agent's address

under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, twenty-five dollars;

(2) A multiple change of agent name or address, standardization of agent address, or resignation of agent under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, one hundred twenty-five dollars, plus three dollars per entity record being changed, by the multiple agent update.

(S) For filing and recording any of the following:

(1) An application for the exclusive right to use a name or an application to reserve a name for future use under section 1701.05, 1702.05, 1703.31, 1705.05, or 1746.06 of the Revised Code, fifty dollars;

(2) A trade name or fictitious name registration or report, fifty dollars;

(3) An application to renew any item covered by division (S)(1) or (2) of this section that is permitted to be renewed, twenty-five dollars;

(4) An assignment of rights for use of a name covered by division (S)(1), (2), or (3) of this section, the cancellation of a name registration or name reservation that is so covered, or notice of a change of address of the registrant of a name that is so covered, twenty-five dollars.

(T) For filing and recording a report to operate a business trust or a real estate investment trust, either foreign or domestic, one hundred twenty-five dollars; and for filing and recording an amendment to a report or associated trust instrument, or a surrender of authority, to operate a business trust or real estate investment trust, fifty dollars;

(U)(1) For filing and recording the registration of a trademark, service mark, or mark of ownership, one hundred twenty-five dollars;

(2) For filing and recording the change of address of a registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership, twenty-five dollars.

(V) For filing a service of process with the secretary of state, five dollars, except as otherwise provided in any section of the Revised Code.

Fees specified in this section may be paid by cash, check, or money order, by credit card in accordance with section 113.40 of the Revised Code, or by an alternative payment program in accordance with division (B) of section 111.18 of the Revised Code. Any credit card number or the expiration date of any credit card is not subject to disclosure under Chapter 149. of the Revised Code.

Sec. 111.18. (A) The secretary of state shall keep a record of all fees collected by the secretary of state and, ~~subject to division (B) of section~~

~~1309.528 of the Revised Code and~~ except as otherwise provided in the Revised Code, shall pay them into the state treasury to the credit of the corporate and uniform commercial code filing fund created by section 1309.528 of the Revised Code.

(B) The secretary of state may implement alternative payment programs that permit payment of any fee charged by the secretary of state by means other than cash, check, money order, or credit card; an alternative payment program may include, but is not limited to, one that permits a fee to be paid by electronic means of transmission. Fees paid under an alternative payment program shall be deposited to the credit of the secretary of state alternative payment program fund, which is hereby created in the state treasury. Any investment income of the secretary of state alternative payment program fund shall be credited to that fund and used to operate the alternative payment program. Within two working days following the deposit of funds to the credit of the secretary of state alternative payment program fund, the secretary of state shall pay those funds to the credit of the corporate and uniform commercial code filing fund, subject to division (B) of section 1309.401 of the Revised Code and except as otherwise provided in the Revised Code.

The secretary of state shall adopt rules necessary to carry out the purposes of this division.

Sec. 111.181. There is hereby created in the state treasury the information systems fund. The fund shall receive revenues from fees charged to customers for special database requests, including corporate and uniform commercial code filings. The secretary of state shall use the fund for information technology related expenses of the office.

Sec. 111.28. (A) There is hereby created in the state treasury the help America vote act (HAVA) fund. All moneys received by the secretary of state from the United States election assistance commission shall be credited to the fund. The secretary of state shall use the moneys credited to the fund for activities conducted pursuant to the "Help America Vote Act of 2002," Pub. L. No. 107-252, 116 Stat. 1666. All investment earnings of the fund shall be credited to the fund.

(B) There is hereby created in the state treasury the election reform/health and human services fund. All moneys received by the secretary of state from the United States department of health and human services shall be credited to the fund. The secretary of state shall use the moneys credited to the fund for activities conducted pursuant to grants awarded to the state under Title II, Subtitle D, Sections 261 to 265 of the Help America Vote Act of 2002 to assure access for individuals with

disabilities. All investment earnings of the fund shall be credited to the fund.

Sec. 111.29. There is hereby created in the state treasury the citizen education fund. The fund shall receive gifts, grants, fees, and donations from private individuals and entities for voter education purposes. The secretary of state shall use the moneys credited to the fund for preparing, printing, and distributing voter registration and educational materials and for conducting related workshops and conferences for public education.

Sec. 117.101. The auditor of state shall provide, operate, and maintain a uniform and compatible computerized financial management and accounting system known as the uniform accounting network. The network shall be designed to provide public offices, other than state agencies and the Ohio education computer network and public school districts, with efficient and economical access to data processing and management information facilities and expertise. In accordance with this objective, activities of the network shall include, but not be limited to, provision, maintenance, and operation of the following facilities and services:

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

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

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

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

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

(1) The costs of all audits of state agencies shall be paid to the auditor of

state on statements rendered by the auditor of state. Money so received by the auditor of state shall be paid into the state treasury to the credit of the public audit expense fund--intrastate, which is hereby created, and shall be used to pay costs related to such audits. The costs of audits of a state agency shall be charged to the state agency being audited. The costs of any assistant auditor, employee, or expert employed pursuant to section 117.09 of the Revised Code called upon to testify in any legal proceedings in regard to any audit, or called upon to review or discuss any matter related to any audit, may be charged to the state agency to which the audit relates.

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

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

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

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

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

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

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

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

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

(1) The total amount of compensation paid assistant auditors of state, their expenses, the cost of employees assigned to assist the assistant auditors of state, the cost of experts employed pursuant to section 117.09 of the Revised Code, and the cost of typing, reviewing, and copying reports shall

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

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

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

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

assessed by the auditor of state may be collected in the same manner as audit costs pursuant to division (D) of this section.

(5) The auditor of state shall establish by rule rates to be charged to local public offices for recovering the costs of audits of local public offices.

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

Sec. 118.023. (A) Upon determining that one or more of the conditions described in section 118.022 of the Revised Code are present, the auditor of state shall issue a written declaration of the existence of a fiscal watch to the municipal corporation, county, or township and the county budget commission. The fiscal watch shall be in effect until the auditor of state determines that none of the conditions are any longer present and cancels the watch, or until the auditor of state determines that a state of fiscal emergency exists. The auditor of state, or a designee, shall provide such technical and support services to the municipal corporation, county, or township after a fiscal watch has been declared to exist as the auditor of state considers necessary. ~~The controlling board shall provide sufficient funds for any costs that the auditor of state may incur in determining if a~~

~~fiscal watch exists and for providing technical and support services.~~

(B) Within one hundred twenty days after the day a written declaration of the existence of a fiscal watch is issued under division (A) of this section, the mayor of the municipal corporation, the board of county commissioners of the county, or the board of township trustees of the township for which a fiscal watch was declared shall submit to the auditor of state a financial recovery plan that shall identify actions to be taken to eliminate all of the conditions described in section 118.022 of the Revised Code, include a schedule detailing the approximate dates for beginning and completing the actions, and include a five-year forecast reflecting the effects of the actions. The financial recovery plan is subject to review and approval by the auditor of state. The auditor of state may extend the amount of time by which a financial recovery plan is required to be filed, for good cause shown.

(C) If a feasible financial recovery plan for a municipal corporation, county, or township for which a fiscal watch was declared is not submitted within the time period prescribed by division (B) of this section, or within any extension of time thereof, the auditor of state shall declare that a fiscal emergency condition exists under section 118.04 of the Revised Code in the municipal corporation, county, or township.

Sec. 118.025. (A) The auditor of state shall develop guidelines for identifying fiscal practices and budgetary conditions of municipal corporations, counties, and townships that, if uncorrected, could result in a future declaration of a fiscal watch or fiscal emergency.

(B) If the auditor of state determines that a municipal corporation, county, or township is engaging in any of those practices or that any of those conditions exist, the auditor of state may declare the municipal corporation, county, or township to be under a fiscal caution.

(C) When the auditor of state declares a fiscal caution, the auditor of state shall promptly notify the municipal corporation, county, or township of that declaration and shall request the municipal corporation, county, or township to provide written proposals for discontinuing or correcting the fiscal practices or budgetary conditions that prompted the declaration and for preventing the municipal corporation, county, or township from experiencing further fiscal difficulties that could result in a declaration of fiscal watch or fiscal emergency.

(D) The auditor of state, or a designee, may visit and inspect any municipal corporation, county, or township that is declared to be under a fiscal caution. The auditor of state may provide technical assistance to the municipal corporation, county, or township in implementing proposals to eliminate the practices or budgetary conditions that prompted the declaration

of fiscal caution and may make recommendations concerning those proposals.

(E) If the auditor of state finds that a municipal corporation, county, or township declared to be under a fiscal caution has not made reasonable proposals or otherwise taken action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration of fiscal caution, and if the auditor of state considers it necessary to prevent further fiscal decline, the auditor of state may determine that the municipal corporation, county, or township should be in a state of fiscal watch.

Sec. 118.04. (A) The existence of a fiscal emergency condition constitutes a fiscal emergency. The existence of fiscal emergency conditions shall be determined by the auditor of state. Such determination, for purposes of this chapter, may be made only upon the filing with the auditor of state of a written request for such a determination by the governor, by the county budget commission, by the mayor of the municipal corporation, or by the presiding officer of the legislative authority of the municipal corporation when authorized by a majority of the members of such legislative authority, by the board of county commissioners, or by the board of township trustees, or upon initiation by the auditor of state. The request may designate in general or specific terms, but without thereby limiting the determination thereto, the condition or conditions to be examined to determine whether they constitute fiscal emergency conditions. Promptly upon receipt of such written request, or upon initiation by the auditor of state, the auditor of state shall transmit copies of such request or a written notice of such initiation to the mayor and the presiding officer of the legislative authority of the municipal corporation or to the board of county commissioners or the board of township trustees by personal service or certified mail. Such determinations shall be set forth in written reports and supplemental reports, which shall be filed with the mayor, fiscal officer, and presiding officer of the legislative authority of the municipal corporation, or with the board of county commissioners or the board of township trustees, and with the treasurer of state, secretary of state, governor, director of budget and management, and county budget commission, within thirty days after the request. The auditor of state shall so file an initial report immediately upon determining the existence of any fiscal emergency condition.

(B) In making such determination, the auditor of state may rely on reports or other information filed or otherwise made available by the municipal corporation, county, or township, accountants' reports, or other sources and data the auditor of state considers reliable for such purpose. As to the status of funds or accounts, a determination that the amounts stated in

section 118.03 of the Revised Code are exceeded may be made without need for determination of the specific amount of the excess. The auditor of state may engage the services of independent certified or registered public accountants, including public accountants engaged or previously engaged by the municipal corporation, county, or township, to conduct audits or make reports or render such opinions as the auditor of state considers desirable with respect to any aspect of the determinations to be made by the auditor of state.

(C) A determination by the auditor of state under this section that a fiscal emergency condition does not exist is final and conclusive and not appealable. A determination by the auditor of state under this section that a fiscal emergency exists is final, except that the mayor of any municipal corporation affected by a determination of the existence of a fiscal emergency condition under this section, when authorized by a majority of the members of the legislative authority, or the board of county commissioners or board of township trustees, may appeal the determination of the existence of a fiscal emergency condition to the court of appeals having territorial jurisdiction over the municipal corporation, county, or township. The appeal shall be heard expeditiously by the court of appeals and for good cause shown shall take precedence over all other civil matters except earlier matters of the same character. Notice of such appeal must be filed with the auditor of state and such court within thirty days after certification by the auditor of state to the mayor and presiding officer of the legislative authority of the municipal corporation or to the board of county commissioners or board of township trustees as provided for in division (A) of this section. In such appeal, determinations of the auditor of state shall be presumed to be valid and the municipal corporation, county, or township shall have the burden of proving, by clear and convincing evidence, that each of the determinations made by the auditor of state as to the existence of a fiscal emergency condition under section 118.03 of the Revised Code was in error. If the municipal corporation, county, or township fails, upon presentation of its case, to prove by clear and convincing evidence that each such determination by the auditor of state was in error, the court shall dismiss the appeal. The municipal corporation, county, or township and the auditor of state may introduce any evidence relevant to the existence or nonexistence of such fiscal emergency conditions at the times indicated in the applicable provisions of divisions (A) and (B) of section 118.03 of the Revised Code. The pendency of any such appeal shall not affect or impede the operations of this chapter; no restraining order, temporary injunction, or other similar restraint upon actions consistent with this chapter shall be

imposed by the court or any court pending determination of such appeal; and all things may be done under this chapter that may be done regardless of the pendency of any such appeal. Any action taken or contract executed pursuant to this chapter during the pendency of such appeal is valid and enforceable among all parties, notwithstanding the decision in such appeal. If the court of appeals reverses the determination of the existence of a fiscal emergency condition by the auditor of state, the determination no longer has any effect, and any procedures undertaken as a result of the determination shall be terminated.

(D) All expenses incurred by the auditor of state relating to a determination or termination of a fiscal emergency under this section ~~or,~~ a fiscal watch under section 118.021 of the Revised Code, or a fiscal caution under section 118.025 of the Revised Code, including providing technical and support services, shall be reimbursed from an appropriation for that purpose. If necessary, the controlling board may provide sufficient funds for these purposes.

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

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

(1) Four ex officio members: the treasurer of state; the director of budget and management; in the case of a municipal corporation, the mayor of the municipal corporation and the presiding officer of the legislative authority of the municipal corporation; in the case of a county, the president of the board of county commissioners and the county auditor; and in the case of a township, a member of the board of township trustees and the county auditor.

The treasurer of state may designate a deputy treasurer or director within the office of the treasurer of state or any other appropriate person

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

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

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

incapacity, removal, or ineligibility to serve of an appointed member, the governor, pursuant to the process for original appointment, shall appoint a successor.

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

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

Each appointed member shall be an individual:

(a) Who has knowledge and experience in financial matters, financial management, or business organization or operations;

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

(c) Who shall not become a candidate for elected public office while serving as a member of the commission.

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

(D) The director of budget and management shall serve as chairperson of the commission. The commission shall elect one of its members to serve

as vice-chairperson and may appoint a secretary and any other officers, who need not be members of the commission, it considers necessary. The chairperson may remove a member appointed by the governor if that member fails to attend three consecutive meetings. In that event, the governor shall fill the vacancy in the same manner as the original appointment.

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

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

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

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

(I) The financial supervisor, the members of the commission, the auditor of state, and any person authorized to act on behalf of or assist them shall not be personally liable or subject to any suit, judgment, or claim for damages resulting from the exercise of or failure to exercise the powers,

duties, and functions granted to them in regard to their functioning under this chapter, but the commission, the financial supervisor, the auditor of state, and those other persons shall be subject to mandamus proceedings to compel performance of their duties under this chapter and with respect to any debt obligations issued pursuant or subject to this chapter.

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

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

(L) A commission is not established with respect to any village or township with a population of less than one thousand as of the most recent federal decennial census. Upon the occurrence of a fiscal emergency in such a village or township, the auditor of state shall serve as the financial supervisor of the village or township and shall have all the powers and responsibilities of a commission.

Sec. 118.06. (A) Within one hundred twenty days after the first meeting of the commission, the mayor of the municipal corporation or the board of county commissioners or board of township trustees shall submit to the commission a detailed financial plan, as approved or amended and approved by ordinance or resolution of the legislative authority, containing the following:

(1) Actions to be taken by the municipal corporation, county, or township to:

(a) Eliminate all fiscal emergency conditions determined to exist pursuant to section 118.04 of the Revised Code;

(b) Satisfy any judgments, past due accounts payable, and all past due and payable payroll and fringe benefits;

(c) Eliminate the deficits in all deficit funds;

(d) Restore to construction funds and other special funds moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such construction funds by the purchase of debt obligations of the municipal corporation, county, or township with the moneys of such funds, or missing from the construction funds or such special funds and not accounted for;

(e) Balance the budgets, avoid future deficits in any funds, and maintain current payments of payroll, fringe benefits, and all accounts;

(f) Avoid any fiscal emergency condition in the future;

(g) Restore the ability of the municipal corporation, county, or township to market long-term general obligation bonds under provisions of law applicable to municipal corporations, counties, or townships generally.

(2) The legal authorities permitting the municipal corporation, county, or township to take the actions enumerated pursuant to division (A)(1) of this section;

(3) The approximate dates of the commencement, progress upon, and completion of the actions enumerated pursuant to division (A)(1) of this section, a five-year forecast reflecting the effects of those actions, and a reasonable period of time expected to be required to implement the plan. The municipal corporation, county, or township, in consultation with the commission and the financial supervisor, shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the financial plan and the financial plan shall be consistent with that time schedule.

(4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the municipal corporation, county, or township and the county auditor;

(5) Assurances that the municipal corporation, county, or township will establish monthly levels of expenditures and encumbrances pursuant to division (B)(2) of section 118.07 of the Revised Code;

(6) Assurances that the municipal corporation, county, or township will conform to statutes with respect to tax budgets and appropriation measures;

(7) The detail, the form, and the supporting information that the commission may direct.

(B) The financial plan developed pursuant to division (A) of this section

shall be filed with the financial supervisor and the financial planning and supervision commission and shall be updated annually. After consultation with the financial supervisor, the commission shall either approve or reject any initial or subsequent financial plan. If the commission rejects the initial or any subsequent financial plan, it shall forthwith inform the mayor and legislative authority of the municipal corporation or the board of county commissioners or board of township trustees of the reasons for its rejection. Within thirty days after the rejection of any plan, the mayor with the approval of the legislative authority by the passage of an ordinance or resolution, or the board of county commissioners or board of township trustees, shall submit another plan meeting the requirements of divisions (A)(1) to (7) of this section, to the commission and the financial supervisor for approval or rejection by the commission.

(C) Any initial or subsequent financial plan passed by the municipal corporation, county, or township shall be approved by the commission if it complies with divisions (A)(1) to (7) of this section, and if the commission finds that the plan is bona fide and can reasonably be expected to be implemented within the period specified in the plan.

(D) Any financial plan may be amended subsequent to its adoption in the same manner as the passage and approval of the initial or subsequent plan pursuant to divisions (A) to (C) of this section.

(E) If a municipal corporation, county, or township fails to submit a financial plan as required by this section, or fails to substantially comply with an approved financial plan, upon certification of the commission, all state funding for that municipal corporation, county, or township other than benefit assistance to individuals shall be escrowed until a feasible plan is submitted and approved or substantial compliance with the plan is achieved, as the case may be.

Sec. 118.12. (A) After the date by which the municipal corporation, county, or township is required to submit a financial plan or segment of a financial plan to the financial planning and supervision commission, if the municipal corporation, county, or township has failed to submit a financial plan or segment as required by this chapter, expenditures from the general fund of the municipal corporation, county, or township in any month may not exceed eighty-five per cent of expenditures from the general fund for such month in the preceding fiscal year, except the commission may authorize a higher per cent for any month upon justification of need by the municipal corporation, county, or township. If considered prudent by the commission, expenditures from any other fund of the municipal corporation, county, or township also may be limited.

(B) After submission of a proposed financial plan by the municipal corporation, county, or township to the commission, until approval or disapproval no expenditure may be made contrary to such proposed financial plan.

(C) After disapproval by the commission of a proposed financial plan, no expenditure may be made by the municipal corporation, county, or township inconsistent with the reasons for disapproval given pursuant to division (B) of section 118.06 of the Revised Code; and if the municipal corporation, county, or township fails to submit a revised financial plan within the time required, the expenditure limits of division (A) of this section are applicable.

(D) After approval of a financial plan, or any amendment thereof, no expenditure may be made contrary to the approved financial plan, or amendment thereof, without the advance approval of the financial supervisor. The commission, by a majority vote, may overrule the decision of the financial supervisor.

Sec. 118.17. (A) During a fiscal emergency period and with the approval of the financial planning and supervision commission, a municipal corporation, county, or township may issue local government fund notes, in anticipation of amounts to be allocated to it pursuant to division (B) of section 5747.50 of the Revised Code or to be apportioned to it under section 5747.51 or 5747.53 of the Revised Code in a future year or years, for a period of no more than eight calendar years. The principal amount of the notes and interest on the notes due and payable in any year shall not exceed fifty per cent of the total amount of local government fund moneys so allocated or apportioned to the municipal corporation, county, or township for the year preceding the year in which the notes are issued. The notes may mature in semiannual or annual installments in such amounts as may be fixed by the commission, and need not mature in substantially equal semiannual or annual installments. The notes of a municipal corporation may be authorized and issued, subject to the approval of the commission, in the manner provided in sections 717.15 and 717.16 of the Revised Code, except that, notwithstanding division (A)(2) of section 717.16 of the Revised Code, the rate or rates of interest payable on the notes shall be the prevailing market rate or rates as determined and approved by the commission, and except that they shall not be issued in anticipation of bonds, shall not constitute general obligations of the municipal corporation, and shall not pledge the full faith and credit of the municipal corporation.

(B) The principal and interest on the notes provided for in this section shall be payable, as provided in this section, solely from the portion of the

local government fund that would otherwise be apportioned to the municipal corporation, county, or township and shall not be payable from or constitute a pledge of or claim upon, or require the levy, collection, or application of, any unvoted ad valorem property taxes or other taxes, or in any manner occupy any portion of the indirect debt limit.

(C) Local government fund notes may be issued only to the extent needed to achieve one or more of the following objectives of the financial plan:

(1) Satisfying any contractual or noncontractual judgments, past due accounts payable, and all past due and payable payroll and fringe benefits to be taken into account under section 118.03 of the Revised Code;

(2) Restoring to construction funds or other restricted funds any money applied from such funds to uses not within the purposes of such funds and which could not be transferred to such use under section 5705.14 of the Revised Code;

(3) Eliminating deficit balances in all deficit funds, including funds that may be used to pay operating expenses.

In addition to the objectives set forth in divisions (C)(1) to (3) of this section, local government fund notes may be issued and the proceeds of those notes may be used for the purpose of retiring or replacing other moneys used to retire current revenue notes issued pursuant to section 118.23 of the Revised Code to the extent that the proceeds of the current revenue notes have been or are to be used directly or to replace other moneys used to achieve one or more of the objectives of the financial plan specified in divisions (C)(1) to (3) of this section. Upon authorization of the local government fund notes by the legislative authority of the municipal corporation, county, or township, the proceeds of the local government fund notes and the proceeds of any such current revenue notes shall be deemed to be appropriated, to the extent that the proceeds have been or are to be so used, for the purposes for which the revenues anticipated by any such current revenue notes are collected and appropriated within the meaning of section 133.10 of the Revised Code.

(D) The need for an issue of local government fund notes for such purposes shall be determined by taking into consideration other money and sources of moneys available therefor under this chapter or other provisions of law, and calculating the respective amounts needed therefor in accordance with section 118.03 of the Revised Code, including the deductions or offsets therein provided, for determining that a fiscal emergency condition exists, and by eliminating any duplication of amounts thereunder. The respective amounts needed to achieve such objectives and

the resulting aggregate net amount shall be determined initially by a certification of the fiscal officer as and to the extent approved by the financial supervisor. The principal amount of such notes shall not exceed the aggregate net amount needed for such purposes. The aggregate amount of all issues of such notes shall not exceed three times the average of the allocation or apportionment to the municipal corporation, county, or township of moneys from the local government fund in each of the three fiscal years preceding the fiscal year in which the notes are issued.

(E) The proceeds of the sale of local government fund notes shall be appropriated by the municipal corporation, county, or township for and shall be applied only to the purposes, and in the respective amounts for those purposes, set forth in the certification given pursuant to division (D) of this section, as the purposes and amounts may be modified in the approval by the commission provided for in this section. The proceeds shall be deposited in separate accounts with a fiscal agent designated in the resolution referred to in division (F) of this section and released only for such respective purposes in accordance with the procedures set forth in division (D) of section 118.20 of the Revised Code. Any amounts not needed for such purposes shall be deposited with the fiscal agent designated to receive deposits for payment of the principal of and interest due on the notes.

(F) An application for approval by the financial planning and supervision commission of an issue of local government fund notes shall be authorized by a preliminary resolution adopted by the legislative authority. The resolution may authorize the application as a part of the initial submission of the financial plan for approval or as a part of any proposed amendment to an approved financial plan or at any time after the approval of a financial plan, or amendment to a financial plan, that proposes the issue of such notes. The preliminary resolution shall designate a fiscal agent for the deposit of the proceeds of the sale of the notes, and shall contain a covenant of the municipal corporation, county, or township to comply with this chapter and the financial plan.

The commission shall review and evaluate the application and supporting certification and financial supervisor action, and shall thereupon certify its approval or disapproval, or modification and approval, of the application.

The commission shall certify the amounts, maturities, interest rates, and terms of issue of the local government fund notes approved by the commission and the purposes to which the proceeds of the sale of the notes will be applied in respective amounts.

The commission shall certify a copy of its approval, of the preliminary

resolution, and of the related certification and action of the financial supervisor to the fiscal officer, the financial supervisor, the county budget commission, the county auditor, the county treasurer, and the fiscal agent designated to receive and disburse the proceeds of the sale of the notes.

(G) Upon the sale of any local government fund notes issued under this section, the commission shall determine a schedule for the deposit of local government fund distributions that are pledged for the payment of the principal of and interest on the notes with the fiscal agent or trustee designated in the agreement between the municipal corporation, county, or township and the holders of the notes to receive and disburse the distributions. The amounts to be deposited shall be adequate to provide for the payment of principal and interest on the notes when due and to pay all other proper charges, costs, or expenses pertaining thereto.

The amount of the local government fund moneys apportioned to the municipal corporation, county, or township that is to be so deposited in each year shall not be included in the tax budget and appropriation measures of the municipal corporation, county, or township, or in certificates of estimated revenues, for that year.

The commission shall certify the schedule to the officers designated in division (F) of this section.

(H) Deposit of amounts with the fiscal agent or trustee pursuant to the schedule determined by the commission shall be made from local government fund distributions to or apportioned to the municipal corporation, county, or township as provided in this division. The apportionment of local government fund moneys to the municipal corporation, county, or township for any year from the undivided local government fund shall be determined as to the municipal corporation, county, or township without regard to the amounts to be deposited with the fiscal agent or trustee in that year in accordance with division (G) of this section. After the amount of the undivided local government fund apportioned to the municipal corporation, county, or township for a calendar year is determined, the county auditor and the county treasurer shall withhold from each monthly amount to be distributed to the municipal corporation, county, or township from the undivided local government fund, and transmit to the fiscal agent or trustee for deposit, one-twelfth of the amount scheduled for deposit in that year pursuant to division (G) of this section.

(I) If the commission approves the application, the municipal corporation, county, or township may proceed with the issuance of the notes as approved by the commission.

All notes issued under authority of this section are lawful investments for the entities enumerated in division (A)(1) of section 133.03 of the Revised Code and are eligible as security for the repayment of the deposit of public moneys.

Upon the issuance of any notes under this section, the fiscal officer of the municipal corporation, county, or township shall certify the fact of the issuance to the county auditor and shall also certify to the county auditor the last calendar year in which any of the notes are scheduled to mature.

(J) After the legislative authority of the municipal corporation, county, or township has passed an ordinance or resolution authorizing the issuance of local government fund notes and subsequent to the commission's preliminary or final approval of the ordinance or resolution, the director of law, prosecuting attorney, or other chief legal officer of the municipal corporation, county, or township shall certify a sample of the form and content of a note to be used to issue the local government fund notes to the commission. The commission shall determine whether the sample note is consistent with this section and the ordinance or resolution authorizing the issuance of the local government fund notes, and if the sample note is found to be consistent with this section and the ordinance, the commission shall approve the sample note for use by the municipal corporation, county, or township. The form and content of the notes to be used by the municipal corporation, county, or township in issuing the local government fund notes may be modified at any time subsequent to the commission's approval of the sample note upon the approval of the commission and the director of law, prosecuting attorney, or other chief legal officer of the municipal corporation, county, or township. The failure of the director of law, prosecuting attorney, or other chief legal officer of the municipal corporation, county, or township to make the certification required by this division shall not subject that legal officer to removal pursuant to the Revised Code or the charter of a municipal corporation. If the director of law, prosecuting attorney, or other chief legal officer fails or refuses to make the certification required by this division, or if any officer of the municipal corporation, county, or township fails or refuses to take any action required by this section or the ordinance or resolution authorizing the issuance or sale of local government fund notes, the mayor of the municipal corporation or the board of county commissioners or board of township trustees may cause the commencement of a mandamus action in the supreme court against the director of law, prosecuting attorney, or other chief legal officer to secure the certification required by this division or other action required by this section or the ordinance or resolution. If an adjudication of the matters that

could be adjudicated in validation proceedings under section 133.70 of the Revised Code is necessary to a determination of the mandamus action, the mayor, the board of county commissioners, or the board of township trustees or the mayor's or board's legal counsel shall name and cause to be served as defendants to the mandamus action all of the following:

(1) The director of law, prosecuting attorney, or other chief legal officer, or other official of the municipal corporation, county, or township, whose failure or refusal to act necessitated the action;

(2) The municipal corporation, through its mayor, or the board of county commissioners or board of township trustees;

(3) The financial planning and supervision commission, through its chairperson;

(4) The prosecuting attorney and auditor of each county in which the municipal corporation, county, or township is located, in whole or in part;

(5) The auditor of state;

(6) The property owners, taxpayers, citizens of the municipal corporation, county, or township and others having or claiming any right, title, or interest in any property or funds to be affected by the issuance of the local government fund notes by the municipal corporation, county, or township, or otherwise affected in any way thereby.

Service upon all defendants described in division (J)(6) of this section shall be either by publication three times, with at least six days between each publication, in a newspaper of general circulation in Franklin county and a newspaper of general circulation in the county or counties where the municipal corporation, county, or township is located, or by publication in both such newspapers as provided in section 7.16 of the Revised Code. The publication and the notice shall indicate that the nature of the action is in mandamus, the name of the parties to the action, and that the action may result in the validation of the subject local government fund notes. Authorization to commence such an action by the legislative authority of the municipal corporation, county, or township is not required.

A copy of the complaint in the mandamus action shall be served personally or by certified mail upon the attorney general. If the attorney general has reason to believe that the complaint is defective, insufficient, or untrue, or if in the attorney general's opinion the issuance of the local government fund notes is not lawful or has not been duly authorized, defense shall be made to the complaint as the attorney general considers proper.

(K) The action in mandamus authorized by division (J) of this section shall take priority over all other civil cases pending in the court, except

habeas corpus, and shall be determined with the least possible delay. The supreme court may determine that the local government fund notes will be consistent with the purpose and effects, including not occupying the indirect debt limit, provided for in this section and will be validly issued and acquired. Such a determination shall include a finding of validation of the subject local government fund notes if the court specifically finds that:

(1) The complaint in mandamus, or subsequent pleadings, include appropriate allegations required by division (C) of section 133.70 of the Revised Code, and that the proceeding is in lieu of an action to validate under section 133.70 of the Revised Code;

(2) All parties described in divisions (J)(1) to (6) of this section have been duly served with notice or are otherwise properly before the court;

(3) Notice of the action has been published as required by division (J) of this section;

(4) The effect of validation is required to provide a complete review and determination of the controversy in mandamus, and to avoid duplication of litigation, danger of inconsistent results, or inordinate delay in light of the fiscal emergency, or that a disposition in the mandamus action would, as a practical matter, be dispositive of any subsequent validation proceedings under section 133.70 of the Revised Code.

(L) Any decision that includes a finding of validation has the same effect as a validation order established by an action under section 133.70 of the Revised Code.

(M) Divisions (J) and (K) of this section do not prevent a municipal corporation, county, or township from using section 133.70 of the Revised Code to validate local government fund notes by the filing of a petition for validation in the court of common pleas of the county in which the municipal corporation, county, or township is located, in whole or in part.

(N) It is hereby determined by the general assembly that a validation action authorized by section 133.70 of the Revised Code is not an adequate remedy at law with respect to a municipal corporation, county, or township that is a party to a mandamus action pursuant to divisions (J) and (K) of this section and in which a fiscal emergency condition has been determined to exist pursuant to section 118.04 of the Revised Code because of, but not limited to, the following reasons:

(1) It is urgently necessary for such a municipal corporation, county, or township to take prompt action to issue local government fund notes for the purposes provided in division (C) of this section;

(2) The potentially ruinous effect upon the fiscal condition of a municipal corporation, county, or township by the passage of the time

required to adjudicate such a separate validation action and any appeals thereof;

(3) The reasons stated in division (K)(4) of this section.

Sec. 118.31. (A) Upon petition of the financial supervisor and approval of the financial planning and supervision commission, if any, the attorney general shall file a court action to dissolve a municipal corporation or township if all of the following conditions apply:

(1) The municipal corporation or township has a population of less than five thousand as of the most recent federal decennial census.

(2) The municipal corporation or township has been under a fiscal emergency for at least four consecutive years.

(3) Implementation of the financial plan of the municipal corporation or township required under this chapter cannot reasonably be expected to correct and eliminate all fiscal emergency conditions within five years.

(B) If the court finds that all of the conditions described in division (A) of this section apply to the municipal corporation or township, it shall appoint a receiver. The receiver, under court supervision, shall work with executive and legislative officers of the municipal corporation or township to wind up the affairs of and dissolve the municipal corporation in accordance with section 703.21 of the Revised Code or the township in accordance with the process in section 503.02 and sections 503.17 to 503.21 of the Revised Code.

Sec. 118.99. (A) During the fiscal emergency period, no officer or employee of the municipal corporation, county, or township shall do any of the following:

(1) Knowingly enter into any contract, financial obligation, or other liability of the municipal corporation, county, or township involving an expenditure, or make any expenditure in excess of the amount permitted by section 118.12 of the Revised Code;

(2) Knowingly enter into any contract, financial obligation, or other liability of the municipal corporation, county, or township, or knowingly execute or deliver debt obligations, or transfer, advance, or borrow moneys from one fund of the municipal corporation, county, or township to or for any other fund of the municipal corporation, county, or township where any of such actions are required to be approved by the financial planning and supervision commission unless such actions have been so approved or deemed to be approved as provided in or pursuant to this chapter;

(3) Knowingly fail or refuse to take any of the actions required by this chapter for the preparation or amendment of the financial plan, or knowingly prepare, present, or certify any information or report for the

commission or any of its employees, advisory committees, task forces, or agents that is false or misleading or which is recklessly prepared or presented without due care for its accuracy, or, upon learning that any such information is false or misleading, or was recklessly prepared or presented, knowingly fail promptly to advise the commission, or the employee, advisory committee, task force, or agent to whom such information was given, of that fact;

(4) Knowingly use or cause to be used moneys of a construction fund for purposes other than the lawful purposes of the construction fund, or knowingly use or cause to be used moneys of a fund created under this chapter for the payment of principal and interest on debt obligations, or a bond retirement fund, or sinking fund for other than the payment of the principal of and interest on debt obligations or other authorized costs or payments from such funds, or knowingly fail to perform the duty of such officer or employee to cause the prompt deposit of moneys to any of the funds referred to in this division.

(B) The prohibitions set forth in division (A) of this section are in addition to any other prohibitions provided by law for a municipal corporation, county, or township, or by or pursuant to a municipal charter.

(C) In addition to any other penalty or liability provided by law for a municipal corporation, county, or township, or by or pursuant to a municipal charter, a violation of division (A)(1), (2), (3), or (4) of this section is a misdemeanor of the second degree. Upon conviction of any officer or employee of a municipal corporation, county, or township for any violation under division (A)(1), (2), (3), or (4) of this section, such officer or employee shall forfeit office or employment. <u>For the seven-year period immediately following the date of conviction, such officer shall also be ineligible to hold any public office or other position of trust in this state or be employed by any public entity in this state.</u>

Sec. 119.032. (A) As used in this section:

(1) "Agency" includes both an agency as defined in division (A)(2) of section 111.15 and an agency as defined in division (A) of section 119.01 of the Revised Code.

(2) "Review date" means the review date assigned to a rule by an agency under division (B) or (E)(2) of this section or under section 111.15, 119.04, or 4141.14 of the Revised Code or a review date assigned to a rule by the joint committee on agency rule review under division (B) of this section.

(3)(a) "Rule" means only a rule whose adoption, amendment, or rescission is subject to review under division (D) of section 111.15 or

division (H) of section 119.03 of the Revised Code.

(b) "Rule" does not include a rule adopted, amended, or rescinded by the department of taxation under section 5703.14 of the Revised Code, a rule of a state college or university, community college district, technical college district, or state community college, or a rule that is consistent with and equivalent to the form required by a federal law and that does not exceed the minimum scope and intent of that federal law.

(B) Not later than March 25, 1997, each agency shall assign a review date to each of its rules that is currently in effect and shall notify the joint committee on agency rule review of the review date for each such rule. The agency shall assign review dates to its rules so that approximately one-fifth of the rules are scheduled for review during each calendar year of the five-year period that begins March 25, 1997, except that an agency, with the joint committee's approval, may set a review schedule for the agency's rules in which there is no requirement that approximately one-fifth of the agency's rules be assigned a review date during each calendar year of the five-year period but in which all of the agency's rules are assigned a review date during that five-year period. An agency may change the review dates it has assigned to specific rules so long as the agency complies with the five-year time deadline specified in this division.

Upon the request of the agency that adopted the rule, the joint committee on agency rule review may extend a review date of a rule to a date that is not later than one hundred eighty days after the original review date assigned to the rule by the agency under this division, division (E)(2) of this section, or section 111.15, 119.04, or 4141.14 of the Revised Code. The joint committee may further extend a review date that has been extended under this paragraph if appropriate under the circumstances.

(C) Prior to the review date of a rule, the agency that adopted the rule shall review the rule to determine all of the following:

(1) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;

(2) Whether the rule needs amendment or rescission to give more flexibility at the local level;

(3) Whether the rule needs amendment or rescission to eliminate unnecessary paperwork, or whether the rule incorporates a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by section 121.74 of the Revised Code and whether the incorporation by reference meets the standards stated in sections 121.72, 121.75, and 121.76 of the

Revised Code;

(4) Whether the rule duplicates, overlaps with, or conflicts with other rules;

(5) Whether the rule has an adverse impact on businesses, ~~as determined~~ reviewing the rule as if it were a draft rule being reviewed under ~~section~~ sections 107.52 and 107.53 of the Revised Code, and whether any such adverse impact has been eliminated or reduced ~~as required under section 121.82 of the Revised Code~~.

(D) In making the review required under division (C) of this section, the agency shall consider the continued need for the rule, the nature of any complaints or comments received concerning the rule, and any relevant factors that have changed in the subject matter area affected by the rule.

(E)(1) On or before the designated review date of a rule, the agency that adopted the rule shall proceed under division (E)(2) or (5) of this section to indicate that the agency has reviewed the rule.

(2) If the agency has determined that the rule does not need to be amended or rescinded, the agency shall file all the following, in electronic form, with the joint committee on agency rule review, the secretary of state, and the director of the legislative service commission: a copy of the rule, a statement of the agency's determination, and an accurate rule summary and fiscal analysis for the rule as described in section 127.18 of the Revised Code. The agency shall assign a new review date to the rule, which shall not be later than five years after the rule's immediately preceding review date. After the joint committee has reviewed such a rule for the first time, including any rule that was in effect on September 26, 1996, the agency in its subsequent reviews of the rule may provide the same fiscal analysis it provided to the joint committee during its immediately preceding review of the rule unless any of the conditions described in division (B)(4), (5), (6), (8), (9), or (10) of section 127.18 of the Revised Code, as they relate to the rule, have appreciably changed since the joint committee's immediately preceding review of the rule. If any of these conditions, as they relate to the rule, have appreciably changed, the agency shall provide the joint committee with an updated fiscal analysis for the rule. If no review date is assigned to a rule, or if a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its immediately preceding review date. The joint committee shall give public notice in the register of Ohio of the agency's determination after receiving a notice from the agency under division (E)(2) of this section. The joint committee shall transmit a copy of the notice in electronic form to the director of the legislative service commission. The director shall publish the notice in the register of Ohio for

four consecutive weeks after its receipt.

(3) During the ninety-day period following the date the joint committee receives a notice under division (E)(2) of this section but after the four-week period described in division (E)(2) of this section has ended, the joint committee, by a two-thirds vote of the members present, may recommend the adoption of a concurrent resolution invalidating the rule if the joint committee determines that any of the following apply:

(a) The agency improperly applied the criteria described in divisions (C) and (D) of this section in reviewing the rule and in recommending its continuance without amendment or rescission.

(b) The agency failed to file proper notice with the joint committee regarding the rule, or if the rule incorporates a text or other material by reference, the agency failed to file, or to deposit or display, the text or other material incorporated by reference as required by section 121.73 or 121.74 of the Revised Code or the incorporation by reference fails to meet the standards stated in section 121.72, 121.75, or 121.76 of the Revised Code.

(c) The rule has an adverse impact on businesses, as determined under section 107.52 of the Revised Code, and the agency has not eliminated or reduced that impact as required under section 121.82 of the Revised Code.

(4) If the joint committee does not take the action described in division (E)(3) of this section regarding a rule during the ninety-day period after the date the joint committee receives a notice under division (E)(2) of this section regarding that rule, the rule shall continue in effect without amendment and shall be next reviewed by the joint committee by the date designated by the agency in the notice provided to the joint committee under division (E)(2) of this section.

(5) If the agency has determined that a rule reviewed under division (C) of this section needs to be amended or rescinded, the agency, on or before the rule's review date, shall file the rule as amended or rescinded in accordance with section 111.15, 119.03, or 4141.14 of the Revised Code, as applicable.

(6) Each agency shall provide the joint committee with a copy of the rules that it has determined are rules described in division (A)(3)(b) of this section. At a time the joint committee designates, each agency shall appear before the joint committee and explain why it has determined that such rules are rules described in division (A)(3)(b) of this section. The joint committee, by a two-thirds vote of the members present, may determine that any of such rules are rules described in division (A)(3)(a) of this section. After the joint committee has made such a determination relating to a rule, the agency shall thereafter treat the rule as a rule described in division (A)(3)(a) of this

section.

(F) If an agency fails to provide the notice to the joint committee required under division (E)(2) of this section regarding a rule or otherwise fails by the rule's review date to take any action regarding the rule required by this section, the joint committee, by a majority vote of the members present, may recommend the adoption of a concurrent resolution invalidating the rule. The joint committee shall not recommend the adoption of such a resolution until it has afforded the agency the opportunity to appear before the joint committee to show cause why the joint committee should not recommend the adoption of such a resolution regarding that rule.

(G) If the joint committee recommends adoption of a concurrent resolution invalidating a rule under division (E)(3) or (F) of this section, the adoption of the concurrent resolution shall be in the manner described in division (I) of section 119.03 of the Revised Code.

Sec. 120.40. (A) The pay ranges established by the board of county commissioners for the county public defender ~~and staff,~~ and those established by the joint board of county commissioners for the joint county public defender ~~and staff,~~ shall not exceed the pay ranges assigned under section ~~124.14~~ 325.11 of the Revised Code for ~~comparable positions of the Ohio public defender and staff~~ county prosecutors.

(B) The pay ranges established by the board of county commissioners for the staff of the county public defender and those established by the joint board of county commissioners for the staff of the joint county public defender shall not exceed the pay ranges assigned under section 124.14 of the Revised Code for comparable positions of the staff of the Ohio public defender.

Sec. 121.03. The following administrative department heads shall be appointed by the governor, with the advice and consent of the senate, and shall hold their offices during the term of the appointing governor, and are subject to removal at the pleasure of the governor.

(A) The director of budget and management;

(B) The director of commerce;

(C) The director of transportation;

(D) The director of agriculture;

(E) The director of job and family services;

(F) Until July 1, 1997, the director of liquor control;

(G) The director of public safety;

(H) The superintendent of insurance;

(I) The director of development;

(J) The tax commissioner;

(K) The director of administrative services;
(L) The director of natural resources;
(M) The director of mental health;
(N) The director of developmental disabilities;
(O) The director of health;
(P) The director of youth services;
(Q) The director of rehabilitation and correction;
(R) The director of environmental protection;
(S) The director of aging;
(T) The director of alcohol and drug addiction services;
(U) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;
(V) The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code;
(W) The chancellor of the Ohio board of regents.
Sec. 121.04. Offices are created within the several departments as follows:
In the department of commerce:
Commissioner of securities;
Superintendent of real estate and professional licensing;
Superintendent of financial institutions;
State fire marshal;
Superintendent of labor;
Superintendent of liquor control;
Superintendent of unclaimed funds.
In the department of administrative services:
State architect and engineer;
Equal employment opportunity coordinator.
In the department of agriculture:
Chiefs of divisions as follows:
Administration;
Animal industry;
Dairy;
Food safety;
Plant industry;
Markets;
Meat inspection;
Consumer analytical laboratory;
Amusement ride safety;

Enforcement;
Weights and measures.
In the department of natural resources:
Chiefs of divisions as follows:
Mineral resources management;
Oil and gas resources management;
Forestry;
Natural areas and preserves;
Wildlife;
Geological survey;
Parks and recreation;
Watercraft;
Recycling and litter prevention;
Soil and water resources;
Engineering.
In the department of insurance:
Deputy superintendent of insurance;
Assistant superintendent of insurance, technical;
Assistant superintendent of insurance, administrative;
Assistant superintendent of insurance, research.

Sec. 121.22. (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.

(B) As used in this section:

(1) "Public body" means any of the following:

(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;

(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;

(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the

district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

(3) "Regulated individual" means either of the following:

(a) A student in a state or local public educational institution;

(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.

(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.

(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.

(D) This section does not apply to any of the following:

(1) A grand jury;

(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;

(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;

(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section

4723.281 of the Revised Code;

(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;

(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;

(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;

(11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;

(12) An audit conference conducted by the audit staff of the department of job and family services with officials of the public office that is the subject of that audit under section 5101.37 of the Revised Code.

(E) The controlling board, the development financing advisory council, the industrial technology and enterprise advisory council, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board, council, or authority members present, may close the meeting during consideration of the following information confidentially received by the authority, council, or board from the applicant:

(1) Marketing plans;

(2) Specific business strategy;

(3) Production techniques and trade secrets;

(4) Financial projections;

(5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

The vote by the authority, council, or board to accept or reject the application, as well as all proceedings of the authority, council, or board not subject to this division, shall be open to the public and governed by this section.

(F) Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least

twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

The rule shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(G) Except as provided in division (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit

offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law or regulations or state statutes;

(6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office;

(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, a joint township hospital operated pursuant to Chapter 513. of the Revised Code, or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division.

(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the

public body that adopted the resolution, rule, or formal action violated division (F) of this section.

(I)(1) Any person may bring an action to enforce this section. An action under division (I)(1) of this section shall be brought within two years after the date of the alleged violation or threatened violation. Upon proof of a violation or threatened violation of this section in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

(2)(a) If the court of common pleas issues an injunction pursuant to division (I)(1) of this section, the court shall order the public body that it enjoins to pay a civil forfeiture of five hundred dollars to the party that sought the injunction and shall award to that party all court costs and, subject to reduction as described in division (I)(2) of this section, reasonable attorney's fees. The court, in its discretion, may reduce an award of attorney's fees to the party that sought the injunction or not award attorney's fees to that party if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of violation or threatened violation that was the basis of the injunction, a well-informed public body reasonably would believe that the public body was not violating or threatening to violate this section;

(ii) That a well-informed public body reasonably would believe that the conduct or threatened conduct that was the basis of the injunction would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.

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

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

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

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

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

(c) Hold meetings at such times and places as may be prescribed by the

council's procedures and maintain records of the meetings, except that records identifying individual children are confidential and shall be disclosed only as provided by law;

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

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

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

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

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

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

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

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

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

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

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

(c) Monitoring and supervision of a statewide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of

health for early intervention services under the "Individuals with Disabilities Education Act of 2004," 20 U.S.C.A. 1400, as amended.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The county's juvenile court judge senior in service or another judge of the juvenile court designated by the administrative judge or, where there is no administrative judge, by the judge senior in service shall serve as the judicial advisor to the county family and children first council. The judge

may advise the county council on the court's utilization of resources, services, or programs provided by the entities represented by the members of the county council and how those resources, services, or programs assist the court in its administration of justice. Service of a judge as a judicial advisor pursuant to this section is a judicial function.

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

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

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

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

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

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

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

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

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

(c) An annual plan that identifies the county's interagency efforts to increase child well-being in the county.

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

report shall be made available to any other person on request.

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

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

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

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

The administrative agent of a county council shall send notice of a

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

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

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

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

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

(b)(i) If the county council designates the board of county commissioners as its administrative agent, the board may, by resolution, delegate any of its powers and duties as administrative agent to an executive committee the board establishes from the membership of the county council.

The board shall name to the executive committee at least the individuals described in divisions (B)(1)(b) to (h) of this section and may appoint the president of the board or another individual as the chair of the executive committee. The executive committee must include at least one family county council representative who does not have a family member employed by an agency represented on the council.

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

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

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

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

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

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

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

Each mechanism shall include all of the following:

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

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

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

(4) A procedure for ensuring that a family service coordination plan meeting is conducted for each child who receives service coordination under the mechanism and for whom an emergency out-of-home placement has been made or for whom a nonemergency out-of-home placement is being considered. The meeting shall be conducted within ten days of an emergency out-of-home placement. The meeting shall be conducted before a nonemergency out-of-home placement. The family service coordination plan shall outline how the county council members will jointly pay for services, where applicable, and provide services in the least restrictive environment.

(5) A procedure for monitoring the progress and tracking the outcomes

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

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

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

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

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

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

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

(D) Each county shall develop a family service coordination plan that

does all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(b) Conducting a meeting with the child, the parents, guardian, or

custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system;

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

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

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

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

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

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

Sec. 121.40. (A) There is hereby created the Ohio ~~community~~ commission on service ~~council~~ and volunteerism consisting of twenty-one voting members including the superintendent of public instruction or the superintendent's designee, the chancellor of the Ohio board of regents or the chancellor's designee, the director of youth services or the director's designee, the director of aging or the director's designee, the chairperson of the committee of the house of representatives dealing with education or the chairperson's designee, the chairperson of the committee of the senate dealing with education or the chairperson's designee, and fifteen members who shall be appointed by the governor with the advice and consent of the senate and who shall serve terms of office of three years. The appointees shall include educators, including teachers and administrators; representatives of youth organizations; students and parents; representatives of organizations engaged in volunteer program development and management throughout the state, including youth and conservation programs; and representatives of business, government, nonprofit organizations, social service agencies, veterans organizations, religious organizations, or philanthropies that support or encourage volunteerism within the state. The director of the governor's office of faith-based and community initiatives shall serve as a nonvoting ex officio member of the

~~council~~ commission. Members of the ~~council~~ commission shall receive no compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(B) The ~~council~~ commission shall appoint an executive director for the ~~council~~ commission, who shall be in the unclassified civil service. The governor shall be informed of the appointment of an executive director before such an appointment is made. The executive director shall supervise the ~~council's~~ commission's activities and report to the ~~council~~ commission on the progress of those activities. The executive director shall do all things necessary for the efficient and effective implementation of the duties of the ~~council~~ commission.

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

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

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

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

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

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

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

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

(7) Assist in coordinating and preparing the state application for funds under sections 101 to 184 of the "National and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C.A. 12411 to 12544, as amended, assist in administering and overseeing the "National and Community Service Trust Act of 1993," P.L. 103-82, 107 Stat. 785, and the americorps program in this state, and assist in developing objectives for a comprehensive strategy to encourage and expand community service programs throughout the state;

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

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

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

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

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

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

(D) The ~~council~~ commission shall in writing enter into an agreement with another state agency to serve as the ~~council's~~ commission's fiscal agent. Before entering into such an agreement, the ~~council~~ commission shall inform the governor of the terms of the agreement and of the state agency designated to serve as the ~~council's~~ commission's fiscal agent. The fiscal agent shall be responsible for all the ~~council's~~ commission's fiscal matters and financial transactions, as specified in the agreement. Services to be provided by the fiscal agent include, but are not limited to, the following:

(1) Preparing and processing payroll and other personnel documents that the ~~council~~ commission executes as the appointing authority;

(2) Maintaining ledgers of accounts and reports of account balances, and monitoring budgets and allotment plans in consultation with the ~~council~~ commission; and

(3) Performing other routine support services that the fiscal agent considers appropriate to achieve efficiency.

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

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

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

(c) Responsibility to cooperate with and inform the fiscal agent fully of all financial transactions.

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

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

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

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

Sec. 121.401. (A) As used in this section and section 121.402 of the

Revised Code, "organization or entity" and "unsupervised access to a child" have the same meanings as in section 109.574 of the Revised Code.

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

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

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

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

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

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

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

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

(4) Makes available to children advice on personal safety and information on what action to take if someone takes inappropriate action

towards a child.

(B) The program shall begin making the materials described in this section available not later than March 22, 2002.

Sec. 121.403. (A) The Ohio ~~community~~ commission on service ~~council~~ and volunteerism may do any of the following:

(1) Accept monetary gifts or donations;

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

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

(B) All monetary gifts and donations, funds from the sale of promotional items, contributions received from the issuance of Ohio "volunteer" license plates pursuant to section 4503.93 of the Revised Code, and any fees paid to the ~~council~~ commission for conferences, meetings, or events sponsored by the ~~council~~ commission shall be deposited into the Ohio ~~community~~ commission on service ~~council~~ and volunteerism gifts and donations fund, which is hereby created in the state treasury. Moneys in the fund may be used only as follows:

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

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

(3) As matching funds for federal grants.

Sec. 121.404. (A) The Ohio ~~community~~ commission on service ~~council~~ and volunteerism shall advise, assist, consult with, and cooperate with agencies and political subdivisions of this state to establish a statewide system for recruiting, registering, training, and deploying the types of volunteers the ~~council~~ commission considers advisable and reasonably necessary to respond to an emergency declared by the state or political subdivision.

(B) A registered volunteer is not liable in damages to any person or government entity in tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim or veterinary claim, for injury, death, or loss to person or property that may arise from an act or omission of that volunteer. This division applies to a registered volunteer while providing services within the scope of the volunteer's responsibilities during an emergency declared by the state or political subdivision or in disaster-related exercises, testing, or other training

activities, if the volunteer's act or omission does not constitute willful or wanton misconduct.

(C) The Ohio ~~community~~ commission on service ~~council~~ and volunteerism shall adopt rules pursuant to Chapter 119. of the Revised Code to establish fees, procedures, standards, and requirements the ~~council~~ commission considers necessary to carry out the purposes of this section.

(D)(1) A registered volunteer's status as a volunteer, and any information presented in summary, statistical, or aggregate form that does not identify an individual, is a public record pursuant to section 149.43 of the Revised Code.

(2) Information related to a registered volunteer's specific and unique responsibilities, assignments, or deployment plans, including but not limited to training, preparedness, readiness, or organizational assignment, is a security record for purposes of section 149.433 of the Revised Code.

(3) Information related to a registered volunteer's personal information, including but not limited to contact information, medical information, or information related to family members or dependents, is not a public record pursuant to section 149.43 of the Revised Code.

(E) As used in this section and section 121.40 of the Revised Code:

(1) "Registered volunteer" means any individual registered as a volunteer pursuant to procedures established under this section and who serves without pay or other consideration, other than the reasonable reimbursement or allowance for expenses actually incurred or the provision of incidental benefits related to the volunteer's service, such as meals, lodging, and childcare.

(2) "Political subdivision" means a county, township, or municipal corporation in this state.

Sec. 122.121. (A) If an endorsing municipality or endorsing county enters into a joinder undertaking with a site selection organization, the endorsing municipality or endorsing county may apply to the director of development, on a form and in the manner prescribed by the director, for a grant based on the projected incremental increase in the receipts from the tax imposed under section 5739.02 of the Revised Code within the market area designated under division (C) of this section, for the two-week period that ends at the end of the day after the date on which a game will be held, that is directly attributable, as determined by the director, to the preparation for and presentation of the game. The director shall determine the projected incremental increase in the tax imposed under section 5739.02 of the Revised Code from information certified to the director by the endorsing municipality or the endorsing county including, but not limited to, historical

attendance and ticket sales for the game, income statements showing revenue and expenditures for the game in prior years, attendance capacity at the proposed venues, event budget at the proposed venues, and projected lodging room nights based on historical attendance, attendance capacity at the proposed venues, and duration of the game and related activities. The endorsing municipality or endorsing county is eligible to receive a grant under this section only if the projected incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code, as determined by the director, exceeds two hundred fifty thousand dollars. The amount of the grant shall be determined by the director but shall not exceed five hundred thousand dollars. The director shall not issue grants with a total value of more than one million dollars in any fiscal year, and shall not issue any grant before July 1, ~~2011~~ 2013.

(B) If the director of development approves an application for an endorsing municipality or endorsing county and that endorsing municipality or endorsing county enters into a joinder agreement with a site selection organization, the endorsing municipality or endorsing county shall file a copy of the joinder agreement with the director of development, who immediately shall notify the director of budget and management of the filing. Within thirty days after receiving the notice, the director of budget and management shall establish a schedule to disburse from the general revenue fund to such endorsing municipality or endorsing county payments that total the amount certified by the director of development under division (A) of this section, but in no event shall the total amount disbursed exceed five hundred thousand dollars, and no disbursement shall be made before July 1, ~~2011~~ 2013. The payments shall be used exclusively by the endorsing municipality or endorsing county to fulfill a portion of its obligations to a site selection organization under game support contracts, which obligations may include the payment of costs relating to the preparations necessary for the conduct of the game, including acquiring, renovating, or constructing facilities; to pay the costs of conducting the game; and to assist the local organizing committee, endorsing municipality, or endorsing county in providing assurances required by a site selection organization sponsoring one or more games.

(C) For the purposes of division (A) of this section, the director of development, in consultation with the tax commissioner, shall designate as a market area for a game each area in which they determine there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the game and related events, including areas likely to provide venues, accommodations, and services in

connection with the game based on the information and the copy of the joinder undertaking provided to the director under divisions (A) and (B) of this section. The director and commissioner shall determine the geographic boundaries of each market area. An endorsing municipality or endorsing county that has been selected as the site for a game must be included in a market area for the game.

(D) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the director of development and tax commissioner to enable the director and commissioner to fulfill their duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, endorsing municipality, or endorsing county relating to attendance at a game and to the economic impact of the game. A local organizing committee, an endorsing municipality, or an endorsing county shall provide an annual audited financial statement if so required by the director and commissioner, not later than the end of the fourth month after the date the period covered by the financial statement ends.

(E) Within sixty days after the game, the endorsing municipality or the endorsing county shall report to the director of development about the economic impact of the game. The report shall be in the form and substance required by the director, including, but not limited to, a final income statement for the event showing total revenue and expenditures and revenue and expenditures in the market area for the game, and ticket sales for the game and any related activities for which admission was charged. The director of development shall determine, based on the reported information and the exercise of reasonable judgment, the incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code directly attributable to the game. If the actual incremental increase in such receipts is less than the projected incremental increase in receipts, the director may require the endorsing municipality or the endorsing county to refund to the state all or a portion of the grant.

(F) No disbursement may be made under this section if the director of development determines that it would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

(G) This section may not be construed as creating or requiring a state guarantee of obligations imposed on an endorsing municipality or endorsing county under a game support contract or any other agreement relating to hosting one or more games in this state.

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

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

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

(b) Project costs paid before January 1, 2002;

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

(2) "Eligible business" means a taxpayer and its related members with Ohio operations satisfying all of the following:

(a) The taxpayer employs at least five hundred full-time equivalent employees or has an annual payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;

(b) The taxpayer makes or causes to be made payments for the capital investment project of ~~either~~ one of the following:

(i) If the taxpayer is engaged at the project site primarily as a manufacturer, at least fifty million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;

(ii) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;

(iii) If the taxpayer is applying to enter into an agreement for a tax credit authorized under division (B)(3) of this section, at least five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.

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

(3) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated

for employment in the project by two thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the Revised Code.

(4) "Income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year, or during the calendar year that includes the tax period, from the compensation of all employees employed in the project whose hours of compensation are included in calculating the number of full-time equivalent employees.

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

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

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

(8) "Taxable year" includes, in the case of a domestic or foreign insurance company, the calendar year ending on the thirty-first day of December preceding the day the superintendent of insurance is required to certify to the treasurer of state under section 5725.20 or 5729.05 of the Revised Code the amount of taxes due from insurance companies.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, the superintendent of insurance in the case of an insurance company, and director of development under division (C) of this section, the tax credit authority may grant the following credits against the tax imposed by section 5725.18, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code:

(1) A nonrefundable credit to an eligible business;

(2) A refundable credit to an eligible business meeting the following conditions, provided that the director of budget and management, tax commissioner, superintendent of insurance in the case of an insurance company, and director of development have recommended the granting of the credit to the tax credit authority before July 1, 2011:

(a) The business retains at least one thousand full-time equivalent employees at the project site.

(b) The business makes or causes to be made payments for a capital investment project of at least twenty-five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the business' taxable year or tax period with respect to which the credit is granted.

(c) In 2010, the business received a written offer of financial incentives from another state of the United States that the director determines to be sufficient inducement for the business to relocate the business' operations from this state to that state.

(3) A refundable credit to an eligible business with a total annual payroll of at least twenty million dollars, provided that the tax credit authority grants the tax credit on or after July 1, 2011, and before January 1, 2014.

The credits authorized in divisions (B)(1) ~~and~~, (2), and (3) of this section may be granted for a period up to fifteen taxable years or, in the case of the tax levied by section 5751.02 of the Revised Code, for a period of up to fifteen calendar years. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the income tax revenue for that year multiplied by the percentage specified in the agreement with the tax credit authority. The percentage may not exceed seventy-five per cent. The credit shall be claimed in the order required under section 5725.98, 5729.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. In determining the percentage and term of the credit, the tax credit authority shall consider both the number of full-time equivalent employees and the value of the capital investment project. The credit amount may not be based on the income tax revenue for a calendar year before the calendar year in which the tax credit authority specifies the tax credit is to begin, and the credit shall be claimed only for the taxable years or tax periods specified in the eligible business' agreement with the tax credit authority. In no event shall the credit be claimed for a taxable year or tax period terminating before the date specified in the agreement. Any credit granted under this section against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, to the extent not fully utilized against such tax for taxable years ending prior to 2008, shall automatically be converted without any action taken by the tax credit authority to a credit against the tax levied under Chapter 5751. of the Revised Code for tax periods beginning on or after July 1, 2008, provided that the person to whom the credit was granted is subject to such tax. The converted credit shall apply to those calendar years in which the remaining taxable years specified in the agreement end.

If a nonrefundable credit allowed under division (B)(1) of this section

for a taxable year or tax period exceeds the taxpayer's tax liability for that year or period, the excess may be carried forward for the three succeeding taxable or calendar years, but the amount of any excess credit allowed in any taxable year or tax period shall be deducted from the balance carried forward to the succeeding year or period.

(C) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, the superintendent of insurance in the case of an insurance company, and the director of development, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority.

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

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

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

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

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

(5) If the taxpayer is applying to enter into an agreement for a tax credit authorized under division (B)(3) of this section, the taxpayer's capital investment project will be located in the political subdivision in which the taxpayer maintains its principal place of business.

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

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the number of full-time equivalent employees at the project site, and the anticipated income tax revenue to be generated.

(2) The term of the credit, the percentage of the tax credit, the maximum

annual value of tax credits that may be allowed each year, and the first year for which the credit may be claimed.

(3) A requirement that the taxpayer maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4) ~~A requirement that the taxpayer retain a specified number of full-time equivalent employees at the project site and within this state for the term of the credit, including a requirement that the taxpayer continue to employ at least five hundred full-time equivalent employees during the entire term of the agreement in the case of a credit granted under division (B)(1) of this section, and one thousand full-time equivalent employees in the case of a credit granted under division (B)(2) of this section~~ (a) In the case of a credit granted under division (B)(1) of this section, a requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit, or a requirement that the taxpayer maintain an annual payroll of at least thirty-five million dollars for the entire term of the credit;

(b) In the case of a credit granted under division (B)(2) of this section, a requirement that the taxpayer retain at least one thousand full-time equivalent employees at the project site and within this state for the entire term of the credit;

(c) In the case of a credit granted under division (B)(3) of this section, either of the following:

(i) A requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit and a requirement that the taxpayer maintain an annual payroll of at least twenty million dollars for the entire term of the credit;

(ii) A requirement that the taxpayer maintain an annual payroll of at least thirty-five million dollars for the entire term of the credit.

(5) A requirement that the taxpayer annually report to the director of development employment, tax withholding, capital investment, and other information the director needs to perform the director's duties under this section.

(6) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year or calendar year that includes the tax period. In determining the number of full-time equivalent employees, no position shall

be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

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

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

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

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner or, in the case of an insurance company, to the

superintendent of insurance, a copy of the director of development's certificate of verification under division (E)(6) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within sixty days after the commissioner or superintendent requests it.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (E)(5) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(J) If the director of development determines that a taxpayer that received a tax credit under this section is not complying with the requirement under division (E)(3) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer to refund to the state all or a portion of the credit claimed in previous years, as follows:

(1) If the taxpayer maintained operations at the project site for less than or equal to the term of the credit, an amount not to exceed one hundred per cent of the sum of any tax credits allowed and received under this section.

(2) If the taxpayer maintained operations at the project site longer than the term of the credit, but less than the greater of (a) the term of the credit plus three years, or (b) seven years, the amount required to be refunded shall not exceed seventy-five per cent of the sum of any tax credits allowed and received under this section.

In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or the superintendent of insurance. If the taxpayer is not an insurance company, the commissioner

shall make an assessment for that amount against the taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. If the taxpayer is an insurance company, the superintendent of insurance shall make an assessment under section 5725.222 or 5729.102 of the Revised Code. The time limitations on assessments under those chapters and sections do not apply to an assessment under this division, but the commissioner or superintendent shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

(K) The director of development, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the tax incentive programs operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

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

(M)(1) The aggregate amount of tax credits issued under division (B)(1) of this section during any calendar year for capital investment projects reviewed and approved by the tax credit authority may not exceed the following amounts:

(a) For 2010, thirteen million dollars;

(b) For 2011 through 2023, the amount of the limit for the preceding calendar year plus thirteen million dollars;

(c) For 2024 and each year thereafter, one hundred ninety-five million dollars.

(2) The aggregate amount of tax credits ~~issued~~ authorized under ~~division~~ divisions (B)(2) and (3) of this section ~~during~~ and allowed to be claimed by taxpayers in any calendar year for capital improvement projects reviewed

and approved by the tax credit authority ~~may not exceed eight million dollars~~ in 2011, 2012, and 2013 combined shall not exceed twenty-five million dollars. An amount equal to the aggregate amount of credits first authorized in calendar year 2011, 2012, and 2013 may be claimed over the ensuing period up to fifteen years, subject to the terms of individual tax credit agreements.

The limitations in division (M) of this section do not apply to credits for capital investment projects approved by the tax credit authority before July 1, 2009.

Sec. 122.175. (A) As used in this section:

(1) "Capital investment project" means a plan of investment at a project site for the acquisition, construction, renovation, expansion, replacement, or repair of a computer data center or of computer data center equipment, but does not include any of the following:

(a) Project costs paid before a date determined by the tax credit authority for each capital investment project;

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

(2) "Computer data center" means a facility used or to be used primarily to house computer data center equipment used or to be used in conducting a computer data center business, as determined by the tax credit authority.

(3) "Computer data center business" means, as may be further determined by the tax credit authority, a business that provides electronic information services as defined in division (Y)(1)(c) of section 5739.01 of the Revised Code. "Computer data center business" does not include providing electronic publishing as defined in division (LLL) of that section.

(4) "Computer data center equipment" means tangible personal property used or to be used for any of the following:

(a) To conduct a computer data center business, including equipment cooling systems to manage the performance of computer data center equipment;

(b) To generate, transform, transmit, distribute, or manage electricity necessary to operate the tangible personal property used or to be used in conducting a computer data center business;

(c) As building and construction materials sold to construction contractors for incorporation into a computer data center.

(5) "Eligible computer data center" means a computer data center that satisfies all of the following requirements:

(a) The taxpayer will make payments for a capital investment project of

at least one hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years;

(b) The taxpayer will pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least five million dollars to employees employed at the project site for the term of the agreement.

(6) "Person" has the same meaning as in section 5701.01 of the Revised Code.

(7) "Project site," "related member," and "tax credit authority" have the same meanings as in sections 122.17 and 122.171 of the Revised Code.

(8) "Taxpayer" means any person subject to the taxes imposed under Chapters 5739. and 5741. of the Revised Code.

(B) The tax credit authority may completely or partially exempt from the taxes levied under Chapters 5739. and 5741. of the Revised Code the sale, storage, use, or other consumption of computer data center equipment used or to be used at an eligible computer data center. Any such exemption shall extend to charges for the delivery, installation, or repair of the computer data center equipment subject to the exemption under this section.

(C) A taxpayer that proposes a capital improvement project for an eligible computer data center in this state may apply to the tax credit authority to enter into an agreement under this section for a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment used or to be used at the eligible computer data center. The director of development shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the director of development, each of whom shall review the application to determine the economic impact that the proposed eligible computer data center would have on the state and any affected political subdivisions and submit to the authority a summary of their determinations and recommendations.

(D) Upon review and consideration of such determinations and recommendations, the tax credit authority may enter into an agreement with the taxpayer for a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment used or to be used at an eligible computer data center if the authority determines all of the following:

(1) The taxpayer's capital investment project for the eligible computer data center will increase payroll and the amount of income taxes to be withheld from employee compensation pursuant to section 5747.06 of the

Revised Code.

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

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

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

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

(1) A detailed description of the capital investment project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the annual compensation to be paid by the taxpayer to its employees at the project site, and the anticipated amount of income taxes to be withheld from employee compensation pursuant to section 5747.06 of the Revised Code.

(2) The percentage of the exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code for the computer data center equipment used or to be used at the eligible computer data center, the length of time the computer data center equipment will be exempted, and the first date on which the exemption applies.

(3) A requirement that the taxpayer maintain the computer data center as an eligible computer data center during the term of the agreement and that the taxpayer maintain operations at the eligible computer data center during that term.

(4) A requirement that during each year of the term of the agreement the taxpayer pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least five million dollars to its employees at the eligible computer data center.

(5) A requirement that the taxpayer annually report to the director of development employment, tax withholding, capital investment, and other information required by the director to perform the director's duties under this section.

(6) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and that the taxpayer remains eligible for the exemption specified in the agreement.

(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to

the project site unless the director of development determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated. For purposes of this paragraph, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

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

(F) The term of an agreement under this section shall be determined by the tax credit authority, and the amount of the exemption shall not exceed one hundred per cent of such taxes that would otherwise be owed in respect to the exempted computer data center equipment.

(G) If a taxpayer fails to meet or comply with any condition or requirement set forth in an agreement under this section, the tax credit authority may amend the agreement to reduce the percentage of the exemption or term during which the exemption applies to the computer data center equipment used or to be used at an eligible computer data center. The reduction of the percentage or term may take effect in the current calendar year.

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

(I) The tax commissioner shall issue a direct payment permit under section 5739.031 of the Revised Code to a taxpayer that enters into an

agreement under this section. Such direct payment permit shall authorize the taxpayer to pay any sales and use taxes due on purchases of computer data center equipment used or to be used in an eligible computer data center and to pay any sales and use taxes due on purchases of tangible personal property or taxable services other than computer data center equipment used or to be used in an eligible computer data center directly to the tax commissioner. Each taxpayer shall pay pursuant to such direct payment permit all sales tax levied on such purchases under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code and all use tax levied on such purchases under sections 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, consistent with the terms of the agreement entered into under this section.

During the term of an agreement under this section the taxpayer shall submit to the tax commissioner a return that shows the amount of computer data center equipment purchased for use at the eligible computer data center, the amount of tangible personal property and taxable services other than computer data center equipment purchased for use at the eligible computer data center, the amount of tax under Chapter 5739. or 5741. of the Revised Code that would be due in the absence of the agreement under this section, the exemption percentage for computer data center equipment specified in the agreement, and the amount of tax due under Chapter 5739. or 5741. of the Revised Code as a result of the agreement under this section. The taxpayer shall pay the tax shown on the return to be due in the manner and at the times as may be further prescribed by the tax commissioner. The taxpayer shall include a copy of the director of development's certificate of verification issued under division (E)(6) of this section. Failure to submit a copy of the certificate with the return does not invalidate the claim for exemption if the taxpayer submits a copy of the certificate to the tax commissioner within sixty days after the tax commissioner requests it.

(J) If the director of development determines that a taxpayer that received an exemption under this section is not complying with the requirement under division (E)(3) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer to pay to the state all or a portion of the taxes that would have been owed in regards to the exempt equipment in previous years, all as determined under rules adopted pursuant to division (K) of this section. In determining the portion of the taxes that would have been owed on the previously exempted equipment to be paid to this state by the taxpayer, the authority shall

consider the effect of market conditions on the taxpayer's eligible computer data center and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify to the tax commissioner the amount to be paid by the taxpayer. The tax commissioner shall make an assessment for that amount against the taxpayer under Chapter 5739. or 5741. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the tax commissioner shall make the assessment within one year after the date the authority certifies to the tax commissioner the amount to be paid by the taxpayer.

(K) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax exemptions under this section to be charged fees to cover administrative costs incurred in the administration of this section. The fees collected shall be credited to the tax incentive programs operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the first day of August of each year, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax exemption authorized under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the eligible computer data center that is the subject of each such agreement, and an update on the status of eligible computer data centers under agreements entered into before the preceding calendar year.

Sec. 122.76. (A) The director of development, with controlling board approval, may lend funds to minority business enterprises and to community improvement corporations, Ohio development corporations, minority contractors business assistance organizations, and minority business supplier development councils for the purpose of loaning funds to minority business enterprises and for the purpose of procuring or improving real or personal property, or both, for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in the state, and to community development corporations that predominantly benefit minority business enterprises or are located in a census tract that has a population that

is sixty per cent or more minority if the director determines, in the director's sole discretion, that all of the following apply:

(1) The project is economically sound and will benefit the people of the state by increasing opportunities for employment, by strengthening the economy of the state, or expanding minority business enterprises.

(2) The proposed minority business enterprise borrower is unable to finance the proposed project through ordinary financial channels at comparable terms.

(3) The value of the project is or, upon completion, will be at least equal to the total amount of the money expended in the procurement or improvement of the project~~, and one or more financial institutions or other governmental entities have loaned not less than thirty per cent of that amount~~.

(4) The amount to be loaned by the director will not exceed sixty per cent of the total amount expended in the procurement or improvement of the project.

(5) The amount to be loaned by the director will be adequately secured by a first or second mortgage upon the project or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director requires, and such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

(B) Any proposed minority business enterprise borrower submitting an application for assistance under this section shall not have defaulted on a previous loan from the director, and no full or limited partner, major shareholder, or holder of an equity interest of the proposed minority business enterprise borrower shall have defaulted on a loan from the director.

(C) The proposed minority business enterprise borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and that support is available through the director, the minority business development office of the department of development, or other identified and acceptable sources. In determining whether a minority business enterprise borrower will be able to successfully compete, the director may give consideration to such factors as the successful completion of or participation in courses of study, recognized by the board of regents as providing financial, technical, or managerial skills related to the operation of

the business, by the economically disadvantaged individual, owner, or partner, and the prior success of the individual, owner, or partner in personal, career, or business activities, as well as to other factors identified by the director.

(D) The director shall not lend funds for the purpose of procuring or improving motor vehicles or accounts receivable.

Sec. 122.86. (A) As used in this section and section 5747.81 of the Revised Code:

(1) "Small business enterprise" means a corporation, pass-through entity, or other person satisfying all of the following:

(a) At the time of a qualifying investment, the enterprise's assets according to generally accepted accounting principles do not exceed fifty million dollars, or its annual sales do not exceed ten million dollars;

(b) The enterprise employs at least fifty full-time equivalent employees in this state for whom the enterprise is required to withhold income tax under section 5747.06 of the Revised Code, or more than one-half the enterprise's total number of full-time equivalent employees employed anywhere in the United States are employed in this state and are subject to that withholding requirement.

(c) The enterprise, within six months after an eligible investor's qualifying investment is made, invests in or incurs cost for one or more of the following in an amount at least equal to the amount of the qualifying investment:

(i) Tangible personal property, other than motor vehicles operated on public roads and highways, used in business and physically located in this state from the time of its acquisition by the enterprise until the end of the investor's holding period;

(ii) Motor vehicles operated on public roads and highways if, from the time of acquisition by the enterprise until the end of the investor's holding period, the motor vehicles are purchased in this state, registered in this state under Chapter 4503. of the Revised Code, are used primarily for business purposes, and are necessary for the operation of the enterprise's business;

(iii) Real property located in this state that is used in business from the time of its acquisition by the enterprise until the end of the holding period;

(iv) Intangible personal property, including patents, copyrights, trademarks, service marks, or licenses used in business primarily in this state from the time of its acquisition by the enterprise until the end of the holding period;

(v) Compensation for new employees of the enterprise for whom the enterprise is required to withhold income tax under section 5747.06 of the

Revised Code, not including increased compensation for owners, officers, or managers of the enterprise. For this purpose compensation for new employees includes compensation for newly hired or retained employees.

(2) "Qualifying investment" means an investment of money made on or after July 1, 2011, to acquire capital stock or other equity interest in a small business enterprise. "Qualifying investment" does not include any investment of money an eligible investor derives, directly or indirectly, from a grant or loan from the federal government or the state or a political subdivision, including the third frontier program under Chapter 184. of the Revised Code.

(3) "Eligible investor" means an individual, estate, or trust subject to the tax imposed by section 5747.02 of the Revised Code, or a pass-through entity in which such an individual, estate, or trust holds a direct or indirect ownership or other equity interest.

(4) "Holding period" means:

(a) For qualifying investments made on or after July 1, 2011, but before July 1, 2013, the two-year period beginning on the day the investment was made;

(b) For qualifying investments made on or after July 1, 2013, the five-year period beginning on the day the investment was made.

(5) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(B) Any eligible investor that makes a qualifying investment in a small business enterprise on or after July 1, 2011, may apply to the director of development to obtain a small business investment certificate from the director. Alternatively, a small business enterprise may apply on behalf of eligible investors to obtain the certificates for those investors. The director, in consultation with the tax commissioner, shall prescribe the form or manner in which an applicant shall apply for the certificate, devise the form of the certificate, and prescribe any records or other information an applicant shall furnish with the application to evidence the qualifying investment. The applicant shall state the amount of the intended investment.

A small business investment certificate entitles the certificate holder to receive a tax credit under section 5747.81 of the Revised Code if the certificate holder qualifies for the credit as otherwise provided in this section. If the certificate holder is a pass-through entity, the certificate entitles the entity's equity owners to receive their distributive or proportionate shares of the credit. In any fiscal biennium, an eligible investor may not apply for small business investment certificates representing intended investment amounts in excess of ten million dollars.

Such certificates are not transferable.

The director of development shall issue small business investment certificates to qualifying applicants in the order in which the director receives applications. To qualify for a certificate, an eligible investor must satisfy both of the following, subject to the limitation on the amount of qualifying investments for which certificates may be issued under division (C) of this section:

(1) The eligible investor makes a qualifying investment on or after July 1, 2011.

(2) The eligible investor pledges not to sell or otherwise dispose of the qualifying investment before the conclusion of the applicable holding period.

(C)(1) The amount of any eligible investor's qualifying investments for which small business investment certificates may be issued for a fiscal biennium shall not exceed ten million dollars.

(2) The director of development shall not issue a small business investment certificate to an eligible investor representing an amount of qualifying investment in excess of the amount of the intended investment indicated on the investor's application for the certificate.

(3) The director of development shall not issue small business investment certificates in a total amount that would cause the tax credits claimed in any fiscal biennium to exceed one hundred million dollars.

(D) Before the end of the applicable holding period of a qualifying investment, each enterprise in which a qualifying investment was made for which a small business investment certificate has been issued, upon the request of the director of development, shall provide to the director records or other evidence satisfactory to the director that the enterprise is a small business enterprise for the purposes of this section. No credit may be claimed under this section and section 5747.81 of the Revised Code if the director finds that an enterprise is not a small business enterprise for the purposes of this section. The director shall compile and maintain a register of small business enterprises qualifying under this section and shall certify the register to the tax commissioner.

(E) After the conclusion of the applicable holding period for a qualifying investment, a person to whom a small business investment certificate has been issued under this section may claim a credit as provided under section 5747.81 of the Revised Code.

(F) The director of development, in consultation with the tax commissioner, may adopt rules for the administration of this section, including rules governing the following:

(1) Documents, records, or other information eligible investors shall provide to the director;

(2) Any information a small business enterprise shall provide for the purposes of this section and section 5747.81 of the Revised Code;

(3) Determination of the number of full-time equivalent employees of a small business enterprise;

(4) Verification of a small business enterprise's investment in tangible personal property and intangible personal property under division (A)(1)(c) of this section, including when such investments have been made and where the property is used in business;

(5) Circumstances under which small business enterprises or eligible investors may be subverting the purposes of this section and section 5747.81 of the Revised Code.

Sec. 122.861. (A) As used in this section:

(1) "Certified engine configuration" means a new, rebuilt, or remanufactured engine configuration that satisfies divisions (A)(1)(a) and (b) and, if applicable, division (A)(1)(c) of this section:

(a) It has been certified by the administrator of the United States environmental protection agency or the California air resources board.

(b) It meets or is rebuilt or remanufactured to a more stringent set of engine emission standards than when originally manufactured, as determined pursuant to Subtitle G of Title VII of the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 838, et seq.

(c) In the case of a certified engine configuration involving the replacement of an existing engine, an engine configuration that replaced an engine that was removed from the vehicle and returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for scrappage.

(2) "Section 793" means section 793 of the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 841, et seq.

(3) "Verified technology" means a pollution control technology, including a retrofit technology, advanced truckstop electrification system, or auxiliary power unit, that has been verified by the administrator of the United States environmental protection agency or the California air resources board.

(B) For the purpose of reducing emissions from diesel engines, the ~~department~~ director of ~~development~~ environmental protection shall administer a diesel emissions reduction grant program and a diesel emissions reduction revolving loan program. The programs shall provide for the implementation in this state of section 793 and shall otherwise be

administered in compliance with the requirements of section 793, and any regulations issued pursuant to that section.

The director ~~of development~~ shall apply to the administrator of the United States environmental protection agency for grant or loan funds available under section 793 to help fund the diesel emissions reduction grant program and the diesel emissions reduction revolving loan program. ~~Upon the request of the director of development, the director of environmental protection shall assist the director of development to the extent necessary to develop diesel emission reduction plans, goals, or methods, including the role of certified engine configurations and verified technologies, and to prepare the application for federal grants or loans available under section 793.~~

(C) There is hereby created in the state treasury the diesel emissions grant fund consisting of money appropriated to it by the general assembly, any grants obtained from the federal government under section 793, and any other grants, gifts, or other contributions of money made to the credit of the fund. Money in the fund shall be used for the purpose of making grants for projects relating to certified engine configurations and verified technologies in a manner consistent with the requirements of section 793 and any regulations issued under that section. Interest earned from moneys in the fund shall be used to administer the diesel emissions reduction grant program.

(D) There is hereby created in the state treasury the diesel emissions reduction revolving loan fund consisting of money appropriated to it by the general assembly, any grants obtained from the federal government under section 793, and any other grants, gifts, or other contributions of money made to the credit of the fund. Money in the fund shall be used for the purpose of making loans for projects relating to certified engine configurations and verified technologies in a manner consistent with the requirements of section 793 and any regulations issued pursuant to that section. Interest earned from moneys in the fund shall be used to administer the diesel emissions reduction revolving loan program.

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

(1) To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor,

provided that the construction of the projects, improvements, or public buildings is a statutory duty of the department. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.

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

(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions and except contracts for the construction of projects that do not require the issuance of a building permit or the issuance of a certificate of occupancy and that are necessary to remediate conditions at a hazardous waste facility, solid waste facility, or other location at which the director of environmental protection has reason to believe there is a substantial threat to public health or safety or the environment. These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, the boards of trustees of such institutions, and the director of environmental protection, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.

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

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

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

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

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

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

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

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

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

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

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

(a) Whenever any building, structure, or other improvement is to be so leased by a state agency, the department shall retain either basic plans,

specifications, bills of materials, and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications:

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

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

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

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

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

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

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

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

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

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

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

The department may employ, as employees or consultants, persons

needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following:

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

(b) The development plans are satisfactory;

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

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

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

(18) To manage the use of space owned and controlled by the department, including space in property under the jurisdiction of the Ohio building authority, by doing all of the following:

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

(b) Periodically in the discretion of the director of administrative services:

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

(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.

(iii) Conducting a cost-benefit analysis to determine the effectiveness of

state-owned buildings;

(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.

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

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

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

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

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

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

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

Revised Code;

(6) The power of the director of environmental protection to enter into environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the rehabilitation services commission, the bureau of workers' compensation, or the departments of public safety, job and family services, mental health, developmental disabilities, and rehabilitation and correction~~,~~ ~~and~~; buildings of educational and benevolent institutions under the management and control of boards of trustees~~,~~; and purchases or leases for, and the custody and repair of, office space used for the purposes of the joint legislative ethics committee are not subject to the control and jurisdiction of the department of administrative services.

If the joint legislative ethics committee so requests, the committee and the director of administrative services may enter into a contract under which the department of administrative services agrees to perform any services requested by the committee that the department is authorized under this section to perform.

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

Sec. 123.011. (A) As used in this section:

(1) "Construct" includes reconstruct, improve, renovate, enlarge, or otherwise alter.

(2) "Energy consumption analysis" means the evaluation of all energy consuming systems, components, and equipment by demand and type of energy, including the internal energy load imposed on a facility by its occupants and the external energy load imposed by climatic conditions.

(3) "Energy performance index" means a number describing the energy requirements of a facility per square foot of floor space or per cubic foot of occupied volume as appropriate under defined internal and external ambient conditions over an entire seasonal cycle.

(4) "Facility" means a building or other structure, or part of a building or other structure, that includes provision for a heating, refrigeration, ventilation, cooling, lighting, hot water, or other major energy consuming system, component, or equipment.

(5) "Life-cycle cost analysis" means a general approach to economic evaluation that takes into account all dollar costs related to owning, operating, maintaining, and ultimately disposing of a project over the

appropriate study period.

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

(7) "State funded" means funded in whole or in part through appropriation by the general assembly or through the use of any guarantee provided by this state.

~~(6)~~(8) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) There is hereby created within the department of administrative services the office of energy services. The office shall be under the supervision of a manager, who shall be appointed by the director of administrative services. The director shall assign to the office such number of employees and furnish such equipment and supplies as are necessary for the performance of the office's duties.

The office shall develop energy efficiency and conservation programs in each of the following areas:

(1) New construction design and review;

(2) Existing building audit and retrofit;

(3) Energy efficient procurement;

(4) Alternative fuel vehicles.

The office may accept and administer grants from public and private sources for carrying out any of its duties under this section.

(C) No state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution, including those agencies otherwise excluded from the jurisdiction of the department under division (A)(3) of section 123.01 of the Revised Code, shall lease, construct, or cause to be leased or constructed, within the limits prescribed in this section, a state-funded facility, without ~~having secured from the office~~ a proper life-cycle cost analysis or, in the case of a lease, an energy consumption analysis, as computed or prepared by a qualified architect or engineer in accordance with the rules required by division (D) of this section.

Construction shall proceed only upon the disclosure to the office, for the facility chosen, of the life-cycle costs as determined in this section and the capitalization of the initial construction costs of the building. The results of life-cycle cost analysis shall be a primary consideration in the selection of a building design. That analysis shall be required only for construction of buildings with an area of five thousand square feet or greater. An energy

consumption analysis for the term of a proposed lease shall be required only for the leasing of an area of twenty thousand square feet or greater within a given building boundary. That analysis shall be a primary consideration in the selection of a facility to be leased.

Nothing in this section shall deprive or limit any state agency that has review authority over design, construction, or leasing plans from requiring a life-cycle cost analysis or energy consumption analysis.

~~Whenever any state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution requests release of capital improvement funds for any state-funded facility, it shall submit copies of all pertinent life-cycle cost analyses prepared pursuant to this section and in accordance with rules adopted under Chapters 3781. and 4101. of the Revised Code.~~

(D) For the purposes of assisting the department in its responsibility for state-funded facilities pursuant to section 123.01 of the Revised Code and of cost-effectively reducing the energy consumption of those and any other state-funded facilities, thereby promoting fiscal, economic, and environmental benefits to this state, the office shall promulgate rules specifying cost-effective, energy efficiency and conservation standards that may govern the lease, design, construction, operation, and maintenance of all state-funded facilities, except facilities of state institutions of higher education or facilities operated by a political subdivision. The office of energy efficiency in the department of development shall cooperate in providing information and technical expertise to the office of energy services to ensure promulgation of rules of maximum effectiveness. The standards prescribed by rules promulgated under this division may draw from or incorporate, by reference or otherwise and in whole or in part, standards already developed or implemented by any competent, public or private standards organization or program. The rules also may include any of the following:

(1) Specifications for a life-cycle cost analysis that shall determine, for the economic life of such state-funded facility, the reasonably expected costs of facility ownership, operation, and maintenance including labor and materials. Life-cycle cost may be expressed as an annual cost for each year of the facility's use. ~~Further, the life-cycle cost analysis may demonstrate for each design how the design contributes to energy efficiency and conservation with respect to any of the following:~~

~~(a) The coordination, orientation, and positioning of the facility on its physical site;~~

~~(b) The amount and type of glass employed in the facility and the~~

~~directions of exposure;~~

~~(c) Thermal characteristics of materials incorporated into facility design, including insulation;~~

~~(d) Architectural features that affect energy consumption, including the solar absorption and reflection properties of external surfaces;~~

~~(e) The variable occupancy and operating conditions of the facility and portions of the facility, including illumination levels;~~

~~(f) Any other pertinent, physical characteristics of the design.~~

A life-cycle cost analysis additionally may include an energy consumption analysis that conforms to division (D)(2) of this section.

(2) Specifications for an energy consumption analysis of the facility's heating, refrigeration, ventilation, cooling, lighting, hot water, and other major energy consuming systems, components, and equipment. ~~This analysis shall include both of the following:~~

~~(a) The comparison of two or more system alternatives, one of which may be a system using solar energy;~~

~~(b) The projection of the annual energy consumption of those major energy consuming systems, components, and equipment, for a range of operation of the facility over the economic life of the facility and considering their operation at other than full or rated outputs.~~

A life-cycle cost analysis and energy consumption analysis shall be based on the best currently available methods of analysis, such as those of the national ~~bureau~~ institute of standards and technology, the United States department of ~~housing and urban development~~ energy or other federal agencies, professional societies, and directions developed by the department.

(3) Specifications for energy performance indices, to be used to audit and evaluate competing design proposals submitted to the state.

(4) A requirement that, not later than two years after ~~the effective date of this amendment~~ April 6, 2007, each state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, is managed by at least one building operator certified under the building operator certification program or any equivalent program or standards as shall be prescribed in the rules and considered reasonably equivalent.

(5) An application process by which a ~~project~~ manager~~, as to~~ of a specified state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, may apply for a waiver of compliance with any provision of the rules required by divisions (D)(1) to (4) of this section.

(E) The office of energy services shall promulgate rules to ensure that

energy efficiency and conservation will be considered in the purchase of products and equipment, except motor vehicles, by any state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution. Minimum energy efficiency standards for purchased products and equipment may be required, based on federal testing and labeling where available or on standards developed by the office. The rules shall apply to the competitive selection of energy consuming systems, components, and equipment under Chapter 125. of the Revised Code where possible.

The office also shall ensure energy efficient and energy conserving purchasing practices by doing all of the following:

(1) Cooperatively with the office of energy efficiency, identifying available energy efficiency and conservation opportunities;

(2) Providing for interchange of information among purchasing agencies;

(3) Identifying laws, policies, rules, and procedures that need modification;

(4) Monitoring experience with and the cost-effectiveness of this state's purchase and use of motor vehicles and of major energy-consuming systems, components, equipment, and products having a significant impact on energy consumption by government;

(5) Cooperatively with the office of energy efficiency, providing technical assistance and training to state employees involved in the purchasing process.

The department of development shall make recommendations to the office regarding planning and implementation of purchasing policies and procedures supportive of energy efficiency and conservation.

(F)(1) The office of energy services shall require all state agencies, departments, divisions, bureaus, offices, units, commissions, boards, authorities, quasi-governmental entities, institutions, and state institutions of higher education to implement procedures ensuring that all their passenger automobiles acquired in each fiscal year, except for those passenger automobiles acquired for use in law enforcement or emergency rescue work, achieve a fleet average fuel economy of not less than the fleet average fuel economy for that fiscal year as shall be prescribed by the office by rule. The office shall promulgate the rule prior to the beginning of the fiscal year in accordance with the average fuel economy standards established pursuant to federal law for passenger automobiles manufactured during the model year that begins during the fiscal year.

(2) Each state agency, department, division, bureau, office, unit,

commission, board, authority, quasi-governmental entity, institution, and state institution of higher education shall determine its fleet average fuel economy by dividing:

(a) The total number of passenger vehicles acquired during the fiscal year, except for those passenger vehicles acquired for use in law enforcement or emergency rescue work, by

(b) A sum of terms, each of which is a fraction created by dividing:

(i) The number of passenger vehicles of a given make, model, and year, except for passenger vehicles acquired for use in law enforcement or emergency rescue work, acquired during the fiscal year, by

(ii) The fuel economy measured by the administrator of the United States environmental protection agency, for the given make, model, and year of vehicle, that constitutes an average fuel economy for combined city and highway driving.

As used in division (F)(2) of this section, "acquired" means leased for a period of sixty continuous days or more, or purchased.

(G) Each state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, institution, and state institution of higher education shall comply with any applicable provision of this section or of a rule promulgated pursuant to division (D) or (F) of this section.

Sec. 123.10. (A) The director of administrative services shall regulate the rate of tolls to be collected on the public works of the state, and shall fix all rentals and collect all tolls, rents, fines, commissions, fees, and other revenues arising from any source in the public works, including the sale, construction, purchase, or rental of property, except that the director shall not collect a commission or fee from a real estate broker or the private owner when real property is leased or rented to the state.

(B) There is hereby created in the state treasury the state architect's fund which shall consist of money received by the department of administrative services under division (A) of this section, fees paid under section 123.17 of the Revised Code, transfers of money to the fund authorized by the general assembly, and such amount of the investment earnings of the administrative building fund created in division ~~(C)~~(F) of ~~this~~ section 154.24 of the Revised Code as the director of budget and management determines to be appropriate and in excess of the amounts required to meet estimated federal arbitrage rebate requirements. Money in the fund shall be used by the department of administrative services for the following purposes:

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

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

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

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

(5) To pay the cost of operating the local administration competency certification program prescribed by section 123.17 of the Revised Code;

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

~~(C) There is hereby created in the state treasury the administrative building fund which shall consist of proceeds of obligations authorized to pay the cost of capital facilities. Except as provided in division (B) of this section, all investment earnings of the fund shall be credited to the fund. The fund shall be used to pay the cost of capital facilities designated by or pursuant to an act of the general assembly. The director of budget and management shall approve and provide a voucher for payments of amounts from the fund that represent the portion of investment earnings to be rebated or to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes on interest on those obligations pursuant to section 148(f) of the Internal Revenue Code.~~

~~As used in this division, "capital facilities" has the same meaning as under section 152.09 of the Revised Code.~~

Sec. 123.101. (A) As used in this section:

"Capital facilities project" means the construction, reconstruction, improvement, enlargement, alteration, or repair of a building by a public entity.

"Public entity" includes a state agency and a state institution of higher education.

"State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) Commencing not later than July 1, 2012, and upon completion of a capital facilities project that is funded wholly or in part using state funds, each public entity shall submit a report about the project to the director of administrative services. The report shall be submitted in Ohio administrative knowledge system capital improvement format or in a manner determined by the director and not later than thirty days after the project is complete. The report shall provide the total original contract bid, total cost of change orders, total actual cost of the project, total costs incurred for mediation and litigation services, and any other data requested by the director. The first report submitted pursuant to this division shall include information about any capital facilities project completed on or after July 1, 2011. Any capital

facilities project that is funded wholly or in part through appropriations made to the Ohio school facilities commission, the Ohio public works commission, or the Ohio cultural facilities commission, or for which a joint use agreement has been entered into with any public entity, is exempt from the reporting requirement prescribed under this division.

(C) Commencing not later than July 1, 2012, and annually thereafter, the attorney general shall report to the director on any mediation and litigation costs associated with capital facilities projects for which a judgment has been rendered. The report shall be submitted in a manner prescribed by the director and shall contain any information requested by the director related to capital facilities project mediation and litigation costs.

(D) As soon as practicable after such information is made available, the director of administrative services shall incorporate the information reported pursuant to divisions (B) and (C) of this section into the Ohio administrative knowledge system.

Sec. 124.09. The director of administrative services shall do all of the following:

(A) Prescribe, amend, and enforce administrative rules for the purpose of carrying out the functions, powers, and duties vested in and imposed upon the director by this chapter. Except in the case of rules adopted pursuant to section 124.14 of the Revised Code, the prescription, amendment, and enforcement of rules under this division are subject to approval, disapproval, or modification by the state personnel board of review.

(B) Keep records of the director's proceedings and records of all applications for examinations and all examinations conducted by the director or the director's designee. All of those records, except examinations, proficiency assessments, and recommendations of former employers, shall be open to public inspection under reasonable regulations; provided the governor, or any person designated by the governor, may, for the purpose of investigation, have free access to all of those records, whenever the governor has reason to believe that this chapter, or the administrative rules of the director prescribed under this chapter, are being violated.

(C) Prepare, continue, and keep in the office of the department of administrative services a complete roster of all persons in the classified civil service of the state who are paid directly by warrant of the director of budget and management. This roster shall be open to public inspection at all reasonable hours. It shall show in reference to each of those persons, the person's name, address, date of appointment to or employment in the classified civil service of the state, and salary or compensation, the title of

the place or office that the person holds, the nature of the duties of that place or office, and, in case of the person's removal or resignation, the date of the termination of that service.

(D) Approve the establishment of all new positions in the civil service of the state and the reestablishment of abolished positions;

(E) Require the abolishment of any position in the civil service of the state that is not filled after a period of twelve months unless it is determined that the position is seasonal in nature or that the vacancy is otherwise justified;

(F) Make investigations concerning all matters touching the enforcement and effect of this chapter and the administrative rules of the director of administrative services prescribed under this chapter. In the course of those investigations, the director or the director's deputy may administer oaths and affirmations and take testimony relative to any matter which the director has authority to investigate.

(G) Have the power to subpoena and require the attendance and testimony of witnesses and the production of books, papers, public records, and other documentary evidence pertinent to the investigations, inquiries, or hearings on any matter which the director has authority to investigate, inquire into, or hear, and to examine them in relation to any matter which the director has authority to investigate, inquire into, or hear. Fees and mileage shall be allowed to witnesses and, on their certificate, duly audited, shall be paid by the treasurer of state or, in the case of municipal or civil service township civil service commissions, by the county treasurer, for attendance and traveling, as provided in section 119.094 of the Revised Code. All officers in the civil service of the state or any of the political subdivisions of the state and their deputies, clerks, and employees shall attend and testify when summoned to do so by the director or the state personnel board of review. Depositions of witnesses may be taken by the director or the board, or any member of the board, in the manner prescribed by law for like depositions in civil actions in the courts of common pleas. In case any person, in disobedience to any subpoena issued by the director or the board, or any member of the board, or the chief examiner, fails or refuses to attend and testify to any matter regarding which the person may be lawfully interrogated, or produce any documentary evidence pertinent to any investigation, inquiry, or hearing, the court of common pleas of any county, or any judge of the court of common pleas of any county, where the disobedience, failure, or refusal occurs, upon application of the director or the board, or any member of the board, or a municipal or civil service township civil service commission, or any commissioner of such a

commission, or their chief examiner, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court.

(H) Make a report to the governor, on or before the first day of January of each year, showing the director's actions, the rules and all exceptions to the rules in force, and any recommendations for the more effectual accomplishment of the purposes of this chapter. The director shall also furnish any special reports to the governor whenever the governor requests them. The reports shall be printed for public distribution under the same regulations as are the reports of other state officers, boards, or commissions.

Sec. 124.23. (A) All applicants for positions and places in the classified service shall be subject to examination, except for applicants for positions as professional or certified service and paraprofessional employees of county boards of developmental disabilities, who shall be hired in the manner provided in section 124.241 of the Revised Code.

(B) Any examination administered under this section shall be public and be open to all citizens of the United States and those persons who have legally declared their intentions of becoming United States citizens. For examinations administered for positions in the service of the state, the director of administrative services or the director's designee may determine certain limitations as to citizenship, age, experience, education, health, habit, and moral character.

(C) Any person who has completed service in the uniformed services, who has been honorably discharged from the uniformed services or transferred to the reserve with evidence of satisfactory service, and who is a resident of this state and any member of the national guard or a reserve component of the armed forces of the United States who has completed more than one hundred eighty days of active duty service pursuant to an executive order of the president of the United States or an act of the congress of the United States may file with the director a certificate of service or honorable discharge, and, upon this filing, the person shall receive additional credit of twenty per cent of the person's total grade given in the ~~regular~~ examination in which the person receives a passing grade.

As used in this division, "service in the uniformed services" and "uniformed services" have the same meanings as in the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4303.

(D) An examination may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. An examination shall consist of one or more tests in

any combination. Tests may be written, oral, physical, demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods. If minimum or maximum requirements are established for any examination, they shall be specified in the examination announcement.

(E) Except as otherwise provided in sections 124.01 to 124.64 of the Revised Code, when a position in the classified service of the state is to be filled, an examination shall be administered. The director of administrative services shall have control of all examinations administered for positions in the service of the state and all other examinations the director administers as provided in section 124.07 of the Revised Code, except as otherwise provided in sections 124.01 to 124.64 of the Revised Code. The director shall, by rule adopted under Chapter 119. of the Revised Code, prescribe the notification method that is to be used by an appointing authority to notify the director that a position in the classified service of the state is to be filled. In addition to the positions described in section 124.30 of the Revised Code, the director may, with sufficient justification from the appointing authority, allow the appointing authority to fill the position by noncompetitive examination. The director shall establish, by rule adopted under Chapter 119. of the Revised Code, standards that the director shall use to determine what serves as sufficient justification from an appointing authority to fill a position by noncompetitive examination.

(F) No questions in any examination shall relate to political or religious opinions or affiliations. No credit for seniority, efficiency, or any other reason shall be added to an applicant's examination grade unless the applicant achieves at least the minimum passing grade on the examination without counting that extra credit.

(G) Except as otherwise provided in sections 124.01 to 124.64 of the Revised Code, the director of administrative services or the director's designee shall give reasonable notice of the time, place, and general scope of every competitive examination for appointment that the director or the director's designee administers for positions in the classified service of the state. The director or the director's designee shall ~~send written, printed, or electronic~~ post notices via electronic media of every examination to be conducted for positions in the classified civil service of the state ~~to each agency of the type the director of job and family services specifies and, in the case of a county in which no such agency is located, to the clerk of the~~

~~court of common pleas of that county and to the clerk of each city located within that county. Those notices shall be posted in conspicuous public places in the designated agencies or the courthouse, and city hall of the cities, of the counties in which no designated agency is located for at least two weeks~~. The electronic notice shall be posted on the director's internet site on the world wide web for a minimum of one week preceding any examination involved~~, and in a conspicuous place in the office of the director of administrative services for at least two weeks preceding any examination involved. In case of examinations limited by the director to a district, county, city, or department, the director shall provide by rule for adequate publicity of an examination in the district, county, city, or department within which competition is permitted~~.

Sec. 124.231. (A) As used in this section, "legally blind person" means any person who qualifies as being blind under any Ohio or federal statute, or any rule adopted thereunder. As used in this section, "legally deaf person" means any person who qualifies as being deaf under any Ohio or federal statute, or any rule adopted thereunder.

(B) ~~The~~ When an examination is to be administered under sections 124.01 to 124.64 of the Revised Code, the director of administrative services or the director's designee shall whenever practicable arrange for special examinations to be administered to legally blind or legally deaf persons applying for ~~original appointments~~ positions in the classified service to ensure that the abilities of such applicants are properly assessed and that such applicants are not subject to discrimination because they are legally blind or legally deaf persons.

~~(C) The director may administer equitable programs for the employment of legally blind persons and legally deaf persons in the classified service.~~

~~Nothing in this section shall be construed to prohibit the appointment of a legally blind or legally deaf person to a position in the classified service under the procedures otherwise provided in this chapter.~~

Sec. 124.24. (A) Notwithstanding sections 124.01 to 124.64 and Chapter 145. of the Revised Code, the examinations of applicants for the positions of deputy mine inspector, superintendent of rescue stations, assistant superintendent of rescue stations, electrical inspectors, ~~gas storage well inspector,~~ and mine chemists in the division of mineral resources management, department of natural resources, as provided in Chapters 1561., 1563., 1565., and 1567. of the Revised Code shall be provided for, conducted, and administered by the chief of the division of mineral resources management.

From the returns of the examinations the chief shall prepare eligible lists

of the persons whose general average standing upon examinations for such grade or class is not less than the minimum fixed by rules adopted under section 1561.05 of the Revised Code and who are otherwise eligible. All appointments to a position shall be made from ~~such~~ that eligible list in the same manner as appointments are made from eligible lists prepared by the director of administrative services. Any person upon being appointed to fill one of the positions provided for in this ~~section~~ division, from any such eligible list, shall have the same standing, rights, privileges, and status as other state employees in the classified service.

(B) Notwithstanding sections 124.01 to 124.64 and Chapter 145. of the Revised Code, the examinations of applicants for the position of gas storage well inspector in the division of oil and gas resources management, department of natural resources, as provided in Chapter 1571. of the Revised Code shall be provided for, conducted, and administered by the chief of the division of oil and gas resources management.

From the returns of the examinations, the chief shall prepare an eligible list of the persons whose general average standing upon examinations for that position is not less than the minimum fixed by rules adopted under section 1571.014 of the Revised Code and who are otherwise eligible. An appointment to the position shall be made from that eligible list in the same manner as appointments are made from eligible lists prepared by the director of administrative services. Any person, upon being appointed to fill the position provided for in this division from any such eligible list, shall have the same standing, rights, privileges, and status as other state employees in the classified service.

Sec. 124.25. The director of administrative services shall require persons applying for an examination for original appointment to file with the director or the director's designee, within reasonable time prior to the examination, a formal application, in which the applicant shall state the applicant's name, address, and such other information as may reasonably be required concerning the applicant's education and experience. No inquiry shall be made as to religious or political affiliations or as to racial or ethnic origin of the applicant, except as necessary to gather equal employment opportunity or other statistics that, when compiled, will not identify any specific individual.

Blank forms for applications shall be furnished by the director or the director's designee without charge to any person requesting the same. The director or the director's designee may require in connection with such application such certificate of persons having knowledge of the applicant as the good of the service demands. The director or the director's designee may

refuse to appoint or examine an applicant, or, after an examination, refuse to certify the applicant as eligible, who is found to lack any of the established preliminary requirements for the examination, who is addicted to the habitual use of intoxicating liquors or drugs to excess, who has a pattern of poor work habits and performance with previous employers, who has been convicted of a felony, who has been guilty of infamous or notoriously disgraceful conduct, who has been dismissed from either branch of the civil service for delinquency or misconduct, or who has made false statements of any material fact, or practiced, or attempted to practice, any deception or fraud in the application or examination, in establishing eligibility, or securing an appointment.

Sec. 124.26. From the returns of the examinations, the director of administrative services or the director's designee shall prepare an eligible list of the persons whose general average standing upon examinations for the ~~grade or~~ class or position is not less than the minimum fixed by the rules of the director, and who are otherwise eligible. Those persons shall take rank upon the eligible list as candidates in the order of their relative excellence as determined by the examination without reference to priority of the time of examination. If two or more applicants receive the same mark in an open competitive examination, priority in the time of filing the application with the director or the director's designee shall determine the order in which their names shall be placed on the eligible list, except that applicants eligible for veteran's preference under section 124.23 of the Revised Code shall receive priority in rank on the eligible list over nonveterans on the list with a rating equal to that of the veteran. Ties among veterans shall be decided by priority of filing the application. ~~If two or more applicants receive the same mark on a promotional examination, seniority shall determine the order in which their names shall be placed on the eligible list. The term of eligibility of each list shall be fixed by the director at not less than one or more than two years.~~

~~When an eligible list is reduced to ten names or less, a new list may be prepared. The director may consolidate two or more eligible lists of the same kind by the rearranging of eligibles named in the lists, according to their grades~~. An eligible list expires upon the filling or closing of the position. An expired eligible list may be used to fill a position of the same classification within the same appointing authority for which the list was created. But, in no event shall an expired list be used more than one year past its expiration date.

Sec. 124.27. (A) ~~The head of a department, office, or institution, in which a position in the classified service is to be filled, shall notify the~~

~~director of administrative services of the fact, and the director shall, except as otherwise provided in this section and sections 124.30 and 124.31 of the Revised Code, certify to the appointing authority the names and addresses of the ten candidates standing highest on the eligible list for the class or grade to which the position belongs, except that the director may certify less than ten names if ten names are not available. When less than ten names are certified to an appointing authority, appointment from that list shall not be mandatory. When a position in the classified service in the department of mental health or the department of developmental disabilities is to be filled, the director of administrative services shall make such certification to the appointing authority within seven working days of the date the eligible list is requested.~~

~~(B) The appointing authority shall notify the director of a position in the classified service to be filled, and the appointing authority shall fill the vacant position by appointment of one of the ten persons certified by the director. If more than one position is to be filled, the director may certify a group of names from the eligible list, and the appointing authority shall appoint in the following manner: beginning at the top of the list, each time a selection is made, it must be from one of the first ten candidates remaining on the list who is willing to accept consideration for the position. If an eligible list becomes exhausted, and until a new list can be created, or when no eligible list for a position exists, names may be certified from eligible lists most appropriate for the group or class in which the position to be filled is classified. A person who is certified from an eligible list more than three times to the same appointing authority for the same or similar positions may be omitted from future certification to that appointing authority, provided that certification for a temporary appointment shall not be counted as one of those certifications. Every person who qualifies for veteran's preference under section 124.23 of the Revised Code, who is a resident of this state, and whose name is on the eligible list for a position shall be entitled to preference in original appointments to any such competitive position in the civil service of the state and its civil divisions over all other persons eligible for those appointments and standing on the relevant eligible list with a rating equal to that of the person qualifying for veteran's preference.~~ Appointments to all positions in the classified service, that are not filled by promotion, transfer, or reduction, as provided in sections 124.01 to 124.64 of the Revised Code and the rules of the director prescribed under those sections, shall be made only from those persons whose names ~~are certified to the appointing authority~~ take rank order on an eligible list, and no employment, except as provided in those sections, shall be otherwise given in the

classified service of this state or any political subdivision of the state. The appointing authority shall appoint in the following manner: each time a selection is made, it shall be from one of the names that ranks in the top twenty-five per cent of the eligible list. But, in the event that ten or fewer names are on the eligible list, the appointing authority may select any of the listed candidates. Each person who qualifies for the veteran's preference under section 124.23 of the Revised Code, who is a resident of this state, and whose name is on the eligible list for a position is entitled to preference in original appointment to any such competitive position in the civil service of the state and its civil divisions over all other persons who are eligible for those appointments and who are standing on the relevant eligible list with a rating equal to that of the person qualifying for the veteran's preference.

~~(C)~~(B) All original and promotional appointments, including appointments made pursuant to section 124.30 of the Revised Code, but not intermittent appointments, shall be for a probationary period, not less than sixty days nor more than one year, to be fixed by the rules of the director, except as provided in section 124.231 of the Revised Code, and except for original appointments to a police department as a police officer or to a fire department as a firefighter which shall be for a probationary period of one year. No appointment or promotion is final until the appointee has satisfactorily served the probationary period. If the service of the probationary employee is unsatisfactory, the employee may be removed or reduced at any time during the probationary period. If the appointing authority decides to remove a probationary employee in the service of the state, the appointing authority shall communicate the removal to the director ~~the reason for that decision~~. A probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction under section 124.34 of the Revised Code.

Sec. 124.31. ~~(A)~~ Vacancies in positions in the classified service of the state shall be filled insofar as practicable by promotions. The director of administrative services shall provide in the director's rules for keeping a record of efficiency for each employee in the classified civil service of the state, and for making promotions in the classified civil service of the state on the basis of merit~~, to be ascertained insofar as practicable by promotional examinations,~~ and by conduct and capacity in office~~, and by seniority in service. The director shall provide that vacancies in positions in the classified civil service of the state shall be filled by promotion in all cases where, in the judgment of the director, it is for the best interest of the service. The director's rules shall authorize each appointing authority of a county to develop and administer in a manner it devises, an evaluation~~

~~system for the employees it appoints.~~

~~(B) All examinations for promotions shall be competitive and may be conducted in the same manner as examinations described in section 124.23 of the Revised Code. In promotional examinations, seniority in service shall be added to the examination grade, but no credit for seniority or any other reason shall be added to an examination grade unless the applicant achieves at least the minimum passing score on the examination without counting that extra credit. Credit for seniority shall equal, for the first four years of service, one per cent of the total grade attainable in the promotion examination, and, for each of the fifth through fourteenth years of service, six-tenths per cent of the total grade attainable.~~

~~In all cases where vacancies are to be filled by promotion, the director shall certify to the appointing authority the names of the three persons having the highest rating on the eligible list. The method of examination for promotions, the manner of giving notice of the examination, and the rules governing it shall be in general the same as those provided for original examinations, except as otherwise provided in sections 124.01 to 124.64 of the Revised Code~~.

Sec. 124.34. (A) The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts of the state, holding a position under this chapter, shall be during good behavior and efficient service. No officer or employee shall be reduced in pay or position, fined, suspended, or removed, or have the officer's or employee's longevity reduced or eliminated, except as provided in section 124.32 of the Revised Code, and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, violation of this chapter or the rules of the director of administrative services or the commission, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. The denial of a one-time pay supplement or a bonus to an officer or employee is not a reduction in pay for purposes of this section.

This section does not apply to any modifications or reductions in pay or work week authorized by division (Q) of section 124.181 or section 124.392 ~~or,~~ 124.393, or 124.394 of the Revised Code.

An appointing authority may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee's regular rate

of pay for hours worked. The disciplinary action shall be recorded in the employee's personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.

A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal. The tenure of an employee in the career professional service of the department of transportation is subject to section 5501.20 of the Revised Code.

Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the state personnel board of review or the commission any disciplinary action taken by an appointing authority as a result of the officer's or employee's conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer's or employee's reinstatement.

A person convicted of a felony immediately forfeits the person's status as a classified employee in any public employment on and after the date of the conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.

Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, the person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

(1) A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;

(2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;

(3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;

(4) A felony involving dishonesty, fraud, or theft;

(5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In case of a reduction, a suspension of more than forty work hours in the case of an employee exempt from the payment of overtime compensation, a suspension of more than twenty-four work hours in the case of an employee required to be paid overtime compensation, a fine of more than forty hours' pay in the case of an employee exempt from the payment of overtime compensation, a fine of more than twenty-four hours' pay in the case of an employee required to be paid overtime compensation, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action.

Within ten days following the date on which the order is served or, in the case of an employee in the career professional service of the department of transportation, within ten days following the filing of a removal order, the employee, except as otherwise provided in this section, may file an appeal of the order in writing with the state personnel board of review or the commission. For purposes of this section, the date on which an order is served is the date of hand delivery of the order or the date of delivery of the order by certified United States mail, whichever occurs first. If an appeal is filed, the board or commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the board or commission. The board, commission, or trial board may affirm, disaffirm, or modify the judgment of the appointing authority. However, in an appeal of a removal order based upon a violation of a last chance agreement, the board, commission, or trial board may only determine if the employee violated the agreement and thus affirm or disaffirm the judgment of the appointing authority.

In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the state personnel board of review or the commission, and any

such appeal shall be to the court of common pleas of the county in which the appointing authority is located, or to the court of common pleas of Franklin county, as provided by section 119.12 of the Revised Code.

(C) In the case of the suspension for any period of time, or a fine, demotion, or removal, of a chief of police, a chief of a fire department, or any member of the police or fire department of a city or civil service township, who is in the classified civil service, the appointing authority shall furnish the chief or member with a copy of the order of suspension, fine, demotion, or removal, which order shall state the reasons for the action. The order shall be filed with the municipal or civil service township civil service commission. Within ten days following the filing of the order, the chief or member may file an appeal, in writing, with the commission. If an appeal is filed, the commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority. An appeal on questions of law and fact may be had from the decision of the commission to the court of common pleas in the county in which the city or civil service township is situated. The appeal shall be taken within thirty days from the finding of the commission.

(D) A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

(E) As used in this section, "last chance agreement" means an agreement signed by both an appointing authority and an officer or employee of the appointing authority that describes the type of behavior or circumstances that, if it occurs, will automatically lead to removal of the officer or employee without the right of appeal to the state personnel board of review or the appropriate commission.

Sec. 124.393. (A) As used in this section:

(1) "~~County-exempt~~ Exempt employee" means a permanent full-time or permanent part-time county, township, or municipal corporation employee who is not subject to a collective bargaining agreement between a public employer and an exclusive representative.

(2) "Fiscal emergency" means any of the following:

(a) A fiscal emergency declared by the governor under section 126.05 of the Revised Code.

(b) A fiscal watch or fiscal emergency has been declared or determined under section 118.023 or 118.04 of the Revised Code.

(c) Lack of funds as defined in section 124.321 of the Revised Code.

~~(c)~~(d) Reasons of economy as described in section 124.321 of the Revised Code.

(B)(1) A county, township, or municipal corporation appointing authority may establish a mandatory cost savings program applicable to its ~~county~~ exempt employees. Each ~~county~~ exempt employee shall participate in the program of mandatory cost savings for not more than eighty hours, as determined by the appointing authority, in each of state fiscal years 2010 ~~and 2011~~ to 2013. The program may include, but is not limited to, a loss of pay or loss of holiday pay. The program may be administered differently among employees based on their classifications, appointment categories, or other relevant distinctions.

(2) After June 30, ~~2011~~ 2013, a county, township, or municipal corporation appointing authority may implement mandatory cost savings days as described in division (B)(1) of this section that apply to its ~~county~~ exempt employees in the event of a fiscal emergency.

(C) A county, township, or municipal corporation appointing authority shall issue guidelines concerning how the appointing authority will implement the cost savings program.

Sec. 124.394. (A) As used in this section:

(1) "Exempt employee" means a permanent full-time or permanent part-time county employee , township, or municipal corporation who is not subject to a collective bargaining agreement between a public employer and an exclusive representative.

(2) "Fiscal emergency" means any of the following:

(a) A fiscal emergency declared by the governor under section 126.05 of the Revised Code.

(b) A fiscal watch or a fiscal emergency declared or determined by the auditor of state under section 118.023 or 118.04 of the Revised Code.

(c) Lack of funds as defined in section 124.321 of the Revised Code.

(d) Reasons of economy as described in section 124.321 of the Revised Code.

(B) A county, township, or municipal corporation appointing authority may establish a modified work week schedule program applicable to its exempt employees. Each exempt employee shall participate in any established modified work week schedule program in each of state fiscal years 2012 and 2013. The program may provide for a reduction from the usual number of hours worked during a week by exempt employees immediately before the establishment of the program by the appointing authority. The reduction in hours may include any number of hours so long as the reduction is not more than fifty per cent of the usual hours worked by

exempt employees immediately before the establishment of the program. The program may be administered differently among employees based on classifications, appointment categories, or other relevant distinctions.

(C) After June 30, 2013, a county, township, or municipal corporation appointing authority may implement a modified work week schedule program as described in division (B) of this section that applies to its exempt employees in the event of a fiscal emergency.

Sec. 125.021. (A) Except as to the military department, the general assembly, the capitol square review advisory board, the bureau of workers' compensation, the industrial commission, and institutions administered by boards of trustees, the department of administrative services may contract for telephone, other telecommunication, and computer services for state agencies. Nothing in this division precludes the bureau or the commission from contracting with the department to authorize the department to contract for those services for the bureau or the commission.

(B)(1) As used in this division:

(a) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(b) "Immediate family" means a person's spouse residing in the person's household, brothers and sisters of the whole or of the half blood, children, including adopted children and stepchildren, parents, and grandparents.

(2) The department of administrative services may enter into a contract to purchase bulk long distance telephone services and make them available at cost, or may make bulk long distance telephone services available at cost under any existing contract the department has entered into, to members of the immediate family of persons deployed on active duty so that those family members can communicate with the persons so deployed. If the department enters into contracts under division (B)(2) of this section, it shall do so in accordance with sections 125.01 to 125.11 of the Revised Code and in a nondiscriminatory manner that does not place any potential vendor at a competitive disadvantage.

(3) If the department decides to exercise either option under division (B)(2) of this section, it shall adopt, and may amend, rules under Chapter 119. of the Revised Code to implement that division.

Sec. 125.15. All state agencies required to secure any equipment, materials, supplies, or services from the department of administrative services shall make acquisition in the manner and upon forms prescribed by the director of administrative services and shall reimburse the department for the equipment, materials, supplies, or services, including a reasonable

sum to cover the department's administrative costs and costs relating to energy efficiency and conservation programs, whenever reimbursement is required by the department. The money so paid shall be deposited in the state treasury to the credit of the general services fund ~~or,~~ the information technology fund, or the information technology governance fund, as appropriate. Those funds are hereby created.

Sec. 125.18. (A) There is hereby established the office of information technology within the department of administrative services. The office shall be under the supervision of a state chief information officer to be appointed by the director of administrative services and subject to removal at the pleasure of the director. The chief information officer is an assistant director of administrative services.

(B) Under the direction of the director of administrative services, the state chief information officer shall lead, oversee, and direct state agency activities related to information technology development and use. In that regard, the state chief information officer shall do all of the following:

(1) Coordinate and superintend statewide efforts to promote common use and development of technology by state agencies. The office of information technology shall establish policies and standards that govern and direct state agency participation in statewide programs and initiatives.

(2) Establish policies and standards for the acquisition and use of common information technology by state agencies, including, but not limited to, hardware, software, technology services, and security, and the extension of the service life of information technology systems, with which state agencies shall comply;

(3) Establish criteria and review processes to identify state agency information technology projects or purchases that require alignment or oversight. As appropriate, the department of administrative services shall provide the governor and the director of budget and management with notice and advice regarding the appropriate allocation of resources for those projects. The state chief information officer may require state agencies to provide, and may prescribe the form and manner by which they must provide, information to fulfill the state chief information officer's alignment and oversight role;

(4) Establish policies and procedures for the security of personal information that is maintained and destroyed by state agencies;

(5) Employ a chief information security officer who is responsible for the implementation of the policies and procedures described in division (B)(4) of this section and for coordinating the implementation of those policies and procedures in all of the state agencies;

(6) Employ a chief privacy officer who is responsible for advising state agencies when establishing policies and procedures for the security of personal information and developing education and training programs regarding the state's security procedures;

(7) Establish policies on the purchasing, use, and reimbursement for use of handheld computing and telecommunications devices by state agency employees;

(8) Establish policies for the reduction of printing and the use of electronic records by state agencies;

(9) Establish policies for the reduction of energy consumption by state agencies;

(10) Compute the amount of revenue attributable to the amortization of all equipment purchases and capitalized systems from information technology service delivery and major information technology purchases operating appropriation items and major computer purchases capital appropriation items that is recovered as part of the information technology services rates the department of administrative services charges and deposits into the information technology fund created in section 125.15 of the Revised Code.

(C)(1) The chief information security officer shall assist each state agency with the development of an information technology security strategic plan and review that plan, and each state agency shall submit that plan to the state chief information officer. The chief information security officer may require that each state agency update its information technology security strategic plan annually as determined by the state chief information officer.

(2) Prior to the implementation of any information technology data system, a state agency shall prepare or have prepared a privacy impact statement for that system.

(D) When a state agency requests a purchase of information technology supplies or services under Chapter 125. of the Revised Code, the state chief information officer may review and reject the requested purchase for noncompliance with information technology direction, plans, policies, standards, or project-alignment criteria.

(E) The office of information technology may operate technology services for state agencies in accordance with this chapter.

(F) With the approval of the director of administrative services, the office of information technology may establish cooperative agreements with federal and local government agencies and state agencies that are not under the authority of the governor for the provision of technology services and the development of technology projects.

(G) The office of information technology may operate a program to make information technology purchases. The director of administrative services may recover the cost of operating the program from all participating government entities by issuing intrastate transfer voucher billings for the procured technology or through any pass-through billing method agreed to by the director of administrative services, the director of budget and management, and the participating government entities that will receive the procured technology.

If the director of administrative services chooses to recover the program costs through intrastate transfer voucher billings, the participating government entities shall process the intrastate transfer vouchers to pay for the cost. Amounts received under this section for the information technology purchase program shall be deposited to the credit of the information technology governance fund created in section 125.15 of the Revised Code.

(H) Upon request from the director of administrative services, the director of budget and management may transfer cash from the information technology fund created in section 125.15 of the Revised Code to the major information technology purchases fund in an amount not to exceed the amount computed under division (B)(10) of this section. The major information technology purchases fund is hereby created in the state treasury.

(I) As used in this section:

(1) "Personal information" has the same meaning as in section 149.45 of the Revised Code.

(2) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, other than any state-supported institution of higher education, the office of the auditor of state, treasurer of state, secretary of state, or attorney general, the adjutant general's department, the bureau of workers' compensation, the industrial commission, the public employees retirement system, the Ohio police and fire pension fund, the state teachers retirement system, the school employees retirement system, the state highway patrol retirement system, the general assembly or any legislative agency, the capitol square review advisory board, or the courts or any judicial agency.

Sec. 125.182. The office of information technology, by itself or by contract with another entity, shall establish, operate, and maintain a state public notice web site. In establishing, maintaining, and operating the state public notice web site, the office of information technology shall:

(A) Use a domain name for the web site that will be easily recognizable and remembered by and understandable to users of the web site;

(B) Maintain the web site so that it is fully accessible to and searchable by members of the public at all times;

(C) Not charge a fee to a person who accesses, searches, or otherwise uses the web site;

(D) Not charge a fee to a state agency or political subdivision for publishing a notice on the web site;

(E) Ensure that notices displayed on the web site conform to the requirements that would apply to the notices if they were being published in a newspaper, as directed in section 7.16 of the Revised Code or in the relevant provision of the statute or rule that requires the notice;

(F) Ensure that notices continue to be displayed on the web site for not less than the length of time required by the relevant provision of the statute or rule that requires the notice;

(G) Devise and display on the web site a form that may be downloaded and used to request publication of a notice on the web site;

(H) Enable responsible parties to submit notices and requests for their publication;

(I) Maintain an archive of notices that no longer are displayed on the web site;

(J) Enable notices, both those currently displayed and those archived, to be accessed by key word, by party name, by case number, by county, and by other useful identifiers;

(K) Maintain adequate systemic security and backup features, and develop and maintain a contingency plan for coping with and recovering from power outages, systemic failures, and other unforeseeable difficulties;

(L) Maintain the web site in such a manner that it will not infringe legally protected interests, so that vulnerability of the web site to interruption because of litigation or the threat of litigation is reduced; and

(M) Submit a status report to the secretary of state twice annually that demonstrates compliance with statutory requirements governing publication of notices.

The office of information technology shall bear the expense of maintaining the state public notice web site domain name.

Sec. 125.213. There is hereby created the state employee child support fund. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. The fund shall consist of all money withheld or deducted from salaries and wages of state officials and employees pursuant to a withholding or deduction notice described in section 3121.03 of the Revised Code for forwarding to the office of child support in the department of job and family services pursuant to section 3121.19 of the Revised Code.

All money in the fund, including investment earnings thereon, shall be used only for the following purposes:

(A) Forwarding to the office of child support money withheld or deducted from salaries and wages of state officials and employees pursuant to a withholding or deduction notice described in section 3121.03 of the Revised Code;

(B) Paying any direct or indirect costs associated with maintaining the fund.

Sec. 125.28. (A)(1) Each state agency that is supported in whole or in part by nongeneral revenue fund money and that occupies space in the James A. Rhodes or Frank J. Lausche state office tower, Toledo government center, Senator Oliver R. Ocasek government office building, Vern Riffe center for government and the arts, ~~state of Ohio computer center,~~ capitol square, or governor's mansion shall reimburse the general revenue fund for the cost of occupying the space in the ratio that the occupied space in each facility attributable to the nongeneral revenue fund money bears to the total space occupied by the state agency in the facility.

(2) All agencies that occupy space in the old blind school or that occupy warehouse space in the general services facility shall reimburse the department of administrative services for the cost of occupying the space. The director of administrative services shall determine the amount of debt service, if any, to be charged to building tenants and shall collect reimbursements for it.

(3) Each agency that is supported in whole or in part by nongeneral revenue fund money and that occupies space in any other facility or facilities owned and maintained by the department of administrative services or space in the general services facility other than warehouse space shall reimburse the department for the cost of occupying the space, including debt service, if any, in the ratio that the occupied space in each facility attributable to the nongeneral revenue fund money bears to the total space occupied by the state agency in the facility.

(B) The director of administrative services may provide building maintenance services and skilled trades services to any state agency occupying space in a facility that is not owned by the department of administrative services and may collect reimbursements for the cost of providing those services.

(C) All money collected by the department of administrative services for operating expenses of facilities owned or maintained by the department shall be deposited into the state treasury to the credit of the building management fund, which is hereby created. All money collected by the

department for skilled trades services shall be deposited into the state treasury to the credit of the skilled trades fund, which is hereby created. All money collected for debt service shall be deposited into the general revenue fund.

(D) The director of administrative services shall determine the reimbursable cost of space in state-owned or state-leased facilities and shall collect reimbursements for that cost.

Sec. 125.89. Subject to the approval of the governor, the department of administrative services may enter into contracts, compacts, and cooperative agreements for and on behalf of the state of Ohio with the several states or the federal government, singularly or severally, in order to provide, with or without reimbursement, for the utilization by and exchange between them, singularly or severally, of property, facilities, personnel, and services of each by the other, and, for the same purpose, to enter into contracts and cooperative agreements with eligible public or private state or local authorities, institutions, organizations, or activities. ~~The department shall make, annually, a report of its actions under sections 125.84 to 125.90 of the Revised Code, in accordance with section 149.01 of the Revised Code, and file such report with the general assembly.~~

Sec. 126.11. (A)(1) The director of budget and management shall, upon consultation with the treasurer of state, coordinate and approve the scheduling of initial sales of publicly offered securities of the state and of publicly offered fractionalized interests in or securitized issues of public obligations of the state. The director shall from time to time develop and distribute to state issuers an approved sale schedule for each of the obligations covered by division (A) or (B) of this section. Division (A) of this section applies only to those obligations on which the state or a state agency is the direct obligor or obligor on any backup security or related credit enhancement facility or source of money subject to state appropriations that is intended for payment of those obligations.

(2) The issuers of obligations pursuant to section 151.03, 151.04, 151.05, 151.07, 151.08, or 151.09 or Chapter 152. or 5537. of the Revised Code shall submit to the director:

(a) For review and approval: the projected sale date, amount, and type of obligations proposed to be sold; their purpose, security, and source of payment; the proposed structure and maturity schedule; the trust agreement and any supplemental agreements; and any credit enhancement facilities or interest rate hedges for the obligations;

(b) For review and comment: the authorizing order or resolution; preliminary and final offering documents; method of sale; preliminary and

final pricing information; and any written reports or recommendations of financial advisors or consultants relating to those obligations;

(c) Promptly after each sale of those obligations: final terms, including sale price, maturity schedule and yields, and sources and uses; names of the original purchasers or underwriters; a copy of the final offering document and of the transcript of proceedings; and any other pertinent information requested by the director.

(3) The issuer of obligations pursuant to section 151.06 or 151.40 or Chapter 154. of the Revised Code shall submit to the director:

(a) For review and mutual agreement: the projected sale date, amount, and type of obligations proposed to be sold; their purpose, security, and source of payment; the proposed structure and maturity schedule; the trust agreement and any supplemental agreements; and any credit enhancement facilities or interest rate hedges for the obligations;

(b) For review and comment: the authorizing order or resolution; preliminary and final offering documents; method of sale; preliminary and final pricing information; and any written reports or recommendations of financial advisors or consultants relating to those obligations;

(c) Promptly after each sale of those obligations: final terms, including sale price, maturity schedule and yields, and sources and uses; names of the original purchasers or underwriters; a copy of the final offering document and of the transcript of proceedings; and any other pertinent information requested by the director.

(4) The issuers of obligations pursuant to Chapter 166., 4981., 5540., or 6121., or section 5531.10, of the Revised Code shall submit to the director:

(a) For review and comment: the projected sale date, amount, and type of obligations proposed to be sold; the purpose, security, and source of payment; and preliminary and final offering documents;

(b) Promptly after each sale of those obligations: final terms, including a maturity schedule; names of the original purchasers or underwriters; a copy of the complete continuing disclosure agreement pursuant to S.E.C. rule 15c2-12 or equivalent rule as from time to time in effect; and any other pertinent information requested by the director.

(5) Not later than thirty days after the end of a fiscal year, each issuer of obligations subject to divisions (A) and (B) of this section shall submit to the director and to the treasurer of state a sale plan for the then current fiscal year for each type of obligation, projecting the amount and term of each issuance, the method of sale, and the month of sale.

(B) Issuers of obligations pursuant to section 3318.085 or Chapter 175., 3366., 3706., 3737., 6121., or 6123. of the Revised Code shall submit to the

director copies of the preliminary and final offering documents upon their availability if not previously submitted pursuant to division (A) of this section.

(C) Not later than the first day of January of each year, every state agency obligated to make payments on outstanding public obligations with respect to which fractionalized interests have been publicly issued, such as certificates of participation, shall submit a report to the director of the amounts payable from state appropriations under those public obligations during the then current and next two fiscal years, identifying the appropriation or intended appropriation from which payment is expected to be made.

(D)(1) Information relating generally to the historic, current, or future demographics or economy or financial condition or funds or general operations of the state, and descriptions of any state contractual obligations relating to public obligations, to be contained in any offering document, continuing disclosure document, or written presentation prepared, approved, or provided, or committed to be provided, by an issuer in connection with the original issuance and sale of, or rating, remarketing, or credit enhancement facilities relating to, public obligations referred to in division (A) of this section shall be approved as to format and accuracy by the director before being presented, published, or disseminated in preliminary, draft, or final form, or publicly filed in paper, electronic, or other format.

(2) Except for information described in division (D)(1) of this section that is to be contained in an offering document, continuing disclosure document, or written presentation, division (D)(1) of this section does not inhibit direct communication between an issuer and a rating agency, remarketing agent, or credit enhancement provider concerning an issuance of public obligations referred to in division (A) of this section or matters associated with that issuance.

(3) The materials approved and provided pursuant to division (D) of this section are the information relating to the particular subjects provided by the state or state agencies that are required or contemplated by any applicable state or federal securities laws and any commitments by the state or state agencies made under those laws. Reliance for the purpose should not be placed on any other information publicly provided, in any format including electronic, by any state agency for other purposes, including general information provided to the public or to portions of the public. A statement to that effect shall be included in those materials so approved or provided.

(E) Issuers of obligations referred to in division (A) of this section may take steps, by formal agreement, covenants in the proceedings, or otherwise,

as may be necessary or appropriate to comply or permit compliance with applicable lawful disclosure requirements relating to those obligations, and may, subject to division (D) of this section, provide, make available, or file copies of any required disclosure materials as necessary or appropriate. Any such formal agreement or covenant relating to subjects referred to in division (D) of this section, and any description of that agreement or covenant to be contained in any offering document, shall be approved by the director before being entered into or published or publicly disseminated in preliminary, draft, or final form or publicly filed in paper, electronic, or other format. The director shall be responsible for making all filings in compliance with those requirements relating to direct obligations of the state, including fractionalized interests in those obligations.

(F) No state agency or official shall, without the approval of the director of budget and management and either the general assembly or the state controlling board, do either of the following:

(1) Enter into or commit to enter into a public obligation under which fractionalized interests in the payments are to be publicly offered, which payments are anticipated to be made from money from any source appropriated or to be appropriated by the general assembly or in which the provision stated in section 9.94 of the Revised Code is not included;

(2) Except as otherwise expressly authorized for the purpose by law, agree or commit to provide, from money from any source to be appropriated in the future by the general assembly, financial assistance to or participation in the costs of capital facilities, or the payment of debt charges, directly or by way of a credit enhancement facility, a reserve, rental payments, or otherwise, on obligations issued to pay costs of capital facilities.

(G) As used in this section, "interest rate hedge" has the same meaning as in section 9.98 of the Revised Code; "credit enhancement facilities," "debt charges," "fractionalized interests in public obligations," "obligor," "public issuer," and "securities" have the same meanings as in section 133.01 of the Revised Code; "public obligation" has the same meaning as in division (GG)(2) of section 133.01 of the Revised Code; "obligations" means securities or public obligations or fractionalized interests in them; "issuers" means issuers of securities or state obligors on public obligations; "offering document" means an official statement, offering circular, private placement memorandum, or prospectus, or similar document; and "director" means the director of budget and management or the employee of the office of budget and management designated by the director for the purpose.

Sec. 126.12. (A)(1) The office of budget and management shall prepare and administer a statewide indirect cost allocation plan that provides for the

recovery of statewide indirect costs from any fund of the state. The director of budget and management may make transfers of statewide indirect costs from the appropriate fund of the state to the general revenue fund on an intrastate transfer voucher. The director, for reasons of sound financial management, also may waive the recovery of statewide indirect costs. Prior to making a transfer in accordance with this division, the director shall notify the affected agency of the amounts to be transferred.

(2) To support development and upgrade costs to the state's enterprise resource planning system, the director also may make transfers of statewide indirect costs attributable to debt service paid for the system to the OAKS support organization fund created in section 126.24 of the Revised Code. Transfers may be made from either of the following:

(a) The appropriate fund of the state;

(b) The general revenue fund, if the statewide indirect costs have been collected under division (A)(1) of this section and deposited in the general revenue fund.

(B) As used in this section, "statewide indirect costs" means operating costs incurred by an agency in providing services to any other agency, for which there was no billing to such other agency for the services provided, and for which disbursements have been made from the general revenue fund or other funds.

(C) Notwithstanding any provision of law to the contrary, in order to reduce the payment of adjustments to the federal government as determined under the plan prepared under division (A)(1) of this section, the director of budget and management shall, on or before the first day of September each fiscal year, designate such funds of the state as the director considers necessary to retain their own interest earnings.

Sec. 126.141. Any request for release of capital appropriations by the director of budget and management or the controlling board for facilities projects shall contain a contingency reserve, the amount of which shall be determined by the public authority, for payment of unanticipated project expenses. Any amount deducted from the encumbrance for a contractor's contract as an assessment for liquidated damages shall be added to the encumbrance for the contingency reserve. Contingency reserve funds shall be used to pay costs resulting from unanticipated job conditions, to comply with rulings regarding building and other codes, to pay costs related to errors, omissions, or other deficiencies in contract documents, to pay costs associated with changes in the scope of work, to pay interest due on late payments, and to pay the costs of settlements and judgments related to the project.

Any funds remaining upon completion of a project may, upon approval of the controlling board, be released for the use of the agency or instrumentality to which the appropriation was made for other capital facilities projects.

Sec. 126.21. (A) The director of budget and management shall do all of the following:

(1) Keep all necessary accounting records;

(2) Prescribe and maintain the accounting system of the state and establish appropriate accounting procedures and charts of accounts;

(3) Establish procedures for the use of written, electronic, optical, or other communications media for approving and reviewing payment vouchers;

(4) Reconcile, in the case of any variation between the amount of any appropriation and the aggregate amount of items of the appropriation, with the advice and assistance of the state agency affected by it and the legislative service commission, totals so as to correspond in the aggregate with the total appropriation. In the case of a conflict between the item and the total of which it is a part, the item shall be considered the intended appropriation.

(5) Evaluate on an ongoing basis and, if necessary, recommend improvements to the internal controls used in state agencies;

(6) Authorize the establishment of petty cash accounts. The director may withdraw approval for any petty cash account and require the officer in charge to return to the state treasury any unexpended balance shown by the officer's accounts to be on hand. Any officer who is issued a warrant for petty cash shall render a detailed account of the expenditures of the petty cash and shall report when requested the balance of petty cash on hand at any time.

(7) Process orders, invoices, vouchers, claims, and payrolls and prepare financial reports and statements;

(8) Perform extensions, reviews, and compliance checks prior to or after approving a payment as the director considers necessary;

(9) Issue the official comprehensive annual financial report of the state. The report shall cover all funds of the state reporting entity and shall include basic financial statements and required supplementary information prepared in accordance with generally accepted accounting principles and other information as the director provides. All state agencies, authorities, institutions, offices, retirement systems, and other component units of the state reporting entity as determined by the director shall furnish the director whatever financial statements and other information the director requests for

the report, in the form, at the times, covering the periods, and with the attestation the director prescribes. The information for state institutions of higher education, as defined in section 3345.011 of the Revised Code, shall be submitted to the chancellor by the Ohio board of regents. The board shall establish a due date by which each such institution shall submit the information to the board, but no such date shall be later than one hundred twenty days after the end of the state fiscal year unless a later date is approved by the director.

(B) In addition to the director's duties under division (A) of this section, the director may establish and administer one or more state payment card programs that permit or require state agencies to use a payment card to purchase equipment, materials, supplies, or services in accordance with guidelines issued by the director. The chief administrative officer of a state agency that uses a payment card for such purposes shall ensure that purchases made with the card are made in accordance with the guidelines issued by the director and do not exceed the unexpended, unencumbered, unobligated balance in the appropriation to be charged for the purchase. State agencies may participate in only those state payment card programs that the director establishes pursuant to this section.

(C) In addition to the director's duties under divisions (A) and (B) of this section, the director may enter into any contract or agreement necessary for and incidental to the performance of the director's duties or the duties of the office of budget and management.

(D) In consultation with the director of administrative services, the director may appoint and fix the compensation of employees of the office of budget and management whose primary duties include the consolidation of statewide financing functions and common transactional processes.

(E) The director may transfer cash between funds other than the general revenue fund in order to correct an erroneous payment or deposit regardless of the fiscal year during which the erroneous payment or deposit occurred.

Sec. 126.24. The OAKS support organization fund is hereby created in the state treasury for the purpose of paying the operating, development, and upgrade expenses of the state's enterprise resource planning system. The fund shall consist of ~~cash~~ transfers ~~from the accounting and budgeting fund and the human resources services fund, and other~~ received pursuant to division (A)(2) of section 126.12 of the Revised Code and agency payroll charge revenues that are designated to support the operating, development, and upgrade costs of the Ohio administrative knowledge system. All investment earnings of the fund shall be credited to the fund.

Sec. 126.45. (A) As used in sections 126.45 to 126.48 of the Revised

Code, "state agency" means the administrative departments listed in section 121.02 of the Revised Code, the department of taxation, ~~and~~ the bureau of workers' compensation, and the Ohio board of regents.

(B) The office of internal auditing is hereby created in the office of budget and management to conduct internal audits of state agencies or divisions of state agencies to improve their operations in the areas of risk management, internal controls, and governance. The director of budget and management, with the approval of the governor, shall appoint for the office of internal auditing a chief internal auditor who meets the qualifications specified in division (C) of this section. The chief internal auditor shall serve at the director's pleasure and be responsible for the administration of the office of internal auditing consistent with sections 126.45 to 126.48 of the Revised Code.

The office of internal auditing shall conduct programs for the internal auditing of state agencies. The programs shall include an annual internal audit plan, reviewed by the state audit committee, that utilizes risk assessment techniques and identifies the specific audits to be conducted during the year. The programs also shall include periodic audits of each state agency's major systems and controls, including those systems and controls pertaining to accounting, administration, and electronic data processing. Upon the request of the office of internal auditing, each state agency shall provide office employees access to all records and documents necessary for the performance of an internal audit.

The director of budget and management shall assess a charge against each state agency for which the office of internal auditing conducts internal auditing programs under sections 126.45 to 126.48 of the Revised Code so that the total amount of these charges is sufficient to cover the costs of the operation of the office of internal auditing.

(C) The chief internal auditor of the office of internal auditing shall hold at least a bachelor's degree and be one of the following:

(1) A certified internal auditor, a certified government auditing professional, or a certified public accountant, who also has held a PA registration or a CPA certificate authorized by Chapter 4701. of the Revised Code for at least four years and has at least six years of auditing experience;

(2) An auditor who has held a PA registration or a CPA certificate authorized by Chapter 4701. of the Revised Code for at least four years and has at least ten years of auditing experience.

(D) The chief internal auditor, subject to the direction and control of the director of budget and management, may appoint and maintain any staff necessary to carry out the duties assigned by sections 126.45 to 126.48 of

the Revised Code to the office of internal auditing or to the chief internal auditor.

Sec. 126.46. (A)(1) There is hereby created the state audit committee, consisting of the following five members: one public member appointed by the governor; two public members appointed by the speaker of the house of representatives, one of which may be a person who is recommended by the minority leader of the house of representatives; and two public members appointed by the president of the senate, one of which may be a person who is recommended by the minority leader of the senate. Not more than two of the four members appointed by the speaker of the house of representatives and the president of the senate shall belong to or be affiliated with the same political party. The member appointed by the governor shall ~~be a person who is external to the management structure associated with the preparation of financial statements of state government and shall~~ have the program and management expertise required to perform the duties of the committee's chairperson.

Each member of the committee shall be external to the management structure of state government and shall serve a three-year term~~, except for the initial members. With respect to the initial appointments of the members, the first member appointed by the speaker of the house of representatives shall serve a one-year term, the second member appointed by the speaker of the house of representatives shall serve a three-year term, the initial members appointed by the president of the senate shall serve two-year terms, and the initial member appointed by the governor shall serve a three-year term~~. Each term shall commence on the first day of July and end on the thirtieth day of June. Any member may continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of ninety days has elapsed, whichever occurs first. Members may be reappointed to serve one additional term.

On the effective date of the amendment of this section by H.B. 153 of the 129th general assembly, the terms of the members shall be altered as follows:

(a) The terms of the members appointed by the president shall expire on June 30, 2012.

(b) The term of the member appointed by the speaker scheduled to expire on November 17, 2012, shall expire on June 30, 2013.

(c) The term of the other member appointed by the speaker shall expire on June 30, 2014.

(d) The term of the member appointed by the governor shall expire on June 30, 2014.

The committee shall include one member who is a financial expert; one member who is an active, inactive, or retired certified public accountant; one member who is familiar with governmental financial accounting; and one member who is a representative of the public.

Any vacancy on the committee shall be filled in the same manner as provided in this division, and, when applicable, the person appointed to fill a vacancy shall serve the remainder of the predecessor's term.

(2) Members of the committee shall receive reimbursement for actual and necessary expenses incurred in the discharge of their duties.

(3) The member of the committee appointed by the governor shall serve as the committee's chairperson.

(4) ~~Initial appointments of committee members shall be made not later than thirty days after the effective date of this section.~~

~~(5)~~ Members of the committee shall be subject to the disclosure statement requirements of section 102.02 of the Revised Code.

(B) The state audit committee shall do all of the following:

(1) Ensure that the internal audits conducted by the office of internal auditing in the office of budget and management conform to the institute of internal auditors' international standards for the professional practice of internal auditing and to the institute of internal auditors' code of ethics;

(2) Review and comment on the process used by the office of budget and management to prepare its annual budgetary financial report and the state's comprehensive annual financial report required under division (A)(9) of section 126.21 of the Revised Code;

(3) Review and comment on unaudited financial statements submitted to the auditor of state and communicate with external auditors as required by government auditing standards;

(4) Perform the additional functions imposed upon it by section 126.47 of the Revised Code.

(C) As used in this section, "financial expert" means a person who has all of the following:

(1) An understanding of generally accepted accounting principles and financial statements;

(2) The ability to assess the general application of those principles in connection with accounting for estimates, accruals, and reserves;

(3) Experience preparing, auditing, analyzing, or evaluating financial statements presenting accounting issues that generally are of comparable breadth and level of complexity to those likely to be presented by a state agency's financial statements, or experience actively supervising one or more persons engaged in those activities;

(4) An understanding of internal controls and procedures for financial reporting; and

(5) An understanding of audit committee functions.

Sec. 126.50. As used in sections ~~126.50, 126.501, 126.502,~~ 126.503, 126.504, 126.505, and 126.506~~, and 126.507~~ of the Revised Code~~:~~

~~(A) "Critical services" means a service provided by the state the deferral or cancellation of which would cause at least one of the following:~~

~~(1) An immediate risk to the health, safety, or welfare of the citizens of the state;~~

~~(2) A undermining of activity aimed at creating or retaining jobs in the state;~~

~~(3) An interference with the receipt of revenue to the state or the realization of savings to the state.~~

~~"Critical services" does not mean a deferral or cancellation of a service provided by the state that would result in inconvenience, sustainable delay, or other similar compromise to the normal provision of state-provided services.~~

~~(B),~~ "~~State~~ state agency" has the same meaning as in section 1.60 of the Revised Code, but does not include the elected state officers, the general assembly or any legislative agency, a court or any judicial agency, or a state institution of higher education.

Sec. 126.60. As used in sections 126.60 to 126.605 of the Revised Code:

(A) "Contract" means any purchase and sale agreement, lease, service agreement, franchise agreement, concession agreement, or other written agreement entered into under sections 126.60 to 126.605 of the Revised Code with respect to the provision of highway services and any project related thereto.

(B) "Highway services" means the operation or maintenance of any highway in this state, the construction of which was funded by proceeds from state revenue bonds that are to be repaid primarily from revenues derived from the operation of the highway and any related facilities and not primarily from the tax that is subject to the limitations of Article XII, Section 5a of the Ohio Constitution.

(C) "Improvement" means any construction, reconstruction, rehabilitation, renovation, installation, improvement, enlargement, or extension of property or improvements to property.

(D) "Private sector entity" means any corporation, whether for profit or not for profit, limited liability company, partnership, limited liability partnership, sole proprietorship, business trust, joint venture or other entity, but shall not mean the state, a political subdivision of the state, or a public or

governmental entity, agency, or instrumentality of the state.

(E) "Project" means real or personal property, or both, and improvements thereto or in support thereof, including undivided and other interests therein, used for or in the provision of highway services.

(F) "Proposer" means a private sector entity, local or regional public entity or agency, or any group or combination thereof, in collaboration or cooperation with other private sector entities, local or regional public entities, submitting qualifications or a proposal for providing highway services.

Sec. 126.601. Notwithstanding any provision of the Revised Code to the contrary, the director of budget and management and the director of transportation may, in accordance with sections 126.60 to 126.605 of the Revised Code, take any action and execute any contract for the provision of highway services in order to more efficiently and effectively provide those services, including by generating additional resources in support of those services and related projects. Any such contract may contain the terms and conditions established by the director of budget and management and the director of transportation to carry out and effect the purposes of sections 126.60 to 126.605 of the Revised Code. The director of budget and management is hereby authorized to receive and deposit, consistent with section 126.603 of the Revised Code, any money received under the contract. Any such contract shall be sufficient to effect its purpose, notwithstanding any provision of the Revised Code to the contrary, including other laws governing the sale, lease or other disposition of property or interests therein, service contracts, or financial transactions by or for the state. The director of transportation may exercise all powers of the Ohio turnpike commission for purposes of sections 126.60 to 126.605 of the Revised Code, and may take any action and, with the director of budget and management, execute any contract necessary to effect the purposes of sections 126.60 to 126.605 of the Revised Code, notwithstanding any provision of Chapter 5537. of the Revised Code to the contrary.

Sec. 126.602. (A)(1) Before releasing any invitation for qualifications or for proposals, the director of budget and management shall submit the material terms and conditions of that invitation to the general assembly, which shall include a draft of the invitation document. If within ninety days of the receipt of the director's submission the general assembly acts by concurrent resolution to approve the invitation, the director of budget and management may proceed to release the invitation.

(2) Before entering into a contract for the provision of highway services, the director of budget and management shall publish notice of its intent to

enter into a contract for the highway services and any related project. The notice shall notify interested parties of the opportunity to submit their qualifications or proposals, or both, for consideration and shall be published at least thirty days prior to the deadline for submitting those qualifications or proposals. The director also may advertise the information contained in the notice in appropriate trade journals and otherwise notify parties believed to be interested in providing the highway services and in any related project. The notice shall include a general description of the highway services to be provided and any related project and of the qualifications or proposals being sought and instructions for obtaining the invitation.

(B) After inviting qualifications, the director of budget and management, in consultation with the department of transportation, shall evaluate the qualifications submitted and may hold discussions with proposers to further explore their qualifications. Following this evaluation, the director, in consultation with the department, may determine a list of qualified proposers based on criteria in the invitation and invite only those proposers to submit a proposal for the provision of the highway services and any related project.

(C) After inviting proposals, the director of budget and management, in consultation with the department of transportation, shall evaluate the proposals submitted and may hold discussions with proposers to further explore their proposals, the scope and nature of the highway services they would provide, and the various technical approaches they may take regarding the highway services and any related project. Following this evaluation, the director, in consultation with the department, shall:

(1) Select and rank no fewer than three proposers that the director considers to be the most qualified to enter into the contract, except when the director determines that fewer than three qualified proposers are available, in which case the director shall select and rank them;

(2) Negotiate a contract with the proposer ranked most qualified to provide the highway services at a compensation determined in writing to be fair and reasonable, and to purchase, lease or otherwise take a legal interest in the project.

(D)(1) Upon failure to negotiate a contract with the proposer ranked most qualified, the director shall inform the proposer in writing of the termination of negotiations and may enter into negotiations with the proposer ranked next most qualified. If negotiations again fail, the same procedure may be followed with each next most qualified proposer selected and ranked, in order of ranking, until a contract is negotiated.

(2) If the director, in consultation with the department, fails to negotiate

a contract with any of the ranked proposers, the director, in consultation with the department, may terminate the process or select and rank additional proposers, based on their qualifications or proposals, and negotiations shall continue as with the proposers selected and ranked initially until a contract is negotiated.

(E) Any contract entered into under this section may contain terms, as deemed appropriate by the director, in consultation with the department, including the duration of the contract, which shall not exceed seventy-five years, rates or fees for the highway services to be provided or methods or procedures for the determination of such rates or fees, standards for the highway services to be provided, responsibilities and standards for operation and maintenance of any related project, required financial assurances, financial and other data reporting requirements, bases and procedures for termination of the contract and retaking of possession or title to the project, and events of default and remedies upon default, including mandamus, a suit in equity, an action at law, or any combination of those remedial actions.

(F) Chapter 4117. of the Revised Code shall not apply to any employees working at or on a project to provide highway services.

(G) The director of budget and management may reject any and all submissions of qualifications or proposals.

(H) The director may provide compensation for the preparation of a responsive proposal from unsuccessful bidders for a proposal to lease the turnpike under sections 126.60 to 126.605 of the Revised Code. The director may establish policies or procedures necessary to determine the amount of compensation to be provided for each project and the method of evaluating the value of the preliminary proposal submitted, but in no instance may the compensation exceed the value of such proposal.

Sec. 126.603. All money received by the director of budget and management under a contract executed pursuant to sections 126.60 to 126.605 of the Revised Code shall be deposited into the state treasury to the credit of the highway services fund, which is hereby created. Any interest earned on money in the fund shall be credited to the fund. Any transfer of money or appropriations necessary to support highway services is subject to the approval of the controlling board.

Sec. 126.604. The exercise of the powers granted by sections 126.60 to 126.605 of the Revised Code will be for the benefit of the people of the state and shall be liberally construed to effect the purposes thereof. Any project or part thereof owned by the state and used for performing any highway services pursuant to a contract entered into under sections 126.60 to 126.605 of the Revised Code that would be exempt from real property taxes or

assessments in the absence of such contract shall remain exempt from real property taxes and assessments levied by the state and its subdivisions to the same extent as if not subject to that contract. The gross receipts and income of a successful proposer derived from providing highway services under a contract through a project owned by the state shall be exempt from gross receipts and income taxes levied by the state and its subdivisions, including the tax levied pursuant to Chapter 5751. of the Revised Code. Any transfer or lease between a successful proposer and the state of a project or part thereof, or item included or to be included in the project, shall be exempt from the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code if the state is retaining ownership of the project or part thereof that is being transferred or leased.

Sec. 126.605. The director of budget and management, in consultation with the department of transportation, may retain or contract for the services of commercial appraisers, engineers, investment bankers, financial advisers, accounting experts, and other consultants, independent contractors or providers of professional services as are necessary in the judgment of the director to carry out the director's powers and duties under sections 126.60 to 126.605 of the Revised Code, including the identification of highway services and any related projects to be subject to invitations for qualifications or proposals under sections 126.60 to 126.605 of the Revised Code, the development of those invitations and related evaluation criteria, the evaluation of those invitations, and negotiation of any contract under sections 126.60 to 126.605 of the Revised Code.

Sec. 127.14. The controlling board may, at the request of any state agency or the director of budget and management, authorize, with respect to the provisions of any appropriation act:

(A) Transfers of all or part of an appropriation within but not between state agencies, except such transfers as the director of budget and management is authorized by law to make, provided that no transfer shall be made by the director for the purpose of effecting new or changed levels of program service not authorized by the general assembly;

(B) Transfers of all or part of an appropriation from one fiscal year to another;

(C) Transfers of all or part of an appropriation within or between state agencies made necessary by administrative reorganization or by the abolition of an agency or part of an agency;

(D) Transfers of all or part of cash balances in excess of needs from any fund of the state to the general revenue fund or to such other fund of the state to which the money would have been credited in the absence of the

fund from which the transfers are authorized to be made, except that the controlling board may not authorize such transfers from the accrued leave liability fund, auto registration distribution fund, budget stabilization fund, development bond retirement fund, facilities establishment fund, gasoline excise tax fund, general revenue fund, higher education improvement fund, highway improvement bond retirement fund, highway obligations bond retirement fund, highway capital improvement fund, highway operating fund, horse racing tax fund, improvements bond retirement fund, public library fund, liquor control fund, local government fund, local transportation improvement program fund, mental health facilities improvement fund, Ohio fairs fund, parks and recreation improvement fund, public improvements bond retirement fund, school district income tax fund, state agency facilities improvement fund, state and local government highway distribution fund, state highway safety fund, state lottery fund, undivided liquor permit fund, Vietnam conflict compensation bond retirement fund, volunteer fire fighters' dependents fund, waterways safety fund, wildlife fund, workers' compensation fund, ~~workers' compensation council remuneration fund,~~ or any fund not specified in this division that the director of budget and management determines to be a bond fund or bond retirement fund;

(E) Transfers of all or part of those appropriations included in the emergency purposes account of the controlling board;

(F) Temporary transfers of all or part of an appropriation or other moneys into and between existing funds, or new funds, as may be established by law when needed for capital outlays for which notes or bonds will be issued;

(G) Transfer or release of all or part of an appropriation to a state agency requiring controlling board approval of such transfer or release as provided by law;

(H) Temporary transfer of funds included in the emergency purposes appropriation of the controlling board. Such temporary transfers may be made subject to conditions specified by the controlling board at the time temporary transfers are authorized. No transfers shall be made under this division for the purpose of effecting new or changed levels of program service not authorized by the general assembly.

As used in this section, "request" means an application by a state agency or the director of budget and management seeking some action by the controlling board.

When authorizing the transfer of all or part of an appropriation under this section, the controlling board may authorize the transfer to an existing

appropriation item and the creation of and transfer to a new appropriation item.

Whenever there is a transfer of all or part of funds included in the emergency purposes appropriation by the controlling board, pursuant to division (E) of this section, the state agency or the director of budget and management receiving such transfer shall keep a detailed record of the use of the transferred funds. At the earliest scheduled meeting of the controlling board following the accomplishment of the purposes specified in the request originally seeking the transfer, or following the total expenditure of the transferred funds for the specified purposes, the state agency or the director of budget and management shall submit a report on the expenditure of such funds to the board. The portion of any appropriation so transferred which is not required to accomplish the purposes designated in the original request to the controlling board shall be returned to the proper appropriation of the controlling board at this time.

Notwithstanding any provisions of law providing for the deposit of revenues received by a state agency to the credit of a particular fund in the state treasury, whenever there is a temporary transfer of funds included in the emergency purposes appropriation of the controlling board pursuant to division (H) of this section, revenues received by any state agency receiving such a temporary transfer of funds shall, as directed by the controlling board, be transferred back to the emergency purposes appropriation.

The board may delegate to the director of budget and management authority to approve transfers among items of appropriation under division (A) of this section.

Sec. 127.16. (A) Upon the request of either a state agency or the director of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both

the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code;

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;

(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;

(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

(9) Applying to payments by the department of job and family services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;

(10) Applying to any agency of the legislative branch of the state government;

(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the Revised Code;

(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;

(13) Applying to dues or fees paid for membership in an organization or association;

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;

(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;

(16) Applying to purchases of tickets for passenger air transportation;

(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;

(18) Applying to the judicial branch of state government;

(19) Applying to purchases of liquor for resale by the division of liquor control;

(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;

(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;

(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;

(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;

(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;

(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing

and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;

(27) Applying to contracts entered into by the department of developmental disabilities under section 5123.18 of the Revised Code;

(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;

(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.

(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;

(31) Applying to the department of job and family services' purchases of health assistance services under the children's health insurance program part I provided for under section 5101.50 of the Revised Code, the children's health insurance program part II provided for under section 5101.51 of the Revised Code, or the children's health insurance program part III provided for under section 5101.52 of the Revised Code~~, or the children's buy-in program provided for under sections 5101.5211 to 5101.5216 of the Revised Code~~;

(32) Applying to payments by the attorney general from the reparations fund to hospitals and other emergency medical facilities for performing medical examinations to collect physical evidence pursuant to section 2907.28 of the Revised Code;

(33) Applying to contracts with a contracting authority or administrative receiver under division (B) of section 5126.056 of the Revised Code;

(34) Applying to purchases of goods and services by the department of veterans services in accordance with the terms of contracts entered into by the United States department of veterans affairs;

(35) Applying to payments by the superintendent of the bureau of criminal identification and investigation to the federal bureau of investigation for criminal records checks pursuant to section 109.572 of the Revised Code;

(36) Applying to contracts entered into by the department of job and family services under section 5111.054 of the Revised Code.

(E) When determining whether a state agency has reached the

cumulative purchase thresholds established in divisions (B)(1) and (2) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the threshold of division (B)(1) of this section only, leases of real estate.

(F) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. 127.162. (A) Upon the request of a state agency or the director of budget and management, the controlling board may approve the making of a purchase if the agency seeking to make the purchase has met both of the following requirements:

(1) The agency has utilized one of the following competitive selection or evaluation and selection processes:

(a) The requirements for competitive sealed bidding under section 125.07 of the Revised Code;

(b) The requirements for competitive sealed proposals under section 125.071 of the Revised Code;

(c) The requirements for reverse auctions under section 125.072 of the Revised Code;

(d) The evaluation and selection requirements for professional design services under section 153.69 of the Revised Code;

(e) Agency released competitive opportunity that demonstrates a competitive process involving a request for proposals, request for qualifications, or request for information.

(2) The agency has provided in its request to the board a detailed explanation of the competitive selection or evaluation and selection process it utilized.

(B) The controlling board, by a majority vote, may disapprove or defer a request submitted under this section or request that the agency resubmit the request pursuant to section 127.16 of the Revised Code if the agency fails to demonstrate it utilized one of the competitive selection or evaluation and selection requirements described in division (A)(1) of this section.

(C) Nothing in this section shall be construed to modify the cumulative purchasing thresholds established in divisions (B) and (E) of section 127.16 of the Revised Code.

Sec. 127.19. There is hereby created in the state treasury the controlling

board emergency purposes fund, consisting of transfers from the general revenue fund and any other funds appropriated by the general assembly. Moneys in the fund may be used by the controlling board at the request of a state agency or the director of budget and management for the purpose of providing disaster and emergency aid to state agencies and political subdivisions or for other purposes approved by the controlling board.

Sec. 131.02. (A) Except as otherwise provided in section 4123.37 and division (K) of section 4123.511 of the Revised Code, whenever any amount is payable to the state, the officer, employee, or agent responsible for administering the law under which the amount is payable shall immediately proceed to collect the amount or cause the amount to be collected and shall pay the amount into the state treasury or into the appropriate custodial fund in the manner set forth pursuant to section 113.08 of the Revised Code. Except as otherwise provided in this division, if the amount is not paid within forty-five days after payment is due, the officer, employee, or agent shall certify the amount due to the attorney general, in the form and manner prescribed by the attorney general, and notify the director of budget and management thereof. In the case of an amount payable by a student enrolled in a state institution of higher education, the amount shall be certified within the later of forty-five days after the amount is due or the tenth day after the beginning of the next academic semester, quarter, or other session following the session for which the payment is payable. The attorney general may assess the collection cost to the amount certified in such manner and amount as prescribed by the attorney general. If an amount payable to a political subdivision is past due, the political subdivision may, with the approval of the attorney general, certify the amount to the attorney general pursuant to this section.

For the purposes of this section, the attorney general and the officer, employee, or agent responsible for administering the law under which the amount is payable shall agree on the time a payment is due, and that agreed upon time shall be one of the following times:

(1) If a law, including an administrative rule, of this state prescribes the time a payment is required to be made or reported, when the payment is required by that law to be paid or reported.

(2) If the payment is for services rendered, when the rendering of the services is completed.

(3) If the payment is reimbursement for a loss, when the loss is incurred.

(4) In the case of a fine or penalty for which a law or administrative rule does not prescribe a time for payment, when the fine or penalty is first assessed.

(5) If the payment arises from a legal finding, judgment, or adjudication order, when the finding, judgment, or order is rendered or issued.

(6) If the payment arises from an overpayment of money by the state to another person, when the overpayment is discovered.

(7) The date on which the amount for which an individual is personally liable under section 5735.35, section 5739.33, or division (G) of section 5747.07 of the Revised Code is determined.

(8) Upon proof of claim being filed in a bankruptcy case.

(9) Any other appropriate time determined by the attorney general and the officer, employee, or agent responsible for administering the law under which the amount is payable on the basis of statutory requirements or ordinary business processes of the state agency to which the payment is owed.

(B)(1) The attorney general shall give immediate notice by mail or otherwise to the party indebted of the nature and amount of the indebtedness.

(2) If the amount payable to this state arises from a tax levied under Chapter 5733., 5739., 5741., 5747., or 5751. of the Revised Code, the notice also shall specify all of the following:

(a) The assessment or case number;

(b) The tax pursuant to which the assessment is made;

(c) The reason for the liability, including, if applicable, that a penalty or interest is due;

(d) An explanation of how and when interest will be added to the amount assessed;

(e) That the attorney general and tax commissioner, acting together, have the authority, but are not required, to compromise the claim and accept payment over a reasonable time, if such actions are in the best interest of the state.

(C) The attorney general shall collect the claim or secure a judgment and issue an execution for its collection.

(D) Each claim shall bear interest, from the day on which the claim became due, at the rate per annum required by section 5703.47 of the Revised Code.

(E) The attorney general and the chief officer of the agency reporting a claim, acting together, may do any of the following if such action is in the best interests of the state:

(1) Compromise the claim;

(2) Extend for a reasonable period the time for payment of the claim by agreeing to accept monthly or other periodic payments. The agreement may

require security for payment of the claim.

(3) Add fees to recover the cost of processing checks or other draft instruments returned for insufficient funds and the cost of providing electronic payment options.

(F)(1) Except as provided in division (F)(2) of this section, if the attorney general finds, after investigation, that any claim due and owing to the state is uncollectible, the attorney general, with the consent of the chief officer of the agency reporting the claim, may do the following:

(a) Sell, convey, or otherwise transfer the claim to one or more private entities for collection;

(b) Cancel the claim or cause it to be canceled.

(2) The attorney general shall cancel or cause to be canceled an unsatisfied claim on the date that is forty years after the date the claim is certified.

(3) No initial action shall be commenced to collect any tax payable to the state that is administered by the tax commissioner, whether or not such tax is subject to division (B) of this section, or any penalty, interest, or additional charge on such tax, after the expiration of the period ending on the later of the dates specified in divisions (F)(3)(a) and (b) of this section, provided that such period shall be extended by the period of any stay to such collection or by any other period to which the parties mutually agree. If the initial action in aid of execution is commenced before the later of the dates specified in divisions (F)(3)(a) and (b) of this section, any and all subsequent actions may be pursued in aid of execution of judgment for as long as the debt exists.

(a) Seven years after the assessment of the tax, penalty, interest, or additional charge is issued.

(b) Four years after the assessment of the tax, penalty, interest, or additional charge becomes final. For the purposes of division (F)(3)(b) of this section, the assessment becomes final at the latest of the following: upon expiration of the period to petition for reassessment, or if applicable, to appeal a final determination of the commissioner or decision of the board of tax appeals or a court, or, if applicable, upon decision of the United States supreme court.

For the purposes of division (F)(3) of this section, an initial action to collect a tax debt is commenced at the time when any action, including any action in aid of execution on a judgment, commences after a certified copy of the tax commissioner's entry making an assessment final has been filed in the office of the clerk of court of common pleas in the county in which the taxpayer resides or has its principal place of business in this state, or in the

office of the clerk of court of common pleas of Franklin county, as provided in section 5739.13, 5741.14, 5747.13, or 5751.09 of the Revised Code or in any other applicable law requiring such a filing. If an assessment has not been issued and there is no time limitation on the issuance of an assessment under applicable law, an action to collect a tax debt commences when the action is filed in the courts of this state to collect the liability.

(4) If information contained in a claim that is sold, conveyed, or transferred to a private entity pursuant to this section is confidential pursuant to federal law or a section of the Revised Code that implements a federal law governing confidentiality, such information remains subject to that law during and following the sale, conveyance, or transfer.

Sec. 131.024. (A) The attorney general may, not later than the first day of February of each year, send to the director of commerce a request containing the name, address, and social security number of any person who owes a claim that has been certified to the attorney general under section 131.02 of the Revised Code and request that the director provide information to the attorney general as required in division (B) of this section. If the information the director provides identifies or results in identifying unclaimed funds held by the state for an obligor in default, the attorney general may file a claim under section 169.08 of the Revised Code to recover the unclaimed funds. If the director allows the claim, the director shall pay the claim directly to the attorney general. The director shall not disallow a claim made by the attorney general because the attorney general is not the owner of the unclaimed funds according to the report made under section 169.03 of the Revised Code.

(B) The director of commerce shall provide the attorney general, not later than the first day of March of each year, the name, address, social security number, if the social security number is available, and any other identifying information for any individual included in a request sent by the attorney general pursuant to division (A) of this section who has unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code.

(C) The attorney general, in consultation with the department of commerce, may adopt rules under Chapter 119. of the Revised Code to aid in the implementation of this section.

Sec. 131.23. The various political subdivisions of this state may issue bonds, and any indebtedness created by that issuance shall not be subject to the limitations or included in the calculation of indebtedness prescribed by sections 133.05, 133.06, 133.07, and 133.09 of the Revised Code, but the bonds may be issued only under the following conditions:

(A) The subdivision desiring to issue the bonds shall obtain from the county auditor a certificate showing the total amount of delinquent taxes due and unpayable to the subdivision at the last semiannual tax settlement.

(B) The fiscal officer of that subdivision shall prepare a statement, from the books of the subdivision, verified by the fiscal officer under oath, which shall contain the following facts of the subdivision:

(1) The total bonded indebtedness;

(2) The aggregate amount of notes payable or outstanding accounts of the subdivision, incurred prior to the commencement of the current fiscal year, which shall include all evidences of indebtedness issued by the subdivision except notes issued in anticipation of bond issues and the indebtedness of any nontax-supported public utility;

(3) Except in the case of school districts, the aggregate current year's requirement for disability financial assistance provided under Chapter 5115. of the Revised Code that the subdivision is unable to finance except by the issue of bonds;

(4) The indebtedness outstanding through the issuance of any bonds or notes pledged or obligated to be paid by any delinquent taxes;

(5) The total of any other indebtedness;

(6) The net amount of delinquent taxes unpledged to pay any bonds, notes, or certificates, including delinquent assessments on improvements on which the bonds have been paid;

(7) The budget requirements for the fiscal year for bond and note retirement;

(8) The estimated revenue for the fiscal year.

(C) The certificate and statement provided for in divisions (A) and (B) of this section shall be forwarded to the tax commissioner together with a request for authority to issue bonds of the subdivision in an amount not to exceed seventy per cent of the net unobligated delinquent taxes and assessments due and owing to the subdivision, as set forth in division (B)(6) of this section.

(D) No subdivision may issue bonds under this section in excess of a sufficient amount to pay the indebtedness of the subdivision as shown by division (B)(2) of this section and, except in the case of school districts, to provide funds for disability financial assistance as shown by division (B)(3) of this section.

(E) The tax commissioner shall grant to the subdivision authority requested by the subdivision as restricted by divisions (C) and (D) of this section and shall make a record of the certificate, statement, and grant in a record book devoted solely to such recording and which shall be open to

inspection by the public.

(F) The commissioner shall immediately upon issuing the authority provided in division (E) of this section notify the proper authority having charge of the retirement of bonds of the subdivision by forwarding a copy of the grant of authority and of the statement provided for in division (B) of this section.

(G) Upon receipt of authority, the subdivision shall proceed according to law to issue the amount of bonds authorized by the commissioner, and authorized by the taxing authority, provided the taxing authority of that subdivision may submit, by resolution, to the electors of that subdivision the question of issuing the bonds. The resolution shall make the declarations and statements required by section 133.18 of the Revised Code. The county auditor and taxing authority shall thereupon proceed as set forth in divisions (C) and (D) of that section. The election on the question of issuing the bonds shall be held under divisions (E), (F), and (G) of that section, except that publication of the notice of the election shall be made on two separate days prior to the election in ~~one or more newspapers~~ a newspaper of general circulation in the subdivision~~, and, if~~ or as provided in section 7.16 of the Revised Code. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The bonds may be exchanged at their face value with creditors of the subdivision in liquidating the indebtedness described and enumerated in division (B)(2) of this section or may be sold as provided in Chapter 133. of the Revised Code, and in either event shall be uncontestable.

(H) The per cent of delinquent taxes and assessments collected for and to the credit of the subdivision after the exchange or sale of bonds as certified by the commissioner shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring the bonds so issued. The proper authority of the subdivisions shall provide for the levying of a tax sufficient in amount to pay the debt charges on all such bonds issued under this section.

(I) This section is for the sole purpose of assisting the various subdivisions in paying their unsecured indebtedness, and providing funds for disability financial assistance. The bonds issued under authority of this section shall not be used for any other purpose, and any exchange for other purposes, or the use of the money derived from the sale of the bonds by the subdivision for any other purpose, is misapplication of funds.

(J) The bonds authorized by this section shall be redeemable or payable

in not to exceed ten years from date of issue and shall not be subject to or considered in calculating the net indebtedness of the subdivision. The budget commission of the county in which the subdivision is located shall annually allocate such portion of the then delinquent levy due the subdivision which is unpledged for other purposes to the payment of debt charges on the bonds issued under authority of this section.

(K) The issue of bonds under this section shall be governed by Chapter 133. of the Revised Code, respecting the terms used, forms, manner of sale, and redemption except as otherwise provided in this section.

The board of county commissioners of any county may issue bonds authorized by this section and distribute the proceeds of the bond issues to any or all of the cities and townships of the county, according to their relative needs for disability financial assistance as determined by the county.

All sections of the Revised Code inconsistent with or prohibiting the exercise of the authority conferred by this section are inoperative respecting bonds issued under this section.

Sec. 131.44. (A) As used in this section:

(1) "Surplus revenue" means the excess, if any, of the total fund balance over the required year-end balance.

(2) "Total fund balance" means the sum of the unencumbered balance in the general revenue fund on the last day of the preceding fiscal year plus the balance in the budget stabilization fund.

(3) "Required year-end balance" means the sum of the following:

(a) Five per cent of the general revenue fund revenues for the preceding fiscal year;

(b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year;

(c) "Carryover balance," which means, with respect to a fiscal biennium, the excess, if any, of the estimated general revenue fund appropriation and transfer requirement for the second fiscal year of the biennium over the estimated general revenue fund revenue for that fiscal year;

(d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations made for the current biennium that the director of budget and management has determined will be encumbered or disbursed;

(e) "Income tax reduction impact reserve," which means an amount equal to the reduction projected by the director of budget and management in income tax revenue in the current fiscal year attributable to the previous reduction in the income tax rate made by the tax commissioner pursuant to division (B) of section 5747.02 of the Revised Code.

(4) "Estimated general revenue fund appropriation and transfer requirement" means the most recent adjusted appropriations made by the general assembly from the general revenue fund and includes both of the following:

(a) Appropriations made and transfers of appropriations from the first fiscal year to the second fiscal year of the biennium in provisions of acts of the general assembly signed by the governor but not yet effective;

(b) Transfers of ~~appropriation~~ appropriations from the first fiscal year to the second fiscal year of the biennium approved by the controlling board.

(5) "Estimated general revenue fund revenue" means the most recent such estimate available to the director of budget and management.

(B)(1) Not later than the thirty-first day of July each year, the director of budget and management shall determine the surplus revenue that existed on the preceding thirtieth day of June and transfer from the general revenue fund, to the extent of the unobligated, unencumbered balance on the preceding thirtieth day of June in excess of one-half of one per cent of the general revenue fund revenues in the preceding fiscal year, the following:

(a) First, to the budget stabilization fund, any amount necessary for the balance of the budget stabilization fund to equal five per cent of the general revenue fund revenues of the preceding fiscal year;

(b) Then, to the income tax reduction fund, which is hereby created in the state treasury, an amount equal to the surplus revenue.

(2) Not later than the thirty-first day of July each year, the director shall determine the percentage that the balance in the income tax reduction fund is of the amount of revenue that the director estimates will be received from the tax levied under section 5747.02 of the Revised Code in the current fiscal year without regard to any reduction under division (B) of that section. If that percentage exceeds thirty-five one hundredths of one per cent, the director shall certify the percentage to the tax commissioner not later than the thirty-first day of July.

(C) The director of budget and management shall transfer money in the income tax reduction fund to the general revenue fund, the local government fund, and the public library fund as necessary to offset revenue reductions resulting from the reductions in taxes required under division (B) of section 5747.02 of the Revised Code in the respective amounts and percentages prescribed by division (A) of section 5747.03 and divisions ~~(A)~~(B) and ~~(B)~~(C) of section 131.51 of the Revised Code as if the amount transferred had been collected as taxes under Chapter 5747. of the Revised Code. If no reductions in taxes are made under that division that affect revenue received in the current fiscal year, the director shall not transfer money from the

income tax reduction fund to the general revenue fund, the local government fund, and the public library fund.

Sec. 131.51. (A) ~~Beginning January 2008, on~~ On or before July 5, 2013, the tax commissioner shall compute the following amounts and certify those amounts to the director of budget and management:

(1) A percentage calculated by multiplying one hundred by the quotient obtained by dividing the total amount credited to the local government fund in fiscal year 2013 by the total amount of tax revenue credited to the general revenue fund in fiscal year 2013. The percentage shall be rounded to the nearest one-hundredth of one per cent.

(2) A percentage calculated by multiplying one hundred by the quotient obtained by dividing the total amount credited to the public library fund in fiscal year 2013 by the total amount of tax revenue credited to the general revenue fund in fiscal year 2013. The percentage shall be rounded to the nearest one-hundredth of one per cent.

(B) On or before the ~~fifth~~ seventh day of each month, the director of budget and management shall credit to the local government fund ~~three and sixty-eight one-hundredths per cent of~~ an amount equal to the product obtained by multiplying the percentage calculated under division (A)(1) of this section by the total tax revenue credited to the general revenue fund during the preceding month. ~~In determining the total tax revenue credited to the general revenue fund during the preceding month, the director shall include amounts transferred from that fund during the preceding month pursuant to divisions (A) and (B) of this section.~~ Money shall be distributed from the local government fund as required under section 5747.50 of the Revised Code during the same month in which it is credited to the fund.

~~(B) Beginning January 2008, on~~ (C) On or before the ~~fifth~~ seventh day of each month, the director of budget and management shall credit to the public library fund~~, two and twenty-two one-hundredths per cent of~~ an amount equal to the product obtained by multiplying the percentage calculated under division (A)(2) of this section by the total tax revenue credited to the general revenue fund during the preceding month. ~~In determining the total tax revenue credited to the general revenue fund during the preceding month, the director shall include amounts transferred from that fund during the preceding month pursuant to divisions (A) and (B) of this section.~~ Money shall be distributed from the public library fund as required under section 5747.47 of the Revised Code during the same month in which it is credited to the fund.

~~(C)~~(D) The director of budget and management shall develop a schedule identifying the specific tax revenue sources to be used to make the monthly

transfers required under divisions ~~(A)~~(B) and ~~(B)~~(C) of this section. The director may, from time to time, revise the schedule as the director considers necessary.

Sec. 133.01. As used in this chapter, in sections 9.95, 9.96, and 2151.655 of the Revised Code, in other sections of the Revised Code that make reference to this chapter unless the context does not permit, and in related proceedings, unless otherwise expressly provided:

(A) "Acquisition" as applied to real or personal property includes, among other forms of acquisition, acquisition by exercise of a purchase option, and acquisition of interests in property, including, without limitation, easements and rights-of-way, and leasehold and other lease interests initially extending or extendable for a period of at least sixty months.

(B) "Anticipatory securities" means securities, including notes, issued in anticipation of the issuance of other securities.

(C) "Board of elections" means the county board of elections of the county in which the subdivision is located. If the subdivision is located in more than one county, "board of elections" means the county board of elections of the county that contains the largest portion of the population of the subdivision or that otherwise has jurisdiction in practice over and customarily handles election matters relating to the subdivision.

(D) "Bond retirement fund" means the bond retirement fund provided for in section 5705.09 of the Revised Code, and also means a sinking fund or any other special fund, regardless of the name applied to it, established by or pursuant to law or the proceedings for the payment of debt charges. Provision may be made in the applicable proceedings for the establishment in a bond retirement fund of separate accounts relating to debt charges on particular securities, or on securities payable from the same or common sources, and for the application of moneys in those accounts only to specified debt charges on specified securities or categories of securities. Subject to law and any provisions in the applicable proceedings, moneys in a bond retirement fund or separate account in a bond retirement fund may be transferred to other funds and accounts.

(E) "Capitalized interest" means all or a portion of the interest payable on securities from their date to a date stated or provided for in the applicable legislation, which interest is to be paid from the proceeds of the securities.

(F) "Chapter 133. securities" means securities authorized by or issued pursuant to or in accordance with this chapter.

(G) "County auditor" means the county auditor of the county in which the subdivision is located. If the subdivision is located in more than one county, "county auditor" means the county auditor of the county that

contains the highest amount of the tax valuation of the subdivision or that otherwise has jurisdiction in practice over and customarily handles property tax matters relating to the subdivision. In the case of a county that has adopted a charter, "county auditor" means the officer who generally has the duties and functions provided in the Revised Code for a county auditor.

(H) "Credit enhancement facilities" means letters of credit, lines of credit, stand-by, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of debt charges, for security or additional security in the event of nonpayment or default in respect of securities, or for making payment of debt charges to and at the option and on demand of securities holders or at the option of the issuer or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the securities, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement.

(I) "Current operating expenses" or "current expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and for payments of debt charges of the subdivision.

(J) "Debt charges" means the principal, including any mandatory sinking fund deposits and mandatory redemption payments, interest, and any redemption premium, payable on securities as those payments come due and are payable. The use of "debt charges" for this purpose does not imply that any particular securities constitute debt within the meaning of the Ohio Constitution or other laws.

(K) "Financing costs" means all costs and expenses relating to the authorization, including any required election, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of securities, including, without limitation, costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement agents, investment bankers, paying agents, registrars, authenticating agents, remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption

premiums, and credit enhancement facilities. Financing costs may be paid from any moneys available for the purpose, including, unless otherwise provided in the proceedings, from the proceeds of the securities to which they relate and, as to future financing costs, from the same sources from which debt charges on the securities are paid and as though debt charges.

(L) "Fiscal officer" means the following, or, in the case of absence or vacancy in the office, a deputy or assistant authorized by law or charter to act in the place of the named officer, or if there is no such authorization then the deputy or assistant authorized by legislation to act in the place of the named officer for purposes of this chapter, in the case of the following subdivisions:

(1) A county, the county auditor;

(2) A municipal corporation, the city auditor or village clerk or clerk-treasurer, or the officer who, by virtue of a charter, has the duties and functions provided in the Revised Code for the city auditor or village clerk or clerk-treasurer;

(3) A school district, the treasurer of the board of education;

(4) A regional water and sewer district, the secretary of the board of trustees;

(5) A joint township hospital district, the treasurer of the district;

(6) A joint ambulance district, the clerk of the board of trustees;

(7) A joint recreation district, the person designated pursuant to section 755.15 of the Revised Code;

(8) A detention facility district or a district organized under section 2151.65 of the Revised Code or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district;

(9) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the fiscal officer of the township;

(10) A joint fire district, the clerk of the board of trustees of that district;

(11) A regional or county library district, the person responsible for the financial affairs of that district;

(12) A joint solid waste management district, the fiscal officer appointed by the board of directors of the district under section 343.01 of the Revised Code;

(13) A joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code;

(14) A fire and ambulance district, the person appointed as fiscal officer

under division (B) of section 505.375 of the Revised Code;

(15) A subdivision described in division (MM)~~(17)~~(18) of this section, the officer who is designated by law as or performs the functions of its chief fiscal officer;

(16) A joint police district, the treasurer of the district.

(M) "Fiscal year" has the same meaning as in section 9.34 of the Revised Code.

(N) "Fractionalized interests in public obligations" means participations, certificates of participation, shares, or other instruments or agreements, separate from the public obligations themselves, evidencing ownership of interests in public obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of an obligor pursuant to public obligations.

(O) "Fully registered securities" means securities in certificated or uncertificated form, registered as to both principal and interest in the name of the owner.

(P) "Fund" means to provide for the payment of debt charges and expenses related to that payment at or prior to retirement by purchase, call for redemption, payment at maturity, or otherwise.

(Q) "General obligation" means securities to the payment of debt charges on which the full faith and credit and the general property taxing power, including taxes within the tax limitation if available to the subdivision, of the subdivision are pledged.

(R) "Interest" or "interest equivalent" means those payments or portions of payments, however denominated, that constitute or represent consideration for forbearing the collection of money, or for deferring the receipt of payment of money to a future time.

(S) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended, and includes any laws of the United States providing for application of that code.

(T) "Issuer" means any public issuer and any nonprofit corporation authorized to issue securities for or on behalf of any public issuer.

(U) "Legislation" means an ordinance or resolution passed by a majority affirmative vote of the then members of the taxing authority unless a different vote is required by charter provisions governing the passage of the particular legislation by the taxing authority.

(V) "Mandatory sinking fund redemption requirements" means amounts required by proceedings to be deposited in a bond retirement fund for the purpose of paying in any year or fiscal year by mandatory redemption prior to stated maturity the principal of securities that is due and payable, except

for mandatory prior redemption requirements as provided in those proceedings, in a subsequent year or fiscal year.

(W) "Mandatory sinking fund requirements" means amounts required by proceedings to be deposited in a year or fiscal year in a bond retirement fund for the purpose of paying the principal of securities that is due and payable in a subsequent year or fiscal year.

(X) "Net indebtedness" has the same meaning as in division (A) of section 133.04 of the Revised Code.

(Y) "Obligor," in the case of securities or fractionalized interests in public obligations issued by another person the debt charges or their equivalents on which are payable from payments made by a public issuer, means that public issuer.

(Z) "One purpose" relating to permanent improvements means any one permanent improvement or group or category of permanent improvements for the same utility, enterprise, system, or project, development or redevelopment project, or for or devoted to the same general purpose, function, or use or for which self-supporting securities, based on the same or different sources of revenues, may be issued or for which special assessments may be levied by a single ordinance or resolution. "One purpose" includes, but is not limited to, in any case any off-street parking facilities relating to another permanent improvement, and:

(1) Any number of roads, highways, streets, bridges, sidewalks, and viaducts;

(2) Any number of off-street parking facilities;

(3) In the case of a county, any number of permanent improvements for courthouse, jail, county offices, and other county buildings, and related facilities;

(4) In the case of a school district, any number of facilities and buildings for school district purposes, and related facilities.

(AA) "Outstanding," referring to securities, means securities that have been issued, delivered, and paid for, except any of the following:

(1) Securities canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(2) Securities in replacement of which or in exchange for which other securities have been issued;

(3) Securities for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the applicable legislation or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, mandatory sinking fund requirements, or otherwise, have been deposited,

and credited for the purpose in a bond retirement fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of securities to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected security holders has been filed with the subdivision or its agent for the purpose.

(BB) "Paying agent" means the one or more banks, trust companies, or other financial institutions or qualified persons, including an appropriate office or officer of the subdivision, designated as a paying agent or place of payment of debt charges on the particular securities.

(CC) "Permanent improvement" or "improvement" means any property, asset, or improvement certified by the fiscal officer, which certification is conclusive, as having an estimated life or period of usefulness of five years or more, and includes, but is not limited to, real estate, buildings, and personal property and interests in real estate, buildings, and personal property, equipment, furnishings, and site improvements, and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of five years or more. The acquisition of all the stock ownership of a corporation is the acquisition of a permanent improvement to the extent that the value of that stock is represented by permanent improvements. A permanent improvement for parking, highway, road, and street purposes includes resurfacing, but does not include ordinary repair.

(DD) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any federal, state, interstate, regional, or local governmental agency, any subdivision, and any combination of those persons.

(EE) "Proceedings" means the legislation, certifications, notices, orders, sale proceedings, trust agreement or indenture, mortgage, lease, lease-purchase agreement, assignment, credit enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, and any election proceedings, authorizing, or providing for the terms and conditions applicable to, or providing for the security or sale or award of, public obligations, and includes the provisions set forth or incorporated in those public obligations and proceedings.

(FF) "Public issuer" means any of the following that is authorized by law to issue securities or enter into public obligations:

(1) The state, including an agency, commission, officer, institution,

board, authority, or other instrumentality of the state;

(2) A taxing authority, subdivision, district, or other local public or governmental entity, and any combination or consortium, or public division, district, commission, authority, department, board, officer, or institution, thereof;

(3) Any other body corporate and politic, or other public entity.

(GG) "Public obligations" means both of the following:

(1) Securities;

(2) Obligations of a public issuer to make payments under installment sale, lease, lease purchase, or similar agreements, which obligations may bear interest or interest equivalent.

(HH) "Refund" means to fund and retire outstanding securities, including advance refunding with or without payment or redemption prior to maturity.

(II) "Register" means the books kept and maintained by the registrar for registration, exchange, and transfer of registered securities.

(JJ) "Registrar" means the person responsible for keeping the register for the particular registered securities, designated by or pursuant to the proceedings.

(KK) "Securities" means bonds, notes, certificates of indebtedness, commercial paper, and other instruments in writing, including, unless the context does not admit, anticipatory securities, issued by an issuer to evidence its obligation to repay money borrowed, or to pay interest, by, or to pay at any future time other money obligations of, the issuer of the securities, but not including public obligations described in division (GG)(2) of this section.

(LL) "Self-supporting securities" means securities or portions of securities issued for the purpose of paying costs of permanent improvements to the extent that receipts of the subdivision, other than the proceeds of taxes levied by that subdivision, derived from or with respect to the improvements or the operation of the improvements being financed, or the enterprise, system, project, or category of improvements of which the improvements being financed are part, are estimated by the fiscal officer to be sufficient to pay the current expenses of that operation or of those improvements or enterprise, system, project, or categories of improvements and the debt charges payable from those receipts on securities issued for the purpose. Until such time as the improvements or increases in rates and charges have been in operation or effect for a period of at least six months, the receipts therefrom, for purposes of this definition, shall be those estimated by the fiscal officer, except that those receipts may include, without limitation,

payments made and to be made to the subdivision under leases or agreements in effect at the time the estimate is made. In the case of an operation, improvements, or enterprise, system, project, or category of improvements without at least a six-month history of receipts, the estimate of receipts by the fiscal officer, other than those to be derived under leases and agreements then in effect, shall be confirmed by the taxing authority.

(MM) "Subdivision" means any of the following:

(1) A county, including a county that has adopted a charter under Article X, Ohio Constitution;

(2) A municipal corporation, including a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution;

(3) A school district;

(4) A regional water and sewer district organized under Chapter 6119. of the Revised Code;

(5) A joint township hospital district organized under section 513.07 of the Revised Code;

(6) A joint ambulance district organized under section 505.71 of the Revised Code;

(7) A joint recreation district organized under division (C) of section 755.14 of the Revised Code;

(8) A detention facility district organized under section 2152.41, a district organized under section 2151.65, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code;

(9) A township police district organized under section 505.48 of the Revised Code;

(10) A township;

(11) A joint fire district organized under section 505.371 of the Revised Code;

(12) A county library district created under section 3375.19 or a regional library district created under section 3375.28 of the Revised Code;

(13) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code;

(14) A joint emergency medical services district organized under section 307.052 of the Revised Code;

(15) A fire and ambulance district organized under section 505.375 of the Revised Code;

(16) A fire district organized under division (C) of section 505.37 of the Revised Code;

(17) A joint police district organized under section 505.482 of the Revised Code;

(18) Any other political subdivision or taxing district or other local public body or agency authorized by this chapter or other laws to issue Chapter 133. securities.

(NN) "Taxing authority" means in the case of the following subdivisions:

(1) A county, a county library district, or a regional library district, the board or boards of county commissioners, or other legislative authority of a county that has adopted a charter under Article X, Ohio Constitution, but with respect to such a library district acting solely as agent for the board of trustees of that district;

(2) A municipal corporation, the legislative authority;

(3) A school district, the board of education;

(4) A regional water and sewer district, a joint ambulance district, a joint recreation district, a fire and ambulance district, or a joint fire district, the board of trustees of the district;

(5) A joint township hospital district, the joint township hospital board;

(6) A detention facility district or a district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a joint emergency medical services district, the joint board of county commissioners;

(7) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the board of township trustees;

(8) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code, the board of directors of the district;

(9) A subdivision described in division (MM)~~(17)~~(18) of this section, the legislative or governing body or official;

(10) A joint police district, the joint police district board.

(OO) "Tax limitation" means the "ten-mill limitation" as defined in section 5705.02 of the Revised Code without diminution by reason of section 5705.313 of the Revised Code or otherwise, or, in the case of a municipal corporation or county with a different charter limitation on property taxes levied to pay debt charges on unvoted securities, that charter limitation. Those limitations shall be respectively referred to as the "ten-mill limitation" and the "charter tax limitation."

(PP) "Tax valuation" means the aggregate of the valuations of property subject to ad valorem property taxation by the subdivision on the real property, personal property, and public utility property tax lists and duplicates most recently certified for collection, and shall be calculated without deductions of the valuations of otherwise taxable property exempt

in whole or in part from taxation by reason of exemptions of certain amounts of taxable value under division (C) of section 5709.01, tax reductions under section 323.152 of the Revised Code, or similar laws now or in the future in effect.

For purposes of section 133.06 of the Revised Code, "tax valuation" shall not include the valuation of tangible personal property used in business, telephone or telegraph property, interexchange telecommunications company property, or personal property owned or leased by a railroad company and used in railroad operations listed under or described in section 5711.22, division (B) or (F) of section 5727.111, or section 5727.12 of the Revised Code.

(QQ) "Year" means the calendar year.

(RR) "Administrative agent," "agent," "commercial paper," "floating rate interest structure," "indexing agent," "interest rate hedge," "interest rate period," "put arrangement," and "remarketing agent" have the same meanings as in section 9.98 of the Revised Code.

(SS) "Sales tax supported" means obligations to the payment of debt charges on which an additional sales tax or additional sales taxes have been pledged by the taxing authority of a county pursuant to section 133.081 of the Revised Code.

Sec. 133.06. (A) A school district shall not incur, without a vote of the electors, net indebtedness that exceeds an amount equal to one-tenth of one per cent of its tax valuation, except as provided in divisions (G) and (H) of this section and in division (C) of section 3313.372 of the Revised Code, or as prescribed in section 3318.052 or 3318.44 of the Revised Code, or as provided in division (J) of this section.

(B) Except as provided in divisions (E), (F), and (I) of this section, a school district shall not incur net indebtedness that exceeds an amount equal to nine per cent of its tax valuation.

(C) A school district shall not submit to a vote of the electors the question of the issuance of securities in an amount that will make the district's net indebtedness after the issuance of the securities exceed an amount equal to four per cent of its tax valuation, unless the superintendent of public instruction, acting under policies adopted by the state board of education, and the tax commissioner, acting under written policies of the commissioner, consent to the submission. A request for the consents shall be made at least one hundred twenty days prior to the election at which the question is to be submitted.

The superintendent of public instruction shall certify to the district the superintendent's and the tax commissioner's decisions within thirty days

after receipt of the request for consents.

If the electors do not approve the issuance of securities at the election for which the superintendent of public instruction and tax commissioner consented to the submission of the question, the school district may submit the same question to the electors on the date that the next special election may be held under section 3501.01 of the Revised Code without submitting a new request for consent. If the school district seeks to submit the same question at any other subsequent election, the district shall first submit a new request for consent in accordance with this division.

(D) In calculating the net indebtedness of a school district, none of the following shall be considered:

(1) Securities issued to acquire school buses and other equipment used in transporting pupils or issued pursuant to division (D) of section 133.10 of the Revised Code;

(2) Securities issued under division (F) of this section, under section 133.301 of the Revised Code, and, to the extent in excess of the limitation stated in division (B) of this section, under division (E) of this section;

(3) Indebtedness resulting from the dissolution of a joint vocational school district under section 3311.217 of the Revised Code, evidenced by outstanding securities of that joint vocational school district;

(4) Loans, evidenced by any securities, received under sections 3313.483, 3317.0210, 3317.0211, and 3317.64 of the Revised Code;

(5) Debt incurred under section 3313.374 of the Revised Code;

(6) Debt incurred pursuant to division (B)(5) of section 3313.37 of the Revised Code to acquire computers and related hardware;

(7) Debt incurred under section 3318.042 of the Revised Code.

(E) A school district may become a special needs district as to certain securities as provided in division (E) of this section.

(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:

(a) The student population is not being adequately serviced by the existing permanent improvements of the district.

(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs.

(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following:

(a) ~~A history of and a projection of the growth of the student population;~~

~~(b)~~ The history of and a projection of the growth of the tax valuation;

~~(c)~~(b) The projected needs;

~~(d)~~(c) The estimated cost of permanent improvements proposed to meet such projected needs.

(3) The superintendent of public instruction shall certify the district as an approved special needs district if the superintendent finds both of the following:

(a) The district does not have available sufficient additional funds from state or federal sources to meet the projected needs.

(b) The projection of the potential average growth of tax valuation during the next five years, according to the information certified to the superintendent and any other information the superintendent obtains, indicates a likelihood of potential average growth of tax valuation of the district during the next five years of an average of not less than ~~three~~ one and one-half per cent per year. The findings and certification of the superintendent shall be conclusive.

(4) An approved special needs district may incur net indebtedness by the issuance of securities in accordance with the provisions of this chapter in an amount that does not exceed an amount equal to the greater of the following:

(a) ~~Nine~~ Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage by which the tax valuation has increased over the tax valuation on the first day of the sixtieth month preceding the month in which its board determines to submit to the electors the question of issuing the proposed securities;

(b) ~~Nine~~ Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage, determined by the superintendent of public instruction, by which that tax valuation is projected to increase during the next ten years.

(F) A school district may issue securities for emergency purposes, in a principal amount that does not exceed an amount equal to three per cent of its tax valuation, as provided in this division.

(1) A board of education, by resolution, may declare an emergency if it determines both of the following:

(a) School buildings or other necessary school facilities in the district have been wholly or partially destroyed, or condemned by a constituted public authority, or that such buildings or facilities are partially constructed, or so constructed or planned as to require additions and improvements to them before the buildings or facilities are usable for their intended purpose, or that corrections to permanent improvements are necessary to remove or prevent health or safety hazards.

(b) Existing fiscal and net indebtedness limitations make adequate replacement, additions, or improvements impossible.

(2) Upon the declaration of an emergency, the board of education may, by resolution, submit to the electors of the district pursuant to section 133.18 of the Revised Code the question of issuing securities for the purpose of paying the cost, in excess of any insurance or condemnation proceeds received by the district, of permanent improvements to respond to the emergency need.

(3) The procedures for the election shall be as provided in section 133.18 of the Revised Code, except that:

(a) The form of the ballot shall describe the emergency existing, refer to this division as the authority under which the emergency is declared, and state that the amount of the proposed securities exceeds the limitations prescribed by division (B) of this section;

(b) The resolution required by division (B) of section 133.18 of the Revised Code shall be certified to the county auditor and the board of elections at least one hundred days prior to the election;

(c) The county auditor shall advise and, not later than ninety-five days before the election, confirm that advice by certification to, the board of education of the information required by division (C) of section 133.18 of the Revised Code;

(d) The board of education shall then certify its resolution and the information required by division (D) of section 133.18 of the Revised Code to the board of elections not less than ninety days prior to the election.

(4) Notwithstanding division (B) of section 133.21 of the Revised Code, the first principal payment of securities issued under this division may be set at any date not later than sixty months after the earliest possible principal payment otherwise provided for in that division.

(G) The board of education may contract with an architect, professional engineer, or other person experienced in the design and implementation of energy conservation measures for an analysis and recommendations pertaining to installations, modifications of installations, or remodeling that would significantly reduce energy consumption in buildings owned by the district. The report shall include estimates of all costs of such installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, and debt service, forgone residual value of materials or equipment replaced by the energy conservation measure, as defined by the Ohio school facilities commission, a baseline analysis of actual energy consumption data for the preceding five years, and estimates of the amounts by which energy consumption and resultant operational and

maintenance costs, as defined by the ~~Ohio school facilities~~ commission, would be reduced.

If the board finds after receiving the report that the amount of money the district would spend on such installations, modifications, or remodeling is not likely to exceed the amount of money it would save in energy and resultant operational and maintenance costs over the ensuing fifteen years, the board may submit to the commission a copy of its findings and a request for approval to incur indebtedness to finance the making or modification of installations or the remodeling of buildings for the purpose of significantly reducing energy consumption.

If the commission determines that the board's findings are reasonable, it shall approve the board's request. Upon receipt of the commission's approval, the district may issue securities without a vote of the electors in a principal amount not to exceed nine-tenths of one per cent of its tax valuation for the purpose of making such installations, modifications, or remodeling, but the total net indebtedness of the district without a vote of the electors incurred under this and all other sections of the Revised Code, except section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation.

So long as any securities issued under division (G) of this section remain outstanding, the board of education shall monitor the energy consumption and resultant operational and maintenance costs of buildings in which installations or modifications have been made or remodeling has been done pursuant to division (G) of this section and shall maintain and annually update a report documenting the reductions in energy consumption and resultant operational and maintenance cost savings attributable to such installations, modifications, or remodeling. The report shall be certified by an architect or engineer independent of any person that provided goods or services to the board in connection with the energy conservation measures that are the subject of the report. The resultant operational and maintenance cost savings shall be certified by the school district treasurer. The report shall be ~~made available~~ submitted annually to the commission ~~upon request~~.

(H) With the consent of the superintendent of public instruction, a school district may incur without a vote of the electors net indebtedness that exceeds the amounts stated in divisions (A) and (G) of this section for the purpose of paying costs of permanent improvements, if and to the extent that both of the following conditions are satisfied:

(1) The fiscal officer of the school district estimates that receipts of the school district from payments made under or pursuant to agreements entered into pursuant to section 725.02, 1728.10, 3735.671, 5709.081, 5709.082,

5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised Code, or distributions under division (C) of section 5709.43 of the Revised Code, or any combination thereof, are, after accounting for any appropriate coverage requirements, sufficient in time and amount, and are committed by the proceedings, to pay the debt charges on the securities issued to evidence that indebtedness and payable from those receipts, and the taxing authority of the district confirms the fiscal officer's estimate, which confirmation is approved by the superintendent of public instruction;

(2) The fiscal officer of the school district certifies, and the taxing authority of the district confirms, that the district, at the time of the certification and confirmation, reasonably expects to have sufficient revenue available for the purpose of operating such permanent improvements for their intended purpose upon acquisition or completion thereof, and the superintendent of public instruction approves the taxing authority's confirmation.

The maximum maturity of securities issued under division (H) of this section shall be the lesser of twenty years or the maximum maturity calculated under section 133.20 of the Revised Code.

(I) A school district may incur net indebtedness by the issuance of securities in accordance with the provisions of this chapter in excess of the limit specified in division (B) or (C) of this section when necessary to raise the school district portion of the basic project cost and any additional funds necessary to participate in a project under Chapter 3318. of the Revised Code, including the cost of items designated by the Ohio school facilities commission as required locally funded initiatives, the cost of other locally funded initiatives in an amount that does not exceed fifty per cent of the district's portion of the basic project cost, and the cost for site acquisition. The school facilities commission shall notify the superintendent of public instruction whenever a school district will exceed either limit pursuant to this division.

(J) A school district whose portion of the basic project cost of its classroom facilities project under sections 3318.01 to 3318.20 of the Revised Code is greater than or equal to one hundred million dollars may incur without a vote of the electors net indebtedness in an amount up to two per cent of its tax valuation through the issuance of general obligation securities in order to generate all or part of the amount of its portion of the basic project cost if the controlling board has approved the school facilities commission's conditional approval of the project under section 3318.04 of the Revised Code. The school district board and the Ohio school facilities

commission shall include the dedication of the proceeds of such securities in the agreement entered into under section 3318.08 of the Revised Code. No state moneys shall be released for a project to which this section applies until the proceeds of any bonds issued under this section that are dedicated for the payment of the school district portion of the project are first deposited into the school district's project construction fund.

Sec. 133.09. (A) Unless it is a township that has adopted a limited home rule government under Chapter 504. of the Revised Code, a township shall not incur net indebtedness that exceeds an amount equal to five per cent of its tax valuation and, except as specifically authorized by section 505.262 of the Revised Code or other laws, shall not incur any net indebtedness unless authorized by vote of the electors.

(B) A township that has adopted a limited home rule government under Chapter 504. of the Revised Code shall not incur net indebtedness that exceeds an amount equal to ten and one-half per cent of its tax valuation, or incur without a vote of the electors net indebtedness that exceeds an amount equal to five and one-half per cent of that tax valuation. In calculating the net indebtedness of a township that has adopted a limited home rule government, none of the following securities shall be considered:

(1) Self-supporting securities issued for any purpose;

(2) Securities issued for the purpose of purchasing, constructing, improving, or extending water or sanitary or surface and storm water sewerage systems or facilities, or a combination of those systems or facilities, to the extent that an agreement entered into with another subdivision requires the other subdivision to pay to the township amounts equivalent to debt charges on the securities;

(3) Securities that are not general obligations of the township;

(4) Voted securities issued for the purposes of redevelopment to the extent that their principal amount does not exceed an amount equal to two per cent of the tax valuation of the township;

(5) Securities issued for the purpose of acquiring or constructing roads, highways, bridges, or viaducts, or for the purpose of acquiring or making other highway permanent improvements, to the extent that the resolution of the board of township trustees authorizing the issuance of the securities includes a covenant to appropriate from money distributed to the township under Chapter 4501., 4503., 4504., or 5735. of the Revised Code a sufficient amount to cover debt charges on and financing costs relating to the securities as they become due;

(6) Securities issued for energy conservation measures under section 505.264 of the Revised Code.

(C) In calculating the net indebtedness of any township, no obligation incurred under division (B) of section 513.17 or under section 505.261, 505.264, 505.265, 505.267, or 505.37 of the Revised Code, or in connection with a project undertaken pursuant to Section 515.03 of H.B. 66 of the 126th general assembly ~~or,~~ Section 555.10 of H.B. 67 of the 127th general assembly, or Section 755.20 of H.B. 153 of the 129th general assembly shall be considered.

Sec. 133.18. (A) The taxing authority of a subdivision may by legislation submit to the electors of the subdivision the question of issuing any general obligation bonds, for one purpose, that the subdivision has power or authority to issue.

(B) When the taxing authority of a subdivision desires or is required by law to submit the question of a bond issue to the electors, it shall pass legislation that does all of the following:

(1) Declares the necessity and purpose of the bond issue;

(2) States the date of the authorized election at which the question shall be submitted to the electors;

(3) States the amount, approximate date, estimated net average rate of interest, and maximum number of years over which the principal of the bonds may be paid;

(4) Declares the necessity of levying a tax outside the tax limitation to pay the debt charges on the bonds and any anticipatory securities.

The estimated net average interest rate shall be determined by the taxing authority based on, among other factors, then existing market conditions, and may reflect adjustments for any anticipated direct payments expected to be received by the taxing authority from the government of the United States relating to the bonds and the effect of any federal tax credits anticipated to be available to owners of all or a portion of the bonds. The estimated net average rate of interest, and any statutory or charter limit on interest rates that may then be in effect and that is subsequently amended, shall not be a limitation on the actual interest rate or rates on the securities when issued.

(C)(1) The taxing authority shall certify a copy of the legislation passed under division (B) of this section to the county auditor. The county auditor shall promptly calculate and advise and, not later than seventy-five days before the election, confirm that advice by certification to, the taxing authority the estimated average annual property tax levy, expressed in cents or dollars and cents for each one hundred dollars of tax valuation and in mills for each one dollar of tax valuation, that the county auditor estimates to be required throughout the stated maturity of the bonds to pay the debt

charges on the bonds. In calculating the estimated average annual property tax levy for this purpose, the county auditor shall assume that the bonds are issued in one series bearing interest and maturing in substantially equal principal amounts in each year over the maximum number of years over which the principal of the bonds may be paid as stated in that legislation, and that the amount of the tax valuation of the subdivision for the current year remains the same throughout the maturity of the bonds, except as otherwise provided in division (C)(2) of this section. If the tax valuation for the current year is not determined, the county auditor shall base the calculation on the estimated amount of the tax valuation submitted by the county auditor to the county budget commission. If the subdivision is located in more than one county, the county auditor shall obtain the assistance of the county auditors of the other counties, and those county auditors shall provide assistance, in establishing the tax valuation of the subdivision for purposes of certifying the estimated average annual property tax levy.

(2) When considering the tangible personal property component of the tax valuation of the subdivision, the county auditor shall take into account the assessment percentages prescribed in section 5711.22 of the Revised Code. The tax commissioner may issue rules, orders, or instructions directing how the assessment percentages must be utilized.

(D) After receiving the county auditor's advice under division (C) of this section, the taxing authority by legislation may determine to proceed with submitting the question of the issue of securities, and shall, not later than the seventy-fifth day before the day of the election, file the following with the board of elections:

(1) Copies of the legislation provided for in divisions (B) and (D) of this section;

(2) The amount of the estimated average annual property tax levy, expressed in cents or dollars and cents for each one hundred dollars of tax valuation and in mills for each one dollar of tax valuation, as estimated and certified to the taxing authority by the county auditor.

(E)(1) The board of elections shall prepare the ballots and make other necessary arrangements for the submission of the question to the electors of the subdivision. If the subdivision is located in more than one county, the board shall inform the boards of elections of the other counties of the filings with it, and those other boards shall if appropriate make the other necessary arrangements for the election in their counties. The election shall be conducted, canvassed, and certified in the manner provided in Title XXXV of the Revised Code.

(2) The election shall be held at the regular places for voting in the subdivision. If the electors of only a part of a precinct are qualified to vote at the election the board of elections may assign the electors in that part to an adjoining precinct, including an adjoining precinct in another county if the board of elections of the other county consents to and approves the assignment. Each elector so assigned shall be notified of that fact prior to the election by notice mailed by the board of elections, in such manner as it determines, prior to the election.

(3) The board of elections shall publish a notice of the election~~,~~ once in ~~one or more newspapers~~ a newspaper of general circulation in the subdivision, ~~at least once~~ no later than ten days prior to the election. The notice shall state all of the following:

(a) The principal amount of the proposed bond issue;

(b) The stated purpose for which the bonds are to be issued;

(c) The maximum number of years over which the principal of the bonds may be paid;

(d) The estimated additional average annual property tax levy, expressed in cents or dollars and cents for each one hundred dollars of tax valuation and in mills for each one dollar of tax valuation, to be levied outside the tax limitation, as estimated and certified to the taxing authority by the county auditor;

(e) The first calendar year in which the tax is expected to be due.

(F)(1) The form of the ballot to be used at the election shall be substantially either of the following, as applicable:

(a) "Shall bonds be issued by the ..... (name of subdivision) for the purpose of ..... (purpose of the bond issue) in the principal amount of ..... (principal amount of the bond issue), to be repaid annually over a maximum period of ..... (the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ..... (as applicable, "ten-mill" or "...charter tax") limitation, estimated by the county auditor to average over the repayment period of the bond issue ..... (number of mills) mills for each one dollar of tax valuation, which amounts to ..... (rate expressed in cents or dollars and cents, such as "36 cents" or "$1.41") for each one hundred dollars of tax valuation, commencing in ..... (first year the tax will be levied), first due in calendar year ..... (first calendar year in which the tax shall be due), to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

	For the bond issue

	Against the bond issue

"

(b) In the case of an election held pursuant to legislation adopted under section 3375.43 or 3375.431 of the Revised Code:

"Shall bonds be issued for ..... (name of library) for the purpose of ..... (purpose of the bond issue), in the principal amount of ..... (amount of the bond issue) by ..... (the name of the subdivision that is to issue the bonds and levy the tax) as the issuer of the bonds, to be repaid annually over a maximum period of ..... (the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue ..... (number of mills) mills for each one dollar of tax valuation, which amounts to ..... (rate expressed in cents or dollars and cents, such as "36 cents" or "$1.41") for each one hundred dollars of tax valuation, commencing in ..... (first year the tax will be levied), first due in calendar year ..... (first calendar year in which the tax shall be due), to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

	For the bond issue
	Against the bond issue

"

(2) The purpose for which the bonds are to be issued shall be printed in the space indicated, in boldface type.

(G) The board of elections shall promptly certify the results of the election to the tax commissioner, the county auditor of each county in which any part of the subdivision is located, and the fiscal officer of the subdivision. The election, including the proceedings for and result of the election, is incontestable other than in a contest filed under section 3515.09 of the Revised Code in which the plaintiff prevails.

(H) If a majority of the electors voting upon the question vote for it, the taxing authority of the subdivision may proceed under sections 133.21 to 133.33 of the Revised Code with the issuance of the securities and with the levy and collection of a property tax outside the tax limitation during the period the securities are outstanding sufficient in amount to pay the debt charges on the securities, including debt charges on any anticipatory securities required to be paid from that tax. If legislation passed under section 133.22 or 133.23 of the Revised Code authorizing those securities is filed with the county auditor on or before the last day of November, the

amount of the voted property tax levy required to pay debt charges or estimated debt charges on the securities payable in the following year shall if requested by the taxing authority be included in the taxes levied for collection in the following year under section 319.30 of the Revised Code.

(I)(1) If, before any securities authorized at an election under this section are issued, the net indebtedness of the subdivision exceeds that applicable to that subdivision or those securities, then and so long as that is the case none of the securities may be issued.

(2) No securities authorized at an election under this section may be initially issued after the first day of the sixth January following the election, but this period of limitation shall not run for any time during which any part of the permanent improvement for which the securities have been authorized, or the issuing or validity of any part of the securities issued or to be issued, or the related proceedings, is involved or questioned before a court or a commission or other tribunal, administrative agency, or board.

(3) Securities representing a portion of the amount authorized at an election that are issued within the applicable limitation on net indebtedness are valid and in no manner affected by the fact that the balance of the securities authorized cannot be issued by reason of the net indebtedness limitation or lapse of time.

(4) Nothing in this division (I) shall be interpreted or applied to prevent the issuance of securities in an amount to fund or refund anticipatory securities lawfully issued.

(5) The limitations of divisions (I)(1) and (2) of this section do not apply to any securities authorized at an election under this section if at least ten per cent of the principal amount of the securities, including anticipatory securities, authorized has theretofore been issued, or if the securities are to be issued for the purpose of participating in any federally or state-assisted program.

(6) The certificate of the fiscal officer of the subdivision is conclusive proof of the facts referred to in this division.

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

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

(1) Fifty years:

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

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

(c) Pursuant to section 307.675 of the Revised Code, constructing or repairing a bridge using long life expectancy material for the bridge deck, and purchasing, installing, and maintaining any performance equipment to monitor the physical condition of a bridge so constructed or repaired. Additionally, the average maturity of the bonds shall not exceed the expected useful life of the bridge deck as determined by the county engineer under that section.

(2) Forty years:

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

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

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

(3) Thirty-five years:

(a) An arena, a convention center, or a combination of an arena and convention center under section 307.695 of the Revised Code;

(b) Sports facilities.

(4) Thirty years:

(a) Municipal recreation, excluding recreational equipment;

(b) Urban redevelopment projects;

(c) Acquisition of real property, except as provided in division (F) of this section;

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

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

(6) Fifteen years:

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

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

(c) Passenger buses used for mass transportation;

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

(7) Ten years:

(a) Water meters;

(b) Fire department apparatus and equipment;

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

(d) Furniture, equipment, and furnishings;

(e) Landscape planting and other site improvements;

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

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

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

(C) Bonds issued for any permanent improvements not within the categories set forth in division (B) of this section shall have maximum maturities of from five to thirty years as the fiscal officer estimates is the estimated life or period of usefulness of those permanent improvements. Bonds issued under section 133.51 of the Revised Code for purposes other than permanent improvements shall have the maturities, not to exceed forty years, that the taxing authority shall specify. Bonds issued for energy conservation measures under section 307.041 of the Revised Code shall have maximum maturities not exceeding the lesser of the average life of the energy conservation measures as detailed in the energy conservation report prepared under that section or thirty years.

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

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

(F) Securities issued by a school district <u>or county</u> to acquire or

construct real property shall have a maximum maturity longer than thirty years, but not longer than forty years, if the ~~school district's~~ fiscal officer of the school district or county estimates the real property's useful life to be longer than thirty years, and certifies that estimate to the board of education or board of county commissioners, respectively.

Sec. 133.55. Before adopting any reassessment provided for in section 133.54 of the Revised Code, the fiscal officer shall prepare and file for public inspection a list containing the names of the owners, a tax duplicate description of each parcel of land on which the reassessment will be levied, and the total amount to be reassessed, separately stated as to each parcel, and the taxing authority shall publish notice for two consecutive weeks in a newspaper of general circulation in the political subdivision, or as provided in section 7.16 of the Revised Code, that such reassessment has been prepared by the fiscal officer and that it is on file in ~~his~~ the fiscal officer's office for the inspection and examination of the persons interested therein. Sections 727.13, 727.15, and 727.16 of the Revised Code do not apply to any such assessments, but any person may file objections in writing with the fiscal officer within one week after the expiration of such notice and the taxing authority shall hear and determine any such objections at its next meeting. Such objections shall be limited solely to matters of description of parcels and owners and of computations of amounts, and no matters concluded by any proceedings on the original assessments shall form the basis for any such objections. When the reassessment list is confirmed by the taxing authority, it shall be complete and final and shall be recorded in the office of the fiscal officer.

Sec. 135.05. Each governing board shall, at least three weeks prior to the date when it is required by section 135.12 of the Revised Code to designate public depositories, by resolution, estimate the aggregate maximum amount of public moneys subject to its control to be awarded and be on deposit as inactive deposits. The state board of deposit shall cause a copy of such resolution, together with a notice of the date on which the meeting of the board for the designation of such depositories will be held and the period for which such inactive deposits will be awarded, to be published once a week for two consecutive weeks in two newspapers of general circulation in each of the three most populous counties. The governing board of each subdivision shall cause a copy of such resolution, together with a notice of the date on which the meeting of the board for the designation of such depositories will be held and the period for which such inactive deposits will be awarded, to be published once a week for two consecutive weeks in ~~two newspapers~~ a newspaper of ~~opposite politics and~~

~~of~~ general circulation in the county or as provided in section 7.16 of the Revised Code. If a subdivision is located in more than one county, such publication shall be made in ~~newspapers published~~ a newspaper of general circulation in the county in which the major part of such subdivision is located, and of general circulation in the subdivision. A written notice stating the aggregate maximum amount to be awarded as inactive deposits of the subdivision shall be given to each eligible depository by the governing board at the time the first publication is made in the ~~newspapers~~ newspaper.

All deposits of the public moneys of the state or any subdivision made during the period covered by the designation in excess of the aggregate amount so estimated shall be active deposits or interim deposits. Inactive, interim, and active deposits shall be separately awarded, made, and administered as provided by sections 135.01 to 135.21~~, inclusive,~~ of the Revised Code.

Sec. 135.61. As used in sections 135.61 to 135.67 of the Revised Code:

(A) "Eligible small business" means any person, including, but not limited to a person engaged in agriculture, that has all of the following characteristics:

(1) Is headquartered in this state;

(2) Maintains offices and operating facilities exclusively in this state and transacts business in this state;

(3) Employs fewer than one hundred fifty employees, the majority of whom are residents of this state;

(4) Is organized for profit.

(B) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, is a public depository of state funds under section 135.03 of the Revised Code, and agrees to participate in the linked deposit program.

(C) "Linked deposit" means a certificate of deposit or other financial institution instrument placed by the treasurer of state with an eligible lending institution at a rate below current market rates, as determined and calculated by the treasurer of state, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in division (C) of section 135.65 of the Revised Code, to eligible small businesses at a rate that reflects an equal percentage rate reduction below the present borrowing rate applicable to each specific business at the time of the deposit of state funds in the institution.

(D) "Other financial institution instrument" has the same meaning as in section 135.81 of the Revised Code.

Sec. 135.65. (A) The treasurer of state may accept or reject a linked deposit loan package or any portion thereof, based on the treasurer's evaluation of the eligible small businesses included in the package and the amount of state funds to be deposited. When evaluating the eligible small businesses, the treasurer shall give priority to the economic needs of the area where the business is located and the ratio of state funds to be deposited to jobs sustained or created and shall also consider any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the treasurer considers appropriate.

(B) Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer of state may place certificates of deposit or other financial institution instruments with the eligible lending institution at a rate below current market rates, as determined and calculated by the treasurer of state. When necessary, the treasurer may place certificates of deposit or other financial institution instruments prior to acceptance of a linked deposit loan package.

(C) The eligible lending institution shall enter into a deposit agreement with the treasurer of state, which shall include requirements necessary to carry out the purposes of sections 135.61 to 135.67 of the Revised Code. Such requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit or other financial institution instruments to be placed for any maturity considered appropriate by the treasurer of state not to exceed two years, and may be renewed for up to an additional two years at the option of the treasurer. Interest shall be paid at the times determined by the treasurer of state.

(D) Eligible lending institutions shall comply fully with Chapter 135. of the Revised Code.

Sec. 135.66. (A) Upon the placement of a linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible small business listed in the linked deposit loan package required by division (D) of section 135.64 of the Revised Code and in accordance with the deposit agreement required by division (C) of section 135.65 of the Revised Code. The loan shall be at a rate that reflects a percentage rate reduction below the present borrowing rate applicable to each business that is equal to the percentage rate reduction below market rates at which the ~~certificate~~ certificates of ~~deposits~~ deposit or other financial institution instruments that constitute the linked deposit were

placed. A certification of compliance with this section in the form and manner as prescribed by the treasurer of state shall be required of the eligible lending institution.

(B) The treasurer of state shall take any and all steps necessary to implement the linked deposit program and monitor compliance of eligible lending institutions and eligible small businesses, including the development of guidelines as necessary. The treasurer of state and the department of development shall notify each other at least quarterly of the names of the businesses receiving financial assistance from their respective programs.

Annually, by the first day of February, the treasurer of state shall report on the linked deposits program for the preceding calendar year to the governor, the speaker of the house of representatives, and the president of the senate. The speaker of the house shall transmit copies of this report to the chairpersons of the standing committees in the house which customarily consider legislation regarding agriculture and small business, and the president of the senate shall transmit copies of this report to the chairpersons of the standing committees in the senate which customarily consider legislation regarding agriculture and small business. The report shall set forth the linked deposits made by the treasurer of state under the program during the year and shall include information regarding the nature, terms, and amounts of the loans upon which the linked deposits were based and the eligible small businesses to which the loans were made.

Sec. 145.27. (A)(1) As used in this division, "personal history record" means information maintained by the public employees retirement board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the public employees retirement system, or other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except that the following shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 145.16 of the Revised Code;

(b) The amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by this chapter are privileged, except as follows:

(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the

individual concerned upon written release from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(C) Any person who is a member or contributor of the system shall be furnished with a statement of the amount to the credit of the individual's account upon written request. The board is not required to answer more than one such request of a person in any one year. The board may issue annual statements of accounts to members and contributors.

(D) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, contributors, former contributors, retirants, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with ~~division (A) of~~ section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87

of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in division (D)(6) of this section is a public record.

(7) The system shall provide the notice required by section 145.573 of the Revised Code to the prosecutor assigned to the case.

(E) A statement that contains information obtained from the system's records that is signed by the executive director or an officer of the system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 145.56. The right of an individual to a pension, an annuity, or a retirement allowance itself, the right of an individual to any optional benefit, any other right accrued or accruing to any individual, under this chapter, or under any municipal retirement system established subject to this chapter under the laws of this state or any charter, the various funds created by this chapter, or under such municipal retirement system, and all moneys, investments, and income from moneys or investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 145.57, 145.572, 145.573, 3105.171, 3105.65, and 3115.32 and Chapters 3119., 3121., 3123., and 3125. of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter and sections 3105.171, 3105.65, and 3115.32 and Chapters 3119., 3121., 3123., and 3125. of the Revised Code.

Sec. 149.01. Each elective state officer, the adjutant general, the adult parole authority, the department of agriculture, the director of administrative services, the public utilities commission, the superintendent of insurance, the superintendent of financial institutions, the superintendent of purchases

and printing, the state commissioner of soldiers' claims, the fire marshal, the industrial commission, the administrator of workers' compensation, the state department of transportation, the department of health, the state medical board, the state dental board, the board of embalmers and funeral directors, the Ohio commission for the blind, the accountancy board of Ohio, the state council of uniform state laws, the board of commissioners of the sinking fund, the department of taxation, the board of tax appeals, ~~the clerk of the supreme court,~~ the division of liquor control, the director of state armories, the trustees of the Ohio state university, and every private or quasi-public institution, association, board, or corporation receiving state money for its use and purpose shall make annually, at the end of each fiscal year, in quadruplicate, a report of the transactions and proceedings of that office or department for that fiscal year, excepting receipts and disbursements unless otherwise specifically required by law. The report shall contain a summary of the official acts of the officer, board, council, commission, institution, association, or corporation and any suggestions and recommendations that are proper. On the first day of August of each year, one of the reports shall be filed with the governor, one with the secretary of state, and one with the state library, and one shall be kept on file in the office of the officer, board, council, commission, institution, association, or corporation.

Sec. 149.091. (A) ~~Except as otherwise provided in division (C) of this section, the~~ The secretary of state shall compile, publish, and distribute the session laws either annually or biennially in a paper or electronic format ~~a maximum of nine hundred copies of the session laws~~. The annual or biennial publication shall contain all enrolled acts and joint resolutions~~. The secretary of state shall cause to be printed with each compilation of enrolled acts and joint resolutions distributed~~, a subject index, a table indicating Revised Code sections affected, and the secretary of state's certificate that the laws, as compiled and distributed, are true copies of the original enrolled acts or joint resolutions in the secretary of state's office.

(B)(1) The secretary of state ~~shall~~ may distribute the ~~compilations~~ paper or electronic format of the session laws ~~in~~ free of charge to the following ~~manner~~ persons or entities:

~~(1) One shall be forwarded to each~~ (a) Each county auditor.

~~(2) One shall be forwarded to each~~ (b) Each county law library.

~~(3) Two hundred may be distributed, free of charge, to~~ (c) Other public officials upon request of the public official.

~~(4) Remaining compilations may be sold by the secretary of state at a price that shall not exceed the actual cost of publication and distribution.~~

~~(B) Notwithstanding division (C) of this section, the secretary of state~~

~~shall compile, publish, and distribute, either annually or biennially, in permanently bound volumes, a minimum of twenty-five copies of the session laws. The annual or biennial volumes shall contain copies of all enrolled acts and joint resolutions. The secretary of state shall cause to be printed with each volume of enrolled acts and joint resolutions distributed a subject index, a table indicating Revised Code sections affected, and the secretary of state's certificate that the laws so assembled are true copies of the original enrolled acts or joint resolutions in the secretary of state's office.~~

(2) The secretary of state shall distribute the ~~permanently bound volumes~~ paper or electronic format of the session laws ~~in~~ free of charge to the following ~~manner~~ persons or entities:

~~(1) Five copies shall be forwarded to the~~ (a) The clerk of the house of representatives.

~~(2) Five copies shall be forwarded to the~~ (b) The clerk of the senate.

~~(3) Five copies shall be forwarded to the~~ (c) The legislative service commission.

~~(4) Two copies shall be forwarded to the~~ (d) The Ohio supreme court.

~~(5) Two copies shall be forwarded to the~~ (e) The document division of the library of congress.

~~(6) Two copies shall be forwarded to the~~ (f) The state library.

~~(7) Two copies shall be forwarded to the~~ (g) The Ohio historical society.

~~(8) Two copies shall be retained by the~~ The secretary of state shall retain a paper or electronic format of the session laws.

(C) ~~The secretary of state annually or biennially may compile, publish, and distribute the session laws in an electronic format instead of compiling and publishing the session laws as provided in division (A) of this section. If the secretary of state compiles and publishes the session laws in an electronic format, the following apply:~~

~~(1) The session laws in electronic format shall include copies of all enrolled acts and joint resolutions and shall contain a subject index and a table indicating Revised Code sections affected.~~

~~(2) Each compilation of the session laws in electronic format shall include the secretary of state's certificate that the laws so compiled and published are true copies of the original enrolled acts and joint resolutions in the secretary of state's office.~~

~~(3) The session laws may be distributed in an electronic format to public officials free of charge.~~

~~(4)~~ The session laws may be sold in ~~an~~ a paper or electronic format to individuals or entities not specified in division ~~(A) or~~ (B) of this section. The price shall not exceed the actual cost of producing and distributing the

session laws in ~~an~~ a paper or electronic format.

Sec. 149.11. Any department, division, bureau, board, or commission of the state government issuing a report, pamphlet, document, or other publication intended for general public use and distribution, which publication is reproduced by duplicating processes such as mimeograph, multigraph, planograph, rotaprint, or multilith, or printed internally or through a contract awarded to any person, company, or the state printing division of the department of administrative services, shall cause to be delivered to the state library one hundred copies of the publication, subject to the provisions of section 125.42 of the Revised Code.

The state library board shall distribute the publications so received as follows:

(A) Retain two copies in the state library;

(B) Send two copies to the document division of the library of congress;

(C) Send one copy to the Ohio historical society and to each public or college library in the state designated by the state library board to be a depository for state publications. In designating which libraries shall be depositories, the board shall select those libraries that can best preserve those publications and that are so located geographically as will make the publications conveniently accessible to residents in all areas of the state.

(D) Send one copy to each state in exchange for like publications of that state.

The provisions of this section ~~shall~~ do not apply to any publication of the general assembly or to the publications described in sections 149.07, 149.08, 149.091, and 149.17 of the Revised Code, except that the secretary of state shall forward to the document division of the library of congress two copies of all journals, two copies of the session laws ~~in bound form~~ as provided for in section 149.091 of the Revised Code, and two copies of all appropriation laws in separate form.

Sec. 149.308. There is hereby created in the state treasury the Ohio historical society income tax contribution fund, which shall consist of money contributed to it under section 5747.113 of the Revised Code for taxable years beginning on or after January 1, 2011, and of contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code.

The Ohio historical society shall use money credited to the fund in furtherance of the public functions with which the society is charged under section 149.30 of the Revised Code.

Sec. 149.311. (A) As used in this section:

(1) "Historic building" means a building, including its structural components, that is located in this state and that is either individually listed on the national register of historic places under 16 U.S.C. 470a, located in a registered historic district, and certified by the state historic preservation officer as being of historic significance to the district, or is individually listed as a historic landmark designated by a local government certified under 16 U.S.C. 470a(c).

(2) "Qualified rehabilitation expenditures" means expenditures paid or incurred during the rehabilitation period, and before and after that period as determined under 26 U.S.C. 47, by an owner of a historic building to rehabilitate the building. "Qualified rehabilitation expenditures" includes architectural or engineering fees paid or incurred in connection with the rehabilitation, and expenses incurred in the preparation of nomination forms for listing on the national register of historic places. "Qualified rehabilitation expenditures" does not include any of the following:

(a) The cost of acquiring, expanding, or enlarging a historic building;

(b) Expenditures attributable to work done to facilities related to the building, such as parking lots, sidewalks, and landscaping;

(c) New building construction costs.

(3) "Owner" of a historic building means a person holding the fee simple interest in the building. "Owner" does not include the state or a state agency, or any political subdivision as defined in section 9.23 of the Revised Code.

(4) "Certificate owner" means the owner of a historic building to which a rehabilitation tax credit certificate was issued under this section.

(5) "Registered historic district" means a historic district listed in the national register of historic places under 16 U.S.C. 470a, a historic district designated by a local government certified under 16 U.S.C. 470a(c), or a local historic district certified under 36 C.F.R. 67.8 and 67.9.

(6) "Rehabilitation" means the process of repairing or altering a historic building or buildings, making possible an efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values.

(7) "Rehabilitation period" means one of the following:

(a) If the rehabilitation initially was not planned to be completed in stages, a period chosen by the owner not to exceed twenty-four months during which rehabilitation occurs;

(b) If the rehabilitation initially was planned to be completed in stages, a period chosen by the owner not to exceed sixty months during which rehabilitation occurs. Each stage shall be reviewed as a phase of a

rehabilitation as determined under 26 C.F.R. 1.48-12 or a successor to that section.

(8) "State historic preservation officer" or "officer" means the state historic preservation officer appointed by the governor under 16 U.S.C. 470a.

~~(9) "Application period" means any of the following time periods for which an application for a rehabilitation tax credit certificate may be filed under this section:~~

~~(a) July 1, 2007, through June 30, 2008;~~

~~(b) July 1, 2009, through June 30, 2010;~~

~~(c) July 1, 2010, through June 30, 2011.~~

(B) ~~For any application period, the~~ The owner of a historic building may apply to the ~~state historic preservation officer~~ director of development for a rehabilitation tax credit certificate for qualified rehabilitation expenditures paid or incurred after April 4, 2007, for rehabilitation of a historic building. The form and manner of filing such applications shall be prescribed by rule of the director of development~~, and, except as otherwise provided in division (D) of this section, applications expire at the end of each application period~~. Each application shall state the amount of qualified rehabilitation expenditures the applicant estimates will be paid or incurred. The director may require applicants to furnish documentation of such estimates.

The director, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules that establish all of the following:

(1) Forms and procedures by which applicants may apply for rehabilitation tax credit certificates;

(2) Criteria for reviewing, evaluating, and approving applications for certificates within the limitations under division (D) of this section, criteria for assuring that the certificates issued encompass a mixture of high and low qualified rehabilitation expenditures, and criteria for issuing certificates under division (C)(3)(b) of this section;

(3) Eligibility requirements for obtaining a certificate under this section;

(4) The form of rehabilitation tax credit certificates;

(5) Reporting requirements and monitoring procedures;

(6) Procedures and criteria for conducting cost-benefit analyses of historic buildings that are the subjects of applications filed under this section. The purpose of a cost-benefit analysis shall be to determine whether rehabilitation of the historic building will result in a net revenue gain in state and local taxes once the building is used.

(7) Any other rules necessary to implement and administer this section.

(C) The ~~state historic preservation officer shall accept applications and forward them to the~~ director of development~~, who~~ shall review the applications with the assistance of the state historic preservation officer and determine whether all of the following criteria are met:

(1) That the building that is the subject of the application is a historic building and the applicant is the owner of the building;

(2) That the rehabilitation will satisfy standards prescribed by the United States secretary of the interior under 16 U.S.C. 470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to that section;

(3) That receiving a rehabilitation tax credit certificate under this section is a major factor in:

(a) The applicant's decision to rehabilitate the historic building; or

(b) To increase the level of investment in such rehabilitation.

An applicant shall demonstrate to the satisfaction of the state historic preservation officer and director of development that the rehabilitation will satisfy the standards described in division (C)(2) of this section before the applicant begins the physical rehabilitation of the historic building.

(D)(1) ~~The director of development may approve an application and issue a rehabilitation tax credit certificate to an applicant only if the director determines that the criteria in divisions (C)(1), (2), and (3) of this section are met~~ If the director of development determines that an application meets the criteria in divisions (C)(1), (2), and (3) of this section, the director shall conduct a cost-benefit analysis for the historic building that is the subject of the application to determine whether rehabilitation of the historic building will result in a net revenue gain in state and local taxes once the building is used. The director shall consider the results of the cost-benefit analysis in determining whether to approve the application. The director shall also consider the potential economic impact and the regional distributive balance of the credits throughout the state. The director may approve an application only after completion of the cost-benefit analysis.

(2) A rehabilitation tax credit certificate shall not be issued ~~before rehabilitation of a historic building is completed or~~ for an amount greater than the estimated amount furnished by the applicant on the application for such certificate and approved by the director. The director shall not approve more than a total of sixty million dollars of rehabilitation tax credits ~~for an application period~~ per fiscal year but the director may reallocate unused tax credits from a prior fiscal year for new applicants and such reallocated credits shall not apply toward the dollar limit of this division.

(3) ~~Of the sixty million dollars approved for application periods July 1, 2009, through June 30, 2010, and July 1, 2010, through June 30, 2011,~~

~~forty-five million dollars shall be reserved in each application period for the award of rehabilitation tax credit certificates to applicants who, as of March 1, 2008, had filed completed applications that met the criteria described in divisions (C)(1), (2), and (3) of this section, who have not withdrawn the application, and who have not yet been approved to receive a certificate. If the total amount of credits awarded for such applications is less than forty-five million dollars in an application period, the remainder shall be made available for other qualifying applications for that application period.~~

For rehabilitations with a rehabilitation period not exceeding twenty-four months as provided in division (A)(7)(a) of this section, a rehabilitation tax credit certificate shall not be issued before the rehabilitation of the historic building is completed.

(4) ~~If~~ For rehabilitations with a rehabilitation period not exceeding sixty months as provided in division (A)(7)(b) of this section, a rehabilitation tax credit certificate shall not be issued before a stage of rehabilitation is completed. After all stages of rehabilitation are completed, if the director cannot determine that the criteria in division (C) of this section are satisfied for all stages of rehabilitations, the director shall certify this finding to the tax commissioner, and any rehabilitation tax credits received by the applicant shall be repaid by the applicant and may be collected by assessment as unpaid tax by the commissioner.

(5) The director of development shall require the applicant to provide a third-party cost certification by a certified public accountant of the actual costs attributed to the rehabilitation of the historic building when qualified rehabilitation expenditures exceed two hundred thousand dollars.

If an applicant whose application is approved for receipt of a rehabilitation tax credit certificate fails to provide to the director of development sufficient evidence of reviewable progress, including a viable financial plan, copies of final construction drawings, and evidence that the applicant has obtained all historic approvals within twelve months after the date the applicant received notification of approval, ~~or~~ and if the applicant fails to provide evidence to the director of development that the applicant has secured and closed on financing for the rehabilitation within eighteen months after receiving notification of approval, the director may rescind the approval of the application. The director shall notify the applicant ~~that~~ if the approval has been rescinded. Credits that would have been available to an applicant whose approval was rescinded shall be available for other qualified applicants. Nothing in this division prohibits an applicant whose approval has been rescinded from submitting a new application for a rehabilitation tax credit certificate.

(E) Issuance of a certificate represents a finding by the director of development of the matters described in divisions (C)(1), (2), and (3) of this section only; issuance of a certificate does not represent a verification or certification by the director of the amount of qualified rehabilitation expenditures for which a tax credit may be claimed under section 5725.151, 5725.34, 5729.17, 5733.47, or 5747.76 of the Revised Code. The amount of qualified rehabilitation expenditures for which a tax credit may be claimed is subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Upon the issuance of a certificate, the director shall certify to the tax commissioner, in the form and manner requested by the tax commissioner, the name of the applicant, the amount of qualified rehabilitation expenditures shown on the certificate, and any other information required by the rules adopted under this section.

(F)(1) On or before the first day of ~~December in 2007, 2008, 2009, 2010, and 2011~~ April each year, the director of development and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a report on the tax credit program established under this section and sections 5725.151, 5725.34, 5729.17, 5733.47, and 5747.76 of the Revised Code. The report shall present an overview of the program and shall include information on the number of rehabilitation tax credit certificates issued under this section during ~~an application period~~ the preceding fiscal year, an update on the status of each historic building for which an application was approved under this section, the dollar amount of the tax credits granted under sections 5725.151, 5725.34, 5729.17, 5733.47, and 5747.76 of the Revised Code, and any other information the director and commissioner consider relevant to the topics addressed in the report.

(2) On or before December 1, ~~2012~~ 2015, the director of development and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a comprehensive report that includes the information required by division (F)(1) of this section and a detailed analysis of the effectiveness of issuing tax credits for rehabilitating historic buildings. The report shall be prepared with the assistance of an economic research organization jointly chosen by the director and commissioner.

(G) There is hereby created in the state treasury the historic rehabilitation tax credit operating fund. The director of development is authorized to charge reasonable application and other fees in connection with the administration of tax credits authorized by this section and sections

5725.151, 5725.34, 5729.17, 5733.44, and 5747.76 of the Revised Code. Any such fees collected shall be credited to the fund and used to pay reasonable costs incurred by the department of development in administering this section and sections 5725.151, 5725.34, 5729.17, 5733.44, and 5747.76 of the Revised Code.

The Ohio historic preservation office is authorized to charge reasonable fees in connection with its review and approval of applications under this section. Any such fees collected shall be credited to the fund and used to pay administrative costs incurred by the Ohio historic preservation office pursuant to this section.

Sec. 149.351. (A) All records are the property of the public office concerned and shall not be removed, destroyed, mutilated, transferred, or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules adopted by the records commissions provided for under sections 149.38 to 149.42 of the Revised Code or under the records programs established by the boards of trustees of state-supported institutions of higher education under section 149.33 of the Revised Code. ~~Such~~ Those records shall be delivered by outgoing officials and employees to their successors and shall not be otherwise removed, destroyed, mutilated, or transferred~~, or destroyed~~ unlawfully.

(B) Any person who is aggrieved by the removal, destruction, mutilation, or transfer of, or by other damage to or disposition of a record in violation of division (A) of this section, or by threat of such removal, destruction, mutilation, transfer, or other damage to or disposition of such a record, may commence either or both of the following in the court of common pleas of the county in which division (A) of this section allegedly was violated or is threatened to be violated:

(1) A civil action for injunctive relief to compel compliance with division (A) of this section, and to obtain an award of the reasonable attorney's fees incurred by the person in the civil action;

(2) A civil action to recover a forfeiture in the amount of one thousand dollars for each violation, but not to exceed a cumulative total of ten thousand dollars, regardless of the number of violations, and to obtain an award of the reasonable attorney's fees incurred by the person in the civil action not to exceed the forfeiture amount recovered.

(C)(1) A person is not aggrieved by a violation of division (A) of this section if clear and convincing evidence shows that the request for a record was contrived as a pretext to create potential liability under this section. The commencement of a civil action under division (B) of this section waives any right under this chapter to decline to divulge the purpose for requesting

the record, but only to the extent needed to evaluate whether the request was contrived as a pretext to create potential liability under this section.

(2) In a civil action under division (B) of this section, if clear and convincing evidence shows that the request for a record was a pretext to create potential liability under this section, the court may award reasonable attorney's fees to any defendant or defendants in the action.

(D) Once a person recovers a forfeiture in a civil action commenced under division (B)(2) of this section, no other person may recover a forfeiture under that division for a violation of division (A) of this section involving the same record, regardless of the number of persons aggrieved by a violation of division (A) of this section or the number of civil actions commenced under this section.

(E) A civil action for injunctive relief under division (B)(1) of this section or a civil action to recover a forfeiture under division (B)(2) of this section shall be commenced within five years after the day in which division (A) of this section was allegedly violated or was threatened to be violated.

Sec. 149.38. (A) ~~There~~ Except as otherwise provided in section 307.847 of the Revised Code, there is hereby created in each county a county records commission, composed of a member of the board of county commissioners as chairperson, the prosecuting attorney, the auditor, the recorder, and the clerk of the court of common pleas. The commission shall appoint a secretary, who may or may not be a member of the commission and who shall serve at the pleasure of the commission. The commission may employ an archivist or records manager to serve under its direction. The commission shall meet at least once every six months and upon the call of the chairperson.

(B) The functions of the county records commission shall be to provide rules for retention and disposal of records of the county, and to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by county offices. The commission may dispose of records pursuant to the procedure outlined in this section. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule, subject to division (D) of this section.

(C)(1) When the county records commission has approved any county application for one-time disposal of obsolete records or any schedule of records retention and disposition, the commission shall send that application or schedule to the Ohio historical society for its review. The Ohio historical society shall review the application or schedule within a period of not more than sixty days after its receipt of it. ~~Upon~~ During the sixty-day review

period, the Ohio historical society may select for its custody from the application for one-time disposal of obsolete records any records it considers to be of continuing historical value, and shall denote upon any schedule of records retention and disposition any records for which the Ohio historical society will require a certificate of records disposal prior to their disposal.

(2) Upon completion of its review, the Ohio historical society shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor's approval or disapproval. The auditor of state shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it. ~~Before~~

(3) Before public records are to be disposed of pursuant to an approved schedule of records retention and disposition, the county records commission shall inform the Ohio historical society of the disposal through the submission of a certificate of records disposal for only the records required by the schedule to be disposed of and shall give the society the opportunity for a period of fifteen business days to select for its custody those records, from the certificate submitted, that it considers to be of continuing historical value. Upon the expiration of the fifteen-business-day period, the county records commission also shall notify the public libraries, county historical society, state universities, and other public or quasi-public institutions, agencies, or corporations in the county that have provided the commission with their name and address for these notification purposes, that the commission has informed the Ohio historical society of the records disposal and that the notified entities, upon written agreement with the Ohio historical society pursuant to section 149.31 of the Revised Code, may select records of continuing historical value, including records that may be distributed to any of the notified entities under section 149.31 of the Revised Code. Any notified entity that notifies the county records commission of its intent to review and select records of continuing historical value from certificates of records disposal is responsible for the cost of any notice given and for the transportation of those records.

(D) The rules of the county records commission shall include a rule that requires any receipts, checks, vouchers, or other similar records pertaining to expenditures from the delinquent tax and assessment collection fund created in section 321.261 of the Revised Code, from the real estate assessment fund created in section 325.31 of the Revised Code, or from amounts allocated for the furtherance of justice to the county sheriff under section 325.071 of the Revised Code or to the prosecuting attorney under

section 325.12 of the Revised Code to be retained for at least four years.

(E) No person shall knowingly violate the rule adopted under division (D) of this section. Whoever violates that rule is guilty of a misdemeanor of the first degree.

Sec. 149.381. (A) As used in this section, "records commission" means a records commission created under section 149.39 of the Revised Code, a school district records commission and an educational service center records commission created under section 149.41 of the Revised Code, a library records commission created under section 149.411 of the Revised Code, a special taxing district records commission created under section 149.412 of the Revised Code, and a township records commission created under section 149.42 of the Revised Code.

(B) When a records commission has approved an application for one-time disposal of obsolete records or any schedule of records retention and disposition, the records commission shall send that application or schedule to the Ohio historical society for its review. The Ohio historical society shall review the application or schedule within a period of not more than sixty days after its receipt of it. During the sixty-day review period, the Ohio historical society may select for its custody from the application for one-time disposal of obsolete records any records it considers to be of continuing historical value, and shall denote upon any schedule of records retention and disposition the records for which the Ohio historical society will require a certificate of records disposal prior to their disposal.

(C) Upon completion of its review, the Ohio historical society shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor of state's approval or disapproval. The auditor of state shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it.

(D) Before public records are to be disposed of pursuant to an approved schedule of records retention and disposition, the records commission shall inform the Ohio historical society of the disposal through the submission of a certificate of records disposal for only the records required by the schedule to be disposed of, and shall give the society the opportunity for a period of fifteen business days to select for its custody those public records, from the certificate submitted, that it considers to be of continuing historical value.

(E) The Ohio historical society may not review or select for its custody any of the following:

(1) Records the release of which is prohibited by section 149.432 of the Revised Code.

(2) Records containing personally identifiable information concerning any pupil attending a public school other than directory information, as defined in section 3319.321 of the Revised Code, without the written consent of the parent, guardian, or custodian of each such pupil who is less than eighteen years of age, or without the written consent of each pupil who is eighteen years of age or older.

(3) Records the release of which would, according to the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, disqualify a school or other educational institution from receiving federal funds.

Sec. 149.39. There is hereby created in each municipal corporation a records commission composed of the chief executive or the chief executive's appointed representative, as chairperson, and the chief fiscal officer, the chief legal officer, and a citizen appointed by the chief executive. The commission shall appoint a secretary, who may or may not be a member of the commission and who shall serve at the pleasure of the commission. The commission may employ an archivist or records manager to serve under its direction. The commission shall meet at least once every six months and upon the call of the chairperson.

The functions of the commission shall be to provide rules for retention and disposal of records of the municipal corporation, and to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by municipal offices. The commission may dispose of records pursuant to the procedure outlined in ~~this~~ section 149.381 of the Revised Code. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule under the procedure outlined in that section.

~~When the municipal records commission has approved any application for one-time disposal of obsolete records or any schedule of records retention and disposition, the commission shall send that application or schedule to the Ohio historical society for its review. The Ohio historical society shall review the application or schedule within a period of not more than sixty days after its receipt of it. Upon completion of its review, the Ohio historical society shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor's approval or disapproval. The auditor shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it. Before public records are to be disposed of, the commission shall inform the Ohio historical society of the disposal through the submission of a certificate of records disposal and shall~~

~~give the society the opportunity for a period of fifteen business days to select for its custody those public records that it considers to be of continuing historical value.~~

Sec. 149.41. There is hereby created in each city, local, joint vocational, and exempted village school district a school district records commission, and in each educational service center an educational service center records commission. Each records commission shall be composed of the president, the treasurer of the board of education or governing board of the educational service center, and the superintendent of schools in each such district or educational service center. The commission shall meet at least once every twelve months.

The function of the commission shall be to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by any employee of the school district or educational service center. The commission may dispose of records pursuant to the procedure outlined in ~~this~~ section 149.381 of the Revised Code. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule under the procedure outlined in that section.

~~When the school district records commission or the educational service center records commission has approved any application for one-time disposal of obsolete records or any schedule of records retention and disposition, the appropriate commission shall send that application or schedule to the Ohio historical society for its review. The Ohio historical society shall review the application or schedule within a period of not more than sixty days after its receipt of it. Upon completion of its review, the Ohio historical society shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor's approval or disapproval. The auditor shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it. Before public records are to be disposed of, the appropriate commission shall inform the Ohio historical society of the disposal through the submission of a certificate of records disposal and shall give the society the opportunity for a period of fifteen business days to select for its custody those public records that it considers to be of continuing historical value. The society may not review or select for its custody either of the following:~~

~~(A) Records containing personally identifiable information concerning any pupil attending a public school other than directory information, as defined in section 3319.321 of the Revised Code, without the written~~

~~consent of the parent, guardian, or custodian of each such pupil who is less than eighteen years of age, or without the written consent of each such pupil who is eighteen years of age or older;~~

~~(B) Records the release of which would, according to the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C.A. 1232g, disqualify a school or other educational institution from receiving federal funds.~~

Sec. 149.411. There is hereby created in each county free public library, municipal free public library, township free public library, school district free public library as described in section 3375.15 of the Revised Code, county library district, and regional library district a library records commission composed of the members and the fiscal officer of the board of library trustees of the appropriate public library or library district. The commission shall meet at least once every twelve months.

The functions of the commission shall be to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by any employee of the library. The commission may dispose of records pursuant to the procedure outlined in ~~this~~ section 149.381 of the Revised Code. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule under the procedure outlined in that section.

~~When the appropriate library records commission has approved any library application for one-time disposal of obsolete records or any schedule of records retention and disposition, the commission shall send that application or schedule to the Ohio historical society for its review. The Ohio historical society shall review the application or schedule within a period of not more than sixty days after its receipt of it. Upon completion of its review, the Ohio historical society shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor's approval or disapproval. The auditor shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it. Before public records are to be disposed of, the commission shall inform the Ohio historical society of the disposal through the submission of a certificate of records disposal and shall give the society the opportunity for a period of fifteen business days to select for its custody those public records that it considers to be of continuing historical value. The Ohio historical society may not review or select for its custody any records pursuant to section 149.432 of the Revised Code.~~

Sec. 149.412. There is hereby created in each special taxing district that

is a public office as defined in section 149.011 of the Revised Code and that is not specifically designated in section 149.38, 149.39, 149.41, 149.411, or 149.42 of the Revised Code a special taxing district records commission composed of, at a minimum, the chairperson, a fiscal representative, and a legal representative of the governing board of the special taxing district. The commission shall meet at least once every twelve months and upon the call of the chairperson.

The functions of the commission shall be to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by any employee of the special taxing district. The commission may dispose of records pursuant to the procedure outlined in ~~this~~ section 149.381 of the Revised Code. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule under the procedure outlined in that section.

~~When the special taxing district records commission has approved any special taxing district application for one-time disposal of obsolete records or any schedule of records retention and disposition, the commission shall send that application or schedule to the Ohio historical society for its review. The Ohio historical society shall review the application or schedule within a period of not more than sixty days after its receipt of it. Upon completion of its review, the Ohio historical society shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor's approval or disapproval. The auditor shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it. Before public records are to be disposed of, the commission shall inform the Ohio historical society of the disposal through the submission of a certificate of records disposal and shall give the society the opportunity for a period of fifteen business days to select for its custody those public records that it considers to be of continuing historical value.~~

Sec. 149.42. There is hereby created in each township a township records commission, composed of the chairperson of the board of township trustees and the fiscal officer of the township. The commission shall meet at least once every twelve months and upon the call of the chairperson.

The function of the commission shall be to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by township offices. The commission may dispose of records pursuant to the procedure outlined in ~~this~~ section 149.381 of the Revised Code. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule

under the procedure outlined in that section.

~~When the township records commission has approved any township application for one-time disposal of obsolete records or any schedule of records retention and disposition, the commission shall send that application or schedule to the Ohio historical society for its review. The Ohio historical society shall review the application or schedule within a period of not more than sixty days after its receipt of it. Upon completion of its review, the Ohio historical society shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor's approval or disapproval. The auditor shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it. Before public records are to be disposed of, the commission shall inform the Ohio historical society of the disposal through the submission of a certificate of records disposal and shall give the society the opportunity for a period of fifteen business days to select for its custody those public records that it considers to be of continuing historical value.~~

Sec. 149.43. (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records listed in division (A) of section 3107.42 of the Revised

Code or specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in an

examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;

(y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(z) Records listed in section 5101.29 of the Revised Code~~.~~;

(aa) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(bb) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or

medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation:

(a) The address of the actual personal residence of a peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or an investigator of the bureau of criminal identification and investigation, except for the state or political subdivision in which the peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation resides;

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, prosecuting attorney, assistant prosecuting

attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer from the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's compensation unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

As used in divisions (A)(7) and (B)(9) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "correctional employee" means any employee of the department of rehabilitation and

correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A)(7) and (B)(5) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

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

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

(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item

that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.

(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.

(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The

explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

(7) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person

responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9)(a) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, prosecuting attorney, assistant prosecuting

attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation and, if the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information.

(c) As used in ~~this~~ division (B)(9) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(1) of this section. The mandamus action may be commenced in the court of common

pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

If a requestor transmits a written request by hand delivery or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requestor shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the

authority that is asserted as permitting that conduct or threatened conduct.

(2)(a) If the court issues a writ of mandamus that orders the public office or the person responsible for the public record to comply with division (B) of this section and determines that the circumstances described in division (C)(1) of this section exist, the court shall determine and award to the relator all court costs.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court may award reasonable attorney's fees subject to reduction as described in division (C)(2)(c) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C)(2)(c) of this section when either of the following applies:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C)(2)(c)(i) of this section

would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

(2) The public office shall distribute the public records policy adopted by the public office under division (E)(1) of this section to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information,

the release of which is prohibited by law.

(2) As used in division (F)(1) of this section:

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or data base by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (F)(1) and (2) of this section, "surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

Sec. 153.01. (A) Whenever any building or structure for the use of the state or any institution supported in whole or in part by the state or in or upon the public works of the state that is administered by the director of administrative services or by any other state officer or state agency authorized by law to administer a project, including an educational institution listed in section 3345.50 of the Revised Code, is to be erected or constructed, whenever additions, alterations, or structural or other improvements are to be made, or whenever heating, cooling, or ventilating plants or other equipment is to be installed or material supplied therefor, the ~~aggregate~~ estimated cost of which amounts to ~~fifty~~ two hundred thousand dollars or more, or the amount determined pursuant to section 153.53 of the

Revised Code or more, each officer, board, or other authority upon which devolves the duty of constructing, erecting, altering, or installing the same, referred to in sections 153.01 to 153.60 of the Revised Code as the ~~owner~~ public authority, shall cause to be made, by an architect or engineer whose contract of employment shall be prepared and approved by the attorney general, the following:

~~(A)~~(1) Full and accurate plans, suitable for the use of mechanics and other builders in the construction, improvement, addition, alteration, or installation;

~~(B)~~(2) Details to scale and full-sized, so drawn and represented as to be easily understood;

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

~~(D)~~(3) Definite and complete specifications of the work to be performed, together with directions that will enable a competent mechanic or other builder to carry them out and afford bidders all needful information;

~~(E)~~(4) A full and accurate estimate of each item of expense and the aggregate cost of those items of expense;

~~(F)~~(5) A life-cycle cost analysis;

~~(G)~~(6) Further data as may be required by the department of administrative services.

(B) Division (A) of this section shall not be required with respect to a construction management contract entered into with a construction manager at risk as described in section 9.334 of the Revised Code or a design-build contract entered into with a design-build firm as described in section 153.693 of the Revised Code.

Sec. 153.02. (A) The director of administrative services, on the director's own initiative or upon request of the Ohio school facilities commission, may debar a contractor from contract awards for public improvements as referred to in section 153.01 of the Revised Code or for projects as defined in section 3318.01 of the Revised Code, upon proof that the contractor has done any of the following:

(1) Defaulted on a contract requiring the execution of a takeover agreement as set forth in division (B) of section 153.17 of the Revised Code;

(2) Knowingly failed during the course of a contract to maintain the coverage required by the bureau of workers' compensation;

(3) Knowingly failed during the course of a contract to maintain the contractor's drug-free workplace program as required by the contract;

(4) Knowingly failed during the course of a contract to maintain insurance required by the contract or otherwise by law, resulting in a

substantial loss to the owner, as owner is referred to in section 153.01 of the Revised Code, or to the commission and school district board, as provided in division (F) of section 3318.08 of the Revised Code;

(5) Misrepresented the firm's qualifications in the selection process set forth in sections 153.65 to 153.71 or section 3318.10 of the Revised Code;

(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the contractor's business integrity;

(7) Been convicted of a criminal offense under state or federal antitrust laws;

(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;

(9) Been debarred from bidding on or participating in a contract with any state or federal agency.

(B) When the director reasonably believes that grounds for debarment exist, the director shall send the contractor a notice of proposed debarment indicating the grounds for the proposed debarment and the procedure for requesting a hearing on the proposed debarment. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code. If the contractor does not respond with a request for a hearing in the manner specified in Chapter 119. of the Revised Code, the director shall issue the debarment decision without a hearing and shall notify the contractor of the decision by certified mail, return receipt requested.

(C) The director shall determine the length of the debarment period and may rescind the debarment at any time upon notification to the contractor. During the period of debarment, the contractor is not eligible to bid for or participate in any contract for a public improvement as referred to in section 153.01 of the Revised Code or for a project as defined in section 3318.01 of the Revised Code. After the debarment period expires, the contractor shall be eligible to bid for and participate in such contracts ~~for a public improvement as referred to in section 153.01 of the Revised Code~~.

(D) The director, through the office of the state architect, shall maintain a list of all contractors currently debarred under this section. Any governmental entity awarding a contract for construction of a public improvement or project may use a contractor's presence on the debarment list to determine whether a contractor is responsible or best under section 9.312 or any other section of the Revised Code in the award of a contract.

Sec. 153.03. (A) As used in this section:

(1) "Contracting authority" means any state agency or other state instrumentality that is authorized to award a public improvement contract.

(2) "Bidder" means a person who submits a bid to a contracting authority to perform work under a public improvement contract.

(3) "Contractor" means any person with whom a contracting authority has entered into a public improvement contract to provide labor for a public improvement and includes a construction manager at risk and a design-build firm.

(4) "Subcontractor" means any person who undertakes to provide any part of the labor on the site of a public improvement under a contract with any person other than the contracting authority, including all such persons in any tier.

(5) "Construction manager" ~~means a person with substantial discretion and authority to plan, coordinate, manage, and direct all phases of a project for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement~~ has the same meaning as in section 9.33 of the Revised Code.

(6) "Construction manager at risk" has the same meaning as in section 9.33 of the Revised Code.

(7) "Design-build firm" has the same meaning as in section 153.65 of the Revised Code.

(8) "Labor" means any activity performed by a person that contributes to the direct installation of a product, component, or system, or that contributes to the direct removal of a product, component, or system.

~~(7)~~(9) "Public improvement contract" means any contract that is financed in whole or in part with money appropriated by the general assembly, or that is financed in any manner by a contracting authority, and that is awarded by a contracting authority for the construction, alteration, or repair of any public building, public highway, or other public improvement.

~~(8)~~(10) "State agency" means every organized body, office, or agency established by the laws of this state for the exercise of any function of state government.

(B) A contracting authority shall not award a public improvement contract to a bidder, and a construction manager at risk or design-build firm shall not award a subcontract, unless the contract or subcontract contains both of the following:

(1) The statements described in division (E) of this section;

(2) Terms that require the contractor or subcontractor to be enrolled in and be in good standing in the drug-free workplace program of the bureau of workers' compensation or a comparable program approved by the bureau

that requires an employer to do all of the following:

(a) Develop, implement, and provide to all employees a written substance use policy that conveys full and fair disclosure of the employer's expectations that no employee be at work with alcohol or drugs in the employee's system, and specifies the consequences for violating the policy.

(b) Conduct drug and alcohol tests on employees in accordance with division (B)(2)(c) of this section and under the following conditions:

(i) Prior to an individual's employment or during an employee's probationary period for employment, which shall not exceed one hundred twenty days after the probationary period begins;

(ii) At random intervals while an employee provides labor or ~~onsite~~ on-site supervision of labor for a public improvement contract. The employer shall use the neutral selection procedures required by the United States department of transportation to determine which employees to test and when to test those employees.

(iii) After an accident at the site where labor is being performed pursuant to a public improvement contract. For purposes of this division, "accident" has the meaning established in rules the administrator of workers' compensation adopts pursuant to Chapters 4121. and 4123. of the Revised Code for the bureau's drug-free workplace program, as those rules exist on ~~the effective date of this section~~ March 30, 2007.

(iv) When the employer ~~or a~~, construction manager, construction manager at risk, or design-build firm has reasonable suspicion that prior to an accident an employee may be in violation of the employer's written substance use policy. For purposes of this division, "reasonable suspicion" has the meaning established in rules the administrator adopts pursuant to Chapters 4121. and 4123. of the Revised Code for the bureau's drug-free workplace program, as those rules exist on ~~the effective date of this section~~ March 30, 2007.

(v) Prior to an employee returning to a work site to provide labor for a public improvement contract after the employee tested positive for drugs or alcohol, and again after the employee returns to that site to provide labor under that contract, as required by either the employer, ~~the~~ construction manager, construction manager at risk, design-build firm, or conditions in the contract.

(c) Use the following types of tests when conducting a test on an employee under the conditions described in division (B)(2)(b) of this section:

(i) Drug and alcohol testing that uses the federal testing model that the administrator has incorporated into the bureau's drug-free workplace

program;

(ii) Testing to determine whether the concentration of alcohol on an employee's breath is equal to or in excess of the level specified in division (A)(1)(d) or (h) of section 4511.19 of the Revised Code, which is obtained through an evidentiary breath test conducted by a breath alcohol technician using breath testing equipment that meets standards established by the United States department of transportation, or, if such technician and equipment are unavailable, a blood test may be used to determine whether the concentration of alcohol in an employee's blood is equal to or in excess of the level specified in division (A)(1)(b) or (f) of section 4511.19 of the Revised Code.

(d) Require all employees to receive at least one hour of training that increases awareness of and attempts to deter substance abuse and supplies information about employee assistance to deal with substance abuse problems, and require all supervisors to receive one additional hour of training in skill building to teach a supervisor how to observe and document employee behavior and intervene when reasonable suspicion exists of substance use;

(e) Require all supervisors and employees to receive the training described in division (B)(2)(d) of this section before work for a public improvement contract commences or during the term of a public improvement contract;

(f) Require that the training described in division (B)(2)(d) of this section be provided using material prepared by an individual who has credentials or experience in substance abuse training;

(g) Assist employees by providing, at a minimum, a list of community resources from which an employee may obtain help with substance abuse problems, except that this requirement does not preclude an employer from having a policy that allows an employer to terminate an employee's employment the first time the employee tests positive for drugs or alcohol or if an employee refuses to be tested for drugs, alcohol, or both.

(C) Any time the United States department of health and human services changes the federal testing model that the administrator has incorporated into the bureau's drug-free workplace program in a manner that allows additional or new products, protocols, procedures, and standards in the model, the administrator may adopt rules establishing standards to allow employers to use those additional or new products, protocols, procedures, or standards to satisfy the requirements of division (B)(2)(c) of this section, and the bureau may approve an employer's drug-free workplace program that meets the administrator's standards and the other requirements specified

in division (B)(2) of this section.

(D) A contracting authority shall ensure that money appropriated by the general assembly for the contracting authority's public improvement contract or, in the case of a state institution of higher education, the institution's financing for the public improvement contract, is not expended unless the contractor for that contract is enrolled in and in good standing in a drug-free workplace program described in division (B) of this section. Prior to awarding a contract to a bidder, a contracting authority shall verify that the bidder is enrolled in and in good standing in such a program.

(E) A contracting authority shall include all of the following statements in the public improvement contract entered into between the contracting authority and a contractor for the public improvement:

(1) "Each contractor shall require all subcontractors with whom the contractor is in contract for the public improvement to be enrolled in and be in good standing in the Bureau of Workers' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a subcontractor providing labor at the project site of the public improvement."

(2) "Each subcontractor shall require all lower-tier subcontractors with whom the subcontractor is in contract for the public improvement to be enrolled in and be in good standing in the Bureau of Workers' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a lower-tier subcontractor providing labor at the project site of the public improvement."

(3) "Failure of a contractor to require a subcontractor to be enrolled in and be in good standing in the Bureau of Workers' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the subcontractor provides labor at the project site will result in the contractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that contractor or the subcontractor who was not enrolled in a program for future contracts with the state for five years after the date of the breach."

(4) "Failure of a subcontractor to require a lower-tier subcontractor to be enrolled in and be in good standing in the Bureau of Workers' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the lower-tier

subcontractor provides labor at the project site will result in the subcontractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that subcontractor or the lower-tier subcontractor who was not enrolled in a program for future contracts with the state for five years after the date of the breach."

(F) In the event a construction manager, construction manager at risk, or design-build firm intends and is authorized to provide labor for a public improvement contract, a contracting authority shall verify, prior to awarding a contract for construction management services or design-build services, that the construction manager, construction manager at risk, or design-build firm was enrolled in and in good standing in a drug-free workplace program described in division (B) of this section prior to entering into the public improvement contract. The contracting authority shall not award a contract for construction manager services ~~to a construction manager~~ or design-build services if the construction manager, construction manager at risk, or design-build firm is not enrolled in or in good standing in such a program.

Sec. 153.07. The notice provided for in section 153.06 of the Revised Code shall be published once each week for three consecutive weeks in a newspaper of general circulation, or as provided in section 7.16 of the Revised Code, in the county where the activity for which bids are submitted is to occur and in such other newspapers as ordered by the department of administrative services, the last publication to be at least eight days preceding the day for opening the bids, and in such form and with such phraseology as the department orders. Copies of the plans, details, ~~bills of material,~~ estimates of cost, and specifications shall be open to public inspection at all business hours between the day of the first publication and the day for opening the bids, at the office of the department where the bids are received, and such other place as may be designated in such notice.

Sec. 153.08. On the day and at the place named in the notice provided for in section 153.06 of the Revised Code, the owner referred to in section 153.01 of the Revised Code shall open the bids and shall publicly, with the assistance of the architect or engineer, immediately proceed to tabulate the bids upon duplicate sheets. The public bid opening may be broadcast by electronic means pursuant to rules established by the director of administrative services. A bid shall be invalid and not considered unless a bid guaranty meeting the requirements of section 153.54 of the Revised Code and in the form approved by the department of administrative services is filed with such bid ~~and unless such~~. For a bid that is not filed electronically, the bid and bid guaranty ~~are~~ shall be filed in one sealed envelope. If the bid and bid guaranty are filed electronically, they must be

received electronically before the deadline published pursuant to section 153.06 of the Revised Code. For all bids filed electronically, the original, unaltered bid guaranty shall be made available to the public authority after the public bid opening. After investigation, which shall be completed within thirty days, the contract shall be awarded by such owner to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code.

No contract shall be entered into until the industrial commission has certified that the person so awarded the contract has complied with sections 4123.01 to 4123.94 of the Revised Code, until, if the bidder so awarded the contract is a foreign corporation, the secretary of state has certified that such corporation is authorized to do business in this state, until, if the bidder so awarded the contract is a person nonresident of this state, such person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under section 153.05 of the Revised Code or under sections 4123.01 to 4123.94 of the Revised Code, and until the contract and bond, if any, are submitted to the attorney general and the attorney general's approval certified thereon.

No contract shall be entered into unless the bidder possesses a valid certificate of compliance with affirmative action programs issued pursuant to section 9.47 of the Revised Code and dated no earlier than one hundred eighty days prior to the date fixed for the opening of bids for a particular project.

Sec. 153.50. (A) ~~An~~ As used in sections 153.50 to 153.52 of the Revised Code:

(1) "Construction manager at risk" has the same meaning as in section 9.33 of the Revised Code.

(2) "Design-assist services" means monitoring and assisting in the completion of the plans and specifications.

(3) "Design-assist firm" means a person capable of providing design-assist services.

(4) "Design-build firm" has the same meaning as in section 153.65 of the Revised Code.

(5) "General contracting" means constructing and managing an entire public improvement project, including the branches or classes of work specified in division (B) of this section, under the award of a single aggregate lump sum contract.

(6) "General contracting firm" means a person capable of performing general contracting.

(B) Except for contracts made with a construction manager at risk, with a design-build firm, or with a general contracting firm, an officer, board, or other authority of the state, a county, township, municipal corporation, or school district, or of any public institution belonging thereto, authorized to contract for the erection, repair, alteration, or rebuilding of a public building, institution, bridge, culvert, or improvement and required by law to advertise and receive bids for furnishing of materials and doing the work necessary for the erection thereof, shall require separate and distinct bids to be made for furnishing such materials or doing such work, or both, in their discretion, for each of the following branches or classes of work to be performed, and all work kindred thereto, entering into the improvement:

(1) Plumbing and gas fitting;

(2) Steam and hot-water heating, ventilating apparatus, and steam-power plant;

(3) Electrical equipment.

~~(B) A public authority is not required to solicit separate bids for a branch or class of work specified in division (A) of this section for an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.~~

Sec. 153.501. (A) A public authority may accept a subcontract awarded by a construction manager at risk, a design-build firm, or a general contracting firm, or may reject any such subcontract if the public authority determines that the bidder is not responsible.

(B) A public authority may authorize a construction manager at risk or design-build firm to utilize a design-assist firm on any public improvement project without transferring any design liability to the design-assist firm.

(C) If the construction manager at risk or design-build firm intends and is permitted by the public authority to self-perform a portion of the work to be performed, the construction manager at risk or design-build firm shall submit a sealed bid for the portion of the work prior to accepting and opening any bids for the same work.

Sec. 153.502. (A) Each construction manager at risk and design-build firm shall establish criteria by which it will prequalify prospective bidders on subcontracts awarded for work to be performed under the construction management or design-build contract. The criteria established by a construction manager at risk or design-build firm shall be subject to the approval of the public authority involved in the project and shall be consistent with the rules adopted by the department of administrative services pursuant to section 153.503 of the Revised Code.

(B) For each subcontract to be awarded, the construction manager at

risk or design-build firm shall identify at least three prospective bidders that are prequalified to bid on that subcontract, except that the construction manager at risk or design-build firm shall identify fewer than three if the construction manager at risk or design-build firm establishes to the satisfaction of the public authority that fewer than three prequalified bidders are available. The public authority shall verify that each prospective bidder meets the prequalification criteria and may eliminate any bidder it determines is not qualified.

(C) Once the prospective bidders are prequalified and found acceptable by the public authority, the construction manager at risk or design-build firm shall solicit proposals from each of those bidders. The solicitation and selection of a subcontractor shall be conducted under an open book pricing method. As used in this division, "open book pricing method" has the same meaning as in section 9.33 of the Revised Code, in the case of a construction manager at risk, and the same meaning as in section 153.65 of the Revised Code, in the case of a design-build firm.

(D) A construction manager at risk or design-build firm shall not be required to award a subcontract to a low bidder.

Sec. 153.503. The department of administrative services, pursuant to Chapter 119. of the Revised Code and not later than June 30, 2012, shall adopt rules to do all of the following:

(A) Prescribe the procedures and criteria for determining the best value selection of a construction manager at risk or design-build firm;

(B) In consultation with the state architect's office, set forth standards to be followed by construction managers at risk and design-build firms when establishing prequalification criteria pursuant to section 153.502 of the Revised Code;

(C) Prescribe the form for the contract documents to be used by a construction manager at risk, design-build firm, or general contractor when entering into a subcontract;

(D) Prescribe the form for the contract documents to be used by a public authority when entering into a contract with a construction manager at risk or design-build firm.

Sec. 153.51. (A) ~~When more than one branch or class of work specified in division (A) of~~ If separate and distinct bids are required pursuant to section 153.50 of the Revised Code ~~is required~~, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work ~~shall~~ may be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids in the aggregate.

(B)(1) ~~The~~ If the public authority ~~referred to in section 153.50 of the Revised Code also may award~~ awards a single, aggregate contract for the entire project pursuant to division (A) of this section~~. This~~, the award shall be made to the bidder who is the lowest responsive and responsible bidder or the lowest and best bidder, as applicable, as specified in section 153.52 of the Revised Code.

(2) The public authority ~~referred to in section 153.50 of the Revised Code~~ may assign all or any portion of its interest in the contract of the lowest responsive and responsible bidder or the lowest and best bidder, as applicable, to another successful bidder as an agreed condition for an award of the contract for the amount of its respective bid. Such assignment may include, but is not limited to, the duty to schedule, coordinate, and administer the contracts.

~~(C) A public authority referred to in division (A) of section 153.50 of the Revised Code is not required to award separate contracts for a branch or class of work specified in division (A) of section 153.50 of the Revised Code entering into an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.~~

Sec. 153.52. ~~The~~ A contract for general contracting or for doing the work belonging to each separate branch or class of work specified in division ~~(A)~~(B) of section 153.50 of the Revised Code, or for the furnishing of materials therefor, ~~or both,~~ shall be awarded by the public authority referred to in section 153.50 of the Revised Code, in its discretion, to the lowest responsive and responsible separate bidder therefor, in accordance with section 9.312 of the Revised Code in the case of any public authority of the state or any public institution belonging thereto, and to the lowest and best separate bidder in the case of a county, township, or municipal corporation, ~~or school district,~~ or any public institution belonging thereto, and to the lowest responsive and responsible bidder in the case of a school district, and shall be made directly with the bidder in the manner and upon the terms, conditions, and limitations as to giving bond or bid guaranties as prescribed by law~~, unless it is let as a whole, or to bidders for more than one kind of work or materials. Sections 153.50 to 153.52 of the Revised Code do not apply to the erection of buildings and other structures which cost less than fifty thousand dollars~~.

Sec. 153.53. (A) As used in this section, "rate of inflation" has the same meaning as in section 107.032 of the Revised Code.

(B) Five years after the effective date of this section and every five years thereafter, the director of administrative services shall evaluate the monetary threshold specified in section 153.01 of the Revised Code and

adopt rules adjusting that amount based on the average rate of inflation during each of the previous five years immediately preceding such adjustment.

Sec. 153.54. (A) ~~Each~~ Except with respect to a contract described in section 9.334 or 153.693 of the Revised Code, each person bidding for a contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the department of transportation, for any public improvement shall file with the bid, a bid guaranty in the form of either:

(1) A bond in accordance with division (B) of this section for the full amount of the bid;

(2) A certified check, cashier's check, or letter of credit pursuant to Chapter 1305. of the Revised Code, in accordance with division (C) of this section. Any such letter of credit is revocable only at the option of the beneficiary state, political subdivision, district, institution, or agency. The amount of the certified check, cashier's check, or letter of credit shall be equal to ten per cent of the bid.

(B) A bid guaranty filed pursuant to division (A)(1) of this section shall be conditioned to:

(1) Provide that, if the bid is accepted, the bidder, after the awarding or the recommendation for the award of the contract, whichever the contracting authority designates, will enter into a proper contract in accordance with the bid, plans, details, and specifications~~, and bills of material~~. If for any reason, other than as authorized by section 9.31 of the Revised Code or division (G) of this section, the bidder fails to enter into the contract, and the contracting authority awards the contract to the next lowest bidder, the bidder and the surety on the bidder's bond are liable to the state, political subdivision, district, institution, or agency for the difference between the bid and that of the next lowest bidder, or for a penal sum not to exceed ten per cent of the amount of the bond, whichever is less. If the state, political subdivision, district, institution, or agency does not award the contract to the next lowest bidder but resubmits the project for bidding, the bidder failing to enter into the contract and the surety on the bidder's bond, except as provided in division (G) of this section, are liable to the state, political subdivision, district, institution, or agency for a penal sum not to exceed ten per cent of the amount of the bid or the costs in connection with the resubmission of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less.

(2) Indemnify the state, political subdivision, district, institution, or agency against all damage suffered by failure to perform the contract

according to its provisions and in accordance with the plans, details, and specifications~~, and bills of material~~ therefor and to pay all lawful claims of subcontractors, material suppliers, and laborers for labor performed or material furnished in carrying forward, performing, or completing the contract; and agree and assent that this undertaking is for the benefit of any subcontractor, material supplier, or laborer having a just claim, as well as for the state, political subdivision, district, institution, or agency.

(C)(1) A bid guaranty filed pursuant to division (A)(2) of this section shall be conditioned to provide that if the bid is accepted, the bidder, after the awarding or the recommendation for the award of the contract, whichever the contracting authority designates, will enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material. If for any reason, other than as authorized by section 9.31 of the Revised Code or division (G) of this section, the bidder fails to enter into the contract, and the contracting authority awards the contract to the next lowest bidder, the bidder is liable to the state, political subdivision, district, institution, or agency for the difference between the bidder's bid and that of the next lowest bidder, or for a penal sum not to exceed ten per cent of the amount of the bid, whichever is less. If the state, political subdivision, district, institution, or agency does not award the contract to the next lowest bidder but resubmits the project for bidding, the bidder failing to enter into the contract, except as provided in division (G) of this section, is liable to the state, political subdivision, district, institution, or agency for a penal sum not to exceed ten per cent of the amount of the bid or the costs in connection with the resubmission, of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less.

If the bidder enters into the contract, the bidder, at the time the contract is entered to, shall file a bond for the amount of the contract to indemnify the state, political subdivision, district, institution, or agency against all damage suffered by failure to perform the contract according to its provisions and in accordance with the plans, details, and specifications~~, and bills of material therefor~~ and to pay all lawful claims of subcontractors, material suppliers, and laborers for labor performed or material furnished in carrying forward, performing, or completing the contract; and agree and assent that this undertaking is for the benefit of any subcontractor, material supplier, or laborer having a just claim, as well as for the state, political subdivision, district, institution, or agency.

(2) A construction manager who enters into a contract pursuant to sections 9.33 to 9.333 of the Revised Code, if required by the public ~~owner~~

authority at the time the construction manager enters into the contract, shall file a letter of credit pursuant to Chapter 1305. of the Revised Code, bond, certified check, or cashier's check, for the value of the construction management contract to indemnify the state, political subdivision, district, institution, or agency against all damage suffered by the construction manager's failure to perform the contract according to its provisions, and shall agree and assent that this undertaking is for the benefit of the state, political subdivision, district, institution, or agency. A letter of credit provided by the construction manager is revocable only at the option of the beneficiary state, political subdivision, district, institution, or agency.

(D) Where the state, political subdivision, district, institution, or agency accepts a bid but the bidder fails or refuses to enter into a proper contract in accordance with the bid, plans, details, and specifications~~, and bills of material~~ within ten days after the awarding of the contract, the bidder and the surety on any bond, except as provided in division (G) of this section, are liable for the amount of the difference between the bidder's bid and that of the next lowest bidder, but not in excess of the liability specified in division (B)(1) or (C) of this section. Where the state, political subdivision, district, institution, or agency then awards the bid to such next lowest bidder and such next lowest bidder also fails or refuses to enter into a proper contract in accordance with the bid, plans, details, and specifications~~, and bills of material~~ within ten days after the awarding of the contract, the liability of such next lowest bidder, except as provided in division (G) of this section, is the amount of the difference between the bids of such next lowest bidder and the third lowest bidder, but not in excess of the liability specified in division (B)(1) or (C) of this section. Liability on account of an award to any lowest bidder beyond the third lowest bidder shall be determined in like manner.

(E) Notwithstanding division (C) of this section, where the state, political subdivision, district, institution, or agency resubmits the project for bidding, each bidder whose bid was accepted but who failed or refused to enter into a proper contract, except as provided in division (G) of this section, is liable for an equal share of a penal sum in connection with the resubmission, of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, but no bidder's liability shall exceed the amount of the bidder's bid guaranty.

(F) All bid guaranties filed pursuant to this section shall be payable to the state, political subdivision, district, institution, or agency, be for the benefit of the state, political subdivision, district, institution, or agency or any person having a right of action thereon, and be deposited with, and held

by, the board, officer, or agent contracting on behalf of the state, political subdivision, district, institution, or agency. All bonds filed pursuant to this section shall be issued by a surety company authorized to do business in this state as surety approved by the board, officer, or agent awarding the contract on behalf of the state, political subdivision, district, institution, or agency.

(G) A bidder for a contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the Ohio department of transportation, for a public improvement costing less than one-half million dollars may withdraw the bid from consideration if the bidder's bid for some other contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the department of transportation, for the public improvement costing less than one-half million dollars has already been accepted, if the bidder certifies in good faith that the total amount of all the bidder's current contracts is less than one-half million dollars, and if the surety certifies in good faith that the bidder is unable to perform the subsequent contract because to do so would exceed the bidder's bonding capacity. If a bid is withdrawn under authority of this division, the contracting authority may award the contract to the next lowest bidder or reject all bids and resubmit the project for bidding, and neither the bidder nor the surety on the bidder's bond are liable for the difference between the bidder's bid and that of the next lowest bidder, for a penal sum, or for the costs of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders.

(H) Bid guaranties filed pursuant to division (A) of this section shall be returned to all unsuccessful bidders immediately after the contract is executed. The bid guaranty filed pursuant to division (A)(2) of this section shall be returned to the successful bidder upon filing of the bond required in division (C) of this section.

(I) For the purposes of this section, "next lowest bidder" means, in the case of a political subdivision that has adopted the model Ohio and United States preference requirements promulgated pursuant to division (E) of section 125.11 of the Revised Code, the next lowest bidder that qualifies under those preference requirements.

(J) For the purposes of this section and sections 153.56, 153.57, and 153.571 of the Revised Code, "public improvement," "subcontractor," "material supplier," "laborer," and "materials" have the same meanings as in section 1311.25 of the Revised Code.

Sec. 153.55. (A) For purposes of calculating the amount of a public improvement project to determine whether it is subject to section 153.01 of

the Revised Code, no officer, board, or other authority of the state or any institution supported by the state shall subdivide a public improvement project into component parts or separate projects in order to avoid the threshold of that section, unless the component parts or separate projects thus created are conceptually separate and unrelated to each other, or encompass independent or unrelated needs.

(B) In calculating the project amount for purposes of the threshold in section 153.01 of the Revised Code, the following expenses shall be included as costs of the project:

(1) Professional fees and expenses for services associated with the preparation of plans;

(2) Permit costs, testing costs, and other fees associated with the work;

(3) Project construction costs;

(4) A contingency reserve fund.

Sec. 153.56. (A) Any person to whom any money is due for labor or work performed or materials furnished in a public improvement as provided in section 153.54 of the Revised Code, at any time after performing the labor or work or furnishing the materials, but not later than ninety days after the completion of the contract by the principal contractor or design-build firm and the acceptance of the public improvement for which the bond was provided by the duly authorized board or officer, shall furnish the sureties on the bond, a statement of the amount due to the person.

(B) A suit shall not be brought against sureties on the bond until after sixty days after the furnishing of the statement described in division (A) of this section. If the indebtedness is not paid in full at the expiration of that sixty days, and if the person complies with division (C) of this section, the person may bring an action in the person's own name upon the bond, as provided in sections 2307.06 and 2307.07 of the Revised Code, that action to be commenced, notwithstanding section 2305.12 of the Revised Code, not later than one year from the date of acceptance of the public improvement for which the bond was provided.

(C) To exercise rights under this section, a subcontractor or materials supplier supplying labor or materials that cost more than thirty thousand dollars, who is not in direct privity of contract with the principal contractor or design-build firm for the public improvement, shall serve a notice of furnishing upon the principal contractor or design-build firm in the form provided in section 1311.261 of the Revised Code.

(D) A subcontractor or materials supplier who serves a notice of furnishing under division (C) of this section as required to exercise rights under this section has the right of recovery only as to amounts owed for

labor and work performed and materials furnished during and after the twenty-one days immediately preceding service of the notice of furnishing.

(E) For purposes of this section~~, "principal~~:

(1) "Design-build firm" has the same meaning as in section 153.65 of the Revised Code.

(2) "Principal contractor" has the same meaning as in section 1311.25 of the Revised Code, and may include a "construction manager" and a "construction manager at risk" as defined in section 9.33 of the Revised Code.

Sec. 153.581. As used in sections 153.581 and 153.591 of the Revised Code:

(A) "Public works contract" means any contract awarded by a contracting authority for the construction, engineering, alteration, or repair of any public building, public highway, or other public work.

(B) "Contracting authority" means the state, any township, county, municipal corporation, school board, or other governmental entity empowered to award a public works contract, and any construction manager at risk as defined in section 9.33 of the Revised Code or design-build firm as defined in section 153.65 of the Revised Code awarding a subcontract.

(C) "Contractor" means any person, partnership, corporation, or association that has been awarded a public works contract.

Sec. 153.65. As used in sections 153.65 to ~~153.71~~ 153.73 of the Revised Code:

(A)(1) "Public authority" means the state, a state institution of higher education as defined in section 3345.011 of the Revised Code, a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special purpose district of the state or of a ~~county, township, municipal corporation, school district, or other~~ political subdivision.

(2) "Public authority" does not include the Ohio turnpike commission.

(B) "Professional design firm" means any person legally engaged in rendering professional design services.

(C) "Professional design services" means services within the scope of practice of an architect or landscape architect registered under Chapter 4703. of the Revised Code or a professional engineer or surveyor registered under Chapter 4733. of the Revised Code.

(D) "Qualifications" means all of the following:

(1) ~~Competence of the~~ (a) For a professional design firm, competence to perform the required professional design services as indicated by the

technical training, education, and experience of the firm's personnel, especially the technical training, education, and experience of the employees within the firm who would be assigned to perform the services;

(b) For a design-build firm, competence to perform the required design-build services as indicated by the technical training, education, and experience of the design-build firm's personnel and key consultants, especially the technical training, education, and experience of the employees and consultants of the design-build firm who would be assigned to perform the services, including the proposed architect or engineer of record.

(2) Ability of the firm in terms of its workload and the availability of qualified personnel, equipment, and facilities to perform the required professional design services or design-build services competently and expeditiously;

(3) Past performance of the firm as reflected by the evaluations of previous clients with respect to such factors as control of costs, quality of work, and meeting of deadlines;

(4) Any other relevant factors as determined by the public authority;

(5) With respect to a design-build firm, compliance with sections 4703.182, 4703.332, and 4733.16 of the Revised Code, including the use of a licensed design professional for all design services.

(E) "Design-build contract" means a contract between a public authority and another person that obligates the person to provide design-build services.

(F) "Design-build firm" means a person capable of providing design-build services.

(G) "Design-build services" means services that form an integrated delivery system for which a person is responsible to a public authority for both the design and construction, demolition, alteration, repair, or reconstruction of a public improvement.

(H) "Architect or engineer of record" means the architect or engineer that serves as the final signatory on the plans and specifications for the design-build project.

(I) "Criteria architect or engineer" means the architect or engineer retained by a public authority to prepare conceptual plans and specifications, to assist the public authority in connection with the establishment of the design criteria for a design-build project, and, if requested by the public authority, to serve as the representative of the public authority and provide, during the design-build project, other design and construction administration services on behalf of the public authority, including but not limited to, confirming that the design prepared by the design-build firm reflects the

original design intent established in the design criteria package.

(J) "Open book pricing method" means a method in which a design-build firm provides the public authority, at the public authority's request, all books, records, documents, contracts, subcontracts, purchase orders, and other data in its possession pertaining to the bidding, pricing, or performance of a contract for design-build services awarded to the design-build firm.

Sec. 153.66. (A) Each public authority planning to contract for professional design services or design-build services shall encourage professional design firms and design-build firms to submit a statement of qualifications and update the statements at regular intervals.

(B) Notwithstanding any contrary requirements in sections 153.65 to 153.70 of the Revised Code, for every design-build contract, each public authority planning to contract for design-build services shall evaluate the statements of qualifications submitted by design-build firms for the project, including the qualifications of the design-build firm's proposed architect or engineer of record, in consultation with the criteria architect or engineer before selecting a design-build firm pursuant to section 153.693 of the Revised Code.

Sec. 153.67. Each public authority planning to contract for professional design services or design-build services shall publicly announce all contracts available from it for such services. The announcements shall:

(A) Be made in a uniform and consistent manner and shall be made sufficiently in advance of the time that responses must be received from qualified professional design firms or design-build firms for the firms to have an adequate opportunity to submit a statement of interest in the project;

(B) Include a general description of the project, a statement of the specific professional design services or design-build services required, and a description of the qualifications required for the project;

(C) Indicate how qualified professional design firms or design-build firms may submit statements of qualifications in order to be considered for a contract to design or design-build the project;

(D) Be sent to ~~either~~ any of the following that the public authority considers appropriate:

(1) ~~Each professional design firm that has a current statement of qualifications on file with the public authority and is qualified to perform the required professional design services~~ Design-build firms, including contractors or other entities that seek to perform the work as a design-build firm;

(2) Architect, landscape architect, engineer, and surveyor ~~trade~~

associations~~, the~~;

(3) The news media~~, and any~~;

(4) Any publications or other public media ~~that the public authority considers appropriate~~, including electronic media.

Sec. 153.69. For every professional design services contract, each public authority planning to contract for professional design services shall evaluate the statements of qualifications ~~of professional design firms currently on file, together with those that are~~ submitted by ~~other~~ professional design firms specifically regarding the project, and may hold discussions with individual firms to explore further the firms' statements of qualifications, the scope and nature of the services the firms would provide, and the various technical approaches the firms may take toward the project. Following this evaluation, the public authority shall:

(A) Select and rank no fewer than three firms which it considers to be the most qualified to provide the required professional design services, except when the public authority determines in writing that fewer than three qualified firms are available in which case the public authority shall select and rank those firms;

(B) Negotiate a contract with the firm ranked most qualified to perform the required services at a compensation determined in writing to be fair and reasonable to the public authority. Contract negotiations shall be directed toward:

(1) Ensuring that the professional design firm and the agency have a mutual understanding of the essential requirements involved in providing the required services;

(2) Determining that the firm will make available the necessary personnel, equipment, and facilities to perform the services within the required time;

(3) Agreeing upon compensation which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the services.

(C) If a contract is negotiated with the firm ranked to perform the required services most qualified, the public authority shall, if applicable under section 127.16 of the Revised Code, request approval of the board to make expenditures under the contract.

(D) Upon failure to negotiate a contract with the firm ranked most qualified, the public authority shall inform the firm in writing of the termination of negotiations and may enter into negotiations with the firm ranked next most qualified. If negotiations again fail, the same procedure ~~shall~~ may be followed with each next most qualified firm selected and

ranked pursuant to division (A) of this section, in order of ranking, until a contract is negotiated.

(E) Should the public authority fail to negotiate a contract with any of the firms selected pursuant to division (A) of this section, the public authority ~~shall~~ may select and rank additional firms, based on their qualifications, and negotiations ~~shall~~ may continue as with the firms selected and ranked initially until a contract is negotiated.

(F) Nothing in this section affects a public authority's right to accept or reject any or all proposals in whole or in part.

Sec. 153.692. For every design-build contract, the public authority planning to contract for design-build services shall first obtain the services of a criteria architect or engineer by doing either of the following:

(A) Contracting for the services consistent with sections 153.65 to 153.70 of the Revised Code;

(B) Obtaining the services through an architect or engineer who is an employee of the public authority and notifying the department of administrative services before the services are performed.

Sec. 153.693. (A) For every design-build contract, the public authority planning to contract for design-build services, in consultation with the criteria architect or engineer, shall evaluate the statements of qualifications submitted by design-build firms specifically regarding the project, including the design-build firm's proposed architect or engineer of record. Following this evaluation, the public authority shall:

(1) Select and rank not fewer than three firms which it considers to be the most qualified to provide the required design-build services, except that the public authority shall select and rank fewer than three firms when the public authority determines in writing that fewer than three qualified firms are available;

(2) Provide each selected design-build firm with all of the following:

(a) A description of the project and project delivery;

(b) The design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;

(c) A preliminary project schedule;

(d) A description of any preconstruction services;

(e) A description of the proposed design services;

(f) A description of a guaranteed maximum price, including the estimated level of design on which such guaranteed maximum price is based;

(g) The form of the design-build services contract;

(h) A request for a pricing proposal that shall be divided into a design

services fee and a preconstruction and design-build services fee. The pricing proposal of each design-build firm shall include at least all of the following:

(i) A list of key personnel and consultants for the project;

(ii) Design concepts adhering to the design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;

(iii) The design-build firm's statement of general conditions and estimated contingency requirements;

(iv) A preliminary project schedule.

(3) Evaluate the pricing proposal submitted by each selected firm and, at its discretion, hold discussions with each firm to further investigate its pricing proposal, including the scope and nature of the firm's proposed services and potential technical approaches;

(4) Rank the selected firms based on the public authority's evaluation of the value of each firm's pricing proposal, with such evaluation considering each firm's proposed costs and qualifications;

(5) Enter into contract negotiations for design-build services with the design-build firm whose pricing proposal the public authority determines to be the best value under this section.

(B) In complying with division (A)(5) of this section, contract negotiations shall be directed toward:

(1) Ensuring that the design-build firm and the public authority mutually understand the essential requirements involved in providing the required design-build services, the provisions for the use of contingency funds, and the terms of the contract, including terms related to the possible distribution of savings in the final costs of the project;

(2) Ensuring that the design-build firm shall be able to provide the necessary personnel, equipment, and facilities to perform the design-build services within the time required by the design-build construction contract;

(3) Agreeing upon a procedure and schedule for determining a guaranteed maximum price using an open book pricing method that shall represent the total maximum amount to be paid by the public authority to the design-build firm for the project and that shall include the costs of all work, the cost of its general conditions, the contingency, and the fee payable to the design-build firm.

(C) If the public authority fails to negotiate a contract with the design-build firm whose pricing proposal the public authority determines to be the best value as determined under this section, the public authority shall inform the design-build firm in writing of the termination of negotiations. The public authority may then do the following:

(1) Negotiate a contract with a design-build firm ranked next highest

under this section following the negotiation procedure described in this section;

(2) If negotiations fail with the design-build firm under division (C)(1) of this section, negotiate a contract with the design-build firm ranked next highest under this section following the negotiation procedure described in this section and continue negotiating with the design-build firms selected under this section in the order of their ranking until a contract is negotiated.

(D) If the public authority fails to negotiate a contract with a design-build firm whose pricing proposal the public authority determines to be the best value as determined under this section, it may select additional design-build firms to provide pricing proposals to the public authority pursuant to this section or may select an alternative delivery method for the project.

(E) The public authority may provide a stipend for pricing proposals received from design-build firms.

(F) Nothing in this section affects a public authority's right to accept or reject any or all proposals in whole or in part.

Sec. 153.694. If a professional design firm selected as the criteria architect or engineer creates the preliminary criteria and design criteria for a project and provides professional design services to a public authority to assist that public authority in evaluating the design-build requirements provided to the public authority by a design-build firm pursuant to section 153.692 of the Revised Code, that professional design firm shall not provide any design-build services pursuant to the design-build contract under section 153.693 of the Revised Code for the project for which the professional design firm was selected as the criteria architect or engineer.

Sec. 153.70. (A) Except for any person providing professional design services of a research or training nature, any person rendering professional design services to a public authority or to a design-build firm, including a criteria architect or engineer and person performing architect or engineer of record services, shall have and maintain, or be covered by, during the period the services are rendered, a professional liability insurance policy or policies with a company or companies that are authorized to do business in this state and that afford professional liability coverage for the professional design services rendered. The insurance shall be in amount considered sufficient by the public authority. At the public authority's discretion, the design-build firm shall carry contractor's professional liability insurance and any other insurance the public authority considers appropriate.

(B) The requirement for professional liability insurance set forth in division (A) of this section may be waived by the public authority for good

cause, or the public authority may allow the person providing the professional design services to provide other assurances of financial responsibility.

(C) Before construction begins pursuant to a contract for design-build services with a design-build firm, the design-build firm shall provide a surety bond to the public authority in accordance with rules adopted by the director of administrative services under Chapter 119. of the Revised Code.

Sec. 153.71. Any public authority planning to contract for professional design services or design-build services may adopt, amend, or rescind rules, in accordance with Chapter 119. of the Revised Code, to implement sections 153.66 to 153.70 of the Revised Code. Sections 153.66 to 153.70 of the Revised Code do not apply to ~~any~~ either of the following:

(A) Any project with an estimated professional design fee of less than ~~twenty-five~~ fifty thousand dollars~~;~~ if both of the following requirements are met:

(1) The public authority selects a single design professional or firm from among those that have submitted a current statement of qualifications within the immediately preceding year, as provided under section 153.68 of the Revised Code, based on the public authority's determination that the selected design professional or firm is the most qualified to provide the required professional design services;

(2) The public authority and the selected design professional or firm comply with division (B) of section 153.69 of the Revised Code with respect to the negotiation of a contract.

(B) Any project determined in writing by the public authority head to be an emergency requiring immediate action including, but not limited to, any projects requiring multiple contracts let as part of a program requiring a large number of professional design firms of the same type~~;~~

~~(C) Any public authority that is not empowered by law to contract for professional design services.~~

Sec. 153.72. A design-build firm contracted for design-build services by a public authority may do either of the following:

(A) Perform design, construction, demolition, alteration, repair, or reconstruction work pursuant to such contract;

(B) Perform professional design services when contracted by a public authority for design-build services even if the design-build firm is not a professional design firm.

Sec. 153.73. The requirements set forth in sections 153.65 to 153.72 of the Revised Code for the bidding, selection, and award of a contract for professional design services or design-build services by a public authority

prevail in the event of any conflict with any other provision of this chapter.

Sec. 153.80. (A) A contract for the construction, demolition, alteration, repair, or reconstruction of a public improvement entered into on or after ~~the effective date of this section~~ April 16, 1993, shall be deemed to include the provisions contained in division (B) of this section.

(B)(1) In regard to any bond filed by the contractor for the work contracted, the contracting authority, in its sole discretion, may reduce the bond required by twenty-five per cent of the total amount of the bond after at least fifty per cent of the work contracted for has been completed and by fifty per cent after at least seventy-five per cent of the work contracted for has been completed provided that all of the following conditions are met:

(a) The contracting authority determines that the percentage of the work that has been completed at the time of determination has been satisfactorily performed and meets the terms of the contract, including a provision in regard to the time when the whole or any specified portion of work contemplated in the contract must be completed;

(b) The contracting authority determines that no disputed claim caused by the contractor exists or remains unresolved;

(c) The successful bid upon which the contract is based was not more than ten per cent below the next lowest bid or not more than ten per cent below a cost estimate for the work as published by the contracting authority.

(2) In regard to the amount of any funds retained, the contracting authority, in its sole discretion, may reduce the amount of funds retained pursuant to ~~section~~ sections 153.12 and 153.14 of the Revised Code for the faithful performance of work by fifty per cent of the amount of funds required to be retained pursuant to those sections, provided that the surety on the bond remains liable for all of the following that are caused due to default by the contractor:

(a) Completion of the job;

(b) All delay claims;

(c) All liquidated damages;

(d) All additional expenses incurred by the contracting authority.

(C) As used in this section:

(1) "Contracting authority" means an officer, board, or other authority of the state, a county, township, municipal corporation, or school district, or of any other political subdivision of the state, authorized to contract for the construction, demolition, alteration, repair, or reconstruction of a public improvement, and any construction manager at risk as defined in section 9.33 of the Revised Code or design-build firm as defined in section 153.65 of the Revised Code awarding a subcontract, but does not include an officer,

board, or other authority of the department of transportation.

(2) "Delay claim" means a claim that arises due to default on provisions in a contract in regard to the time when the whole or any specified portion of work contemplated in the contract must be completed.

Sec. 154.02. (A) Pursuant to the provisions of Chapter 154. of the Revised Code, the issuing authority may issue obligations as from time to time authorized by or pursuant to act or resolution of the general assembly, consistent with such limitations thereon, subject to section 154.12 of the Revised Code, as the general assembly may thereby prescribe as to principal amount, bond service charges, or otherwise, and shall cause the proceeds thereof to be applied to those capital facilities designated by or pursuant to act of the general assembly for any of the following:

(1) Mental hygiene and retardation, including housing for mental hygiene and retardation patients under Section 16 of Article VIII, Ohio Constitution;

(2) State supported and assisted institutions of higher education, including community or technical ~~education~~ colleges;

(3) Parks and recreation;

(4) Ohio cultural facilities;

(5) Ohio sports facilities;

(6) Housing of branches and agencies of state government.

(B) The authority provided by Chapter 154. of the Revised Code is in addition to any other authority provided by law for the same or similar purposes, except as may otherwise specifically be provided in Chapter 154. of the Revised Code. In case any section or provision of Chapter 154. of the Revised Code or in case any covenant, stipulation, obligation, resolution, trust agreement, indenture, lease agreement, act, or action, or part thereof, made, assumed, entered into, or taken under Chapter 154. of the Revised Code, or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect the remainder thereof or any other section or provision of Chapter 154. of the Revised Code or any other covenant, stipulation, obligation, resolution, trust agreement, indenture, lease, agreement, act, or action, or part thereof, made, assumed, entered into, or taken under such chapter, which shall be construed and enforced as if such illegal or invalid portion were not contained therein, nor shall such illegality or invalidity or any application thereof affect any legal and valid application thereof, and each such section, provision, covenant, stipulation, obligation, resolution, trust agreement, indenture, lease, agreement, act, or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent

permitted by law.

Sec. 154.07. For the respective purposes provided in sections 154.20, 154.21, 154.22, ~~and~~ 154.23, 154.24, and 154.25 of the Revised Code, the issuing authority may issue obligations of the state of Ohio as provided in Chapter 154. of the Revised Code, provided that the holders or owners of obligations shall have no right to have excises or taxes levied by the general assembly for the payment of the bond service charges. The right of holders and owners to payment of bond service charges shall be limited to the revenues or receipts and funds pledged thereto in accordance with Chapter 154. of the Revised Code, and each obligation shall bear on its face a statement to that effect. Chapter 154. of the Revised Code does not permit, and no provision of that chapter shall be applied to authorize or grant, a pledge of charges for the treatment or care of mental hygiene and retardation patients to bond service charges on obligations other than those issued for capital facilities for mental hygiene and retardation, or a pledge of any receipts of or on behalf of state supported or state assisted institutions of higher education to bond service charges on obligations other than those issued for capital facilities for state supported or state assisted institutions of higher education, or a pledge of receipts with respect to parks and recreation to bond service charges on obligations other than those issued for capital facilities for parks and recreation, or a pledge of revenues or receipts received by or on behalf of any state agency to bond service charges on obligations other than those issued for capital facilities which are in whole or in part useful to, constructed by, or financed by the state agency that receives the revenues or receipts so pledged.

Sec. 154.11. The issuing authority may authorize and issue obligations for the refunding, including funding and retirement, of any obligations previously issued under this chapter and any bonds or notes previously issued under Chapter 152. of the Revised Code ~~to pay costs of capital facilities leased to the Ohio cultural facilities commission, formerly known as the Ohio arts and sports facilities commission~~. Such obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums thereon, principal maturities of any such obligations maturing prior to the redemption of the remaining obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations, and any expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of obligations issued under this section to be applied to bond service charges on the prior obligations shall

be credited to the bond service fund for those prior obligations. Obligations authorized under this section shall be deemed to be issued for those purposes for which those prior obligations were issued and are subject to the provisions of Chapter 154. of the Revised Code pertaining to other obligations, except as otherwise indicated by this section and except for division (A) of section 154.02 of the Revised Code, provided that, unless otherwise authorized by the general assembly, any limitations imposed by the general assembly pursuant to that division with respect to bond service charges applicable to the prior obligations shall be applicable to the obligations issued under this section to refund, fund, or retire those prior obligations.

Sec. 154.24. (A) In addition to the definitions provided in section 154.01 of the Revised Code:

(1) "Capital facilities" includes, for purposes of this section, storage and parking facilities related to such capital facilities.

(2) "Costs of capital facilities" includes, for purposes of this section, the costs of assessing, planning, and altering capital facilities, and the financing thereof, all related direct administrative expenses and allocable portions of direct costs of lessee state agencies, and all other expenses necessary or incident to the assessment, planning, alteration, maintenance, equipment, or furnishing of capital facilities and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(3) "Governmental agency" includes, for purposes of this section, any state of the United States or any department, division, or agency of any state.

(4) "State agency" includes, for purposes of this section, branches, authorities, courts, the general assembly, counties, municipal corporations, and any other governmental entities of this state that enter into leases with the commission pursuant to this section or that are designated by law as state agencies for the purpose of performing a state function that is to be housed by a capital facility for which the issuing authority is authorized to issue revenue obligations pursuant to this section.

(B) Subject to authorization by the general assembly under section 154.02 of the Revised Code, the issuing authority may issue obligations pursuant to this chapter to pay costs of capital facilities for housing branches and agencies of state government, including capital facilities for the purpose of housing personnel, equipment, or functions, or any combination thereof that a state agency is responsible for housing, including obligations to pay the costs of capital facilities described in section 307.021 of the Revised

Code, and the costs of capital facilities in which one or more state agencies are participating with the federal government, municipal corporations, counties, or other governmental entities, or any one or more of them, and in which that portion of the facility allocated to the participating state agencies is to be used for the purpose of housing branches and agencies of state government including housing personnel, equipment, or functions, or any combination thereof. Such participation may be by grants, loans, or contributions to other participating governmental agencies for any of those capital facilities.

(C) The commission may lease any capital facilities for housing branches and agencies of state government to, and make or provide for other agreements with respect to the use or purchase of such capital facilities with, any state agency or governmental agency having authority under law to operate such capital facilities.

(D)(1) For purposes of this division, "available receipts" means fees, charges, revenues, grants, subsidies, income from the investment of moneys, proceeds from the sale of goods or services, and all other revenues or receipts derived from the operation, leasing, or other disposition of capital facilities financed with obligations issued under this section or received by or on behalf of any state agency for which capital facilities are financed with obligations issued under this section or any state agency participating in or by which the capital facilities are constructed or financed; the proceeds of obligations issued under this section and sections 154.11 or 154.12 of the Revised Code; and any moneys appropriated by a governmental agency, and gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges on such obligations.

(2) The issuing authority may pledge all, or such portion as it determines, of the available receipts to the payment of bond service charges on obligations issued under this section and section 154.11 or 154.12 of the Revised Code and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to such available receipts as authorized by this chapter, which provisions shall be controlling notwithstanding any other provision of law pertaining thereto.

(E) There are hereby created in the custody of the treasurer of state, but separate and apart from and not a part of the state treasury, the administrative facilities bond service trust fund, the adult correctional facilities bond service trust fund, the juvenile correctional facilities bond service trust fund, and the public safety bond service trust fund. All money received by or on account of the issuing authority or the commission and

required by the applicable bond proceedings to be deposited, transferred, or credited to any of these funds, and all other money transferred or allocated to or received for the purposes of any of these funds, shall be deposited with the treasurer of state and credited to such fund, subject to applicable provisions of the bond proceedings, but without necessity for any act or appropriation. These bond service funds are trust funds and are hereby pledged to the payment of bond service charges on the applicable obligations issued pursuant to this section and section 154.11 or 154.12 of the Revised Code to the extent provided in the applicable bond proceedings, and payment thereof from such funds shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act or appropriation.

(F) There are hereby created in the state treasury the administrative building fund, the adult correctional building fund, the juvenile correctional building fund, and the public safety building fund. Subject to the bond proceedings therefor, the proceeds of the sale of obligations pursuant to this section shall be credited to the appropriate fund, except that any accrued interest shall be credited to the appropriate bond service trust fund created pursuant to this section. These funds may also consist of gifts, grants, appropriated money, and other sums and securities received to the credit of such fund. All investment earnings of each fund shall be credited to the fund. The funds shall be applied to pay the costs of capital facilities as defined in this section and set forth in the bond proceedings.

(G) This section is to be applied with other applicable provisions of this chapter.

Sec. 154.25. (A) As used in this section:

(1) "Available community or technical college receipts" means all money received by a community or technical college or community or technical college district, including income, revenues, and receipts from the operation, ownership, or control of facilities, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, the allocated state share of instruction as defined in section 3333.90 of the Revised Code, and the proceeds of the sale of obligations, including proceeds of obligations issued to refund obligations previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.

(2) "Community or technical college," "college," "community or technical college district," and "district" have the same meanings as in section 3333.90 of the Revised Code.

(3) "Community or technical college capital facilities" means auxiliary

facilities, education facilities, and housing and dining facilities, as those terms are defined in section 3345.12 of the Revised Code, to the extent permitted to be financed by the issuance of obligations under division (A)(2) of section 3357.112 of the Revised Code, that are authorized by sections 3354.121, 3357.112, and 3358.10 of the Revised Code to be financed by obligations issued by a community or technical college district, and for which the issuing authority is authorized to issue obligations pursuant to this section, and includes any one, part of, or any combination of the foregoing, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(4) "Cost of community or technical college capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing community or technical college capital facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with community or technical college capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the commission and the issuing authority, community or technical college or community or technical college district, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying agents for obligations, cost of issuance of obligations and financing costs and fees and expenses of financial advisers and consultants in connection therewith, interest on obligations from the date thereof to the time when interest is to be covered by available receipts or other sources other than proceeds of those obligations, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursements of all moneys advanced or applied by or borrowed from the community or technical college, community or technical college district, or others, from whatever source provided, including any temporary advances from state appropriations, for the payment of any item or items of cost of community or technical college facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to such facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling,

renovation, enlargement, improvement, equipment, and furnishing of community or technical college capital facilities, the financing thereof and the placing of them in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(5) "Capital facilities" includes community or technical college capital facilities.

(6) "Obligations" has the same meaning as in section 154.01 or 3345.12 of the Revised Code, as the context requires.

(B) The issuing authority is authorized to issue revenue obligations under Section 2i of Article VIII, Ohio Constitution, on behalf of a community or technical college district and shall cause the net proceeds thereof, after any deposits of accrued interest for the payment of bond service charges and after any deposit of all or such lesser portion as the issuing authority may direct of the premium received upon the sale of those obligations for the payment of the bond service charges, to be applied to the cost of community or technical college capital facilities, provided that the issuance of such obligations is subject to the execution of a written agreement in accordance with division (C) of section 3333.90 of the Revised Code for the withholding and depositing of funds otherwise due the district, or the college it operates, in respect of its allocated state share of instruction.

(C) The bond service charges and all other payments required to be made by the trust agreement or indenture securing the obligations shall be payable solely from available community or technical college receipts pledged thereto as provided in the resolution. The available community or technical college receipts pledged and thereafter received by the commission are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the authority, irrespective of whether those parties have notice thereof, and creates a perfected security interest for all purposes of Chapter 1309. of the Revised Code and a perfected lien for purposes of any real property interest, all without the necessity for separation or delivery of funds or for the filing or recording of the resolution, trust agreement, indenture, or other agreement by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available community or technical college receipts is effective and the money therefrom and thereof may be applied to the purposes for which pledged. Every pledge, and every covenant and agreement made with respect to the pledge, made in the resolution may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor,

for the further securing of the payment of the bond service charges, and all or any rights under any agreement or lease made under this section may be assigned for such purpose.

(D) This section is to be applied with other applicable provisions of this chapter.

Sec. 166.02. (A) The general assembly finds that many local areas throughout the state are experiencing economic stagnation or decline, and that the economic development programs provided for in this chapter will constitute deserved, necessary reinvestment by the state in those areas, materially contribute to their economic revitalization, and result in improving the economic welfare of all the people of the state. Accordingly, it is declared to be the public policy of the state, through the operations of this chapter and other applicable laws adopted pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible projects or assist and cooperate with any governmental agency in achieving such purpose.

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

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

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

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

(4) Subject to release thereof by the controlling board, from moneys in the facilities establishment fund acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, property, and convey or otherwise dispose of, or provide for the conveyance or disposition of, property so acquired or contracted to be

acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to and as the director determines to be appropriate to satisfy the objectives of sections 166.01 to 166.11 of the Revised Code;

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

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

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

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of this chapter;

(9) Adopt rules to implement any of the provisions of this chapter applicable to the director.

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

(D) Except as otherwise prescribed in this chapter, all expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under this chapter, shall be payable solely from, as appropriate, moneys in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, the research and development loan fund, the logistics and distribution infrastructure fund, the logistics and distribution infrastructure taxable bond fund, or moneys appropriated for such purpose by the general assembly. This chapter does not authorize the director or the issuing authority under section 166.08 of the Revised Code to incur bonded indebtedness of the state or any political subdivision thereof, or to obligate

or pledge moneys raised by taxation for the payment of any bonds or notes issued or guarantees made pursuant to this chapter.

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

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

Sec. 167.081. A regional council may enter into a contract that establishes a unit price for, and provides upon a per unit basis, materials, labor, services, overhead, profit, and associated expenses for the repair, enlargement, improvement, or demolition of a building or structure if the contract is awarded pursuant to a competitive bidding procedure of a county, municipal corporation, or township or a special district, school district, or other political subdivision that is a council member; a statewide consortium of which the council is a member; or a multistate consortium of which the council is a member.

A public notice requirement pertaining to the contract shall be considered as having been met if the public notice is given once a week for at least two consecutive weeks in a newspaper of general circulation within a county in this state in which the council has members and if the notice is posted on the council's internet web site for at least two consecutive weeks before the date specified for receiving bids.

A county, municipal corporation, or township and a special district, school district, or other political subdivision that is a council member may participate in a contract entered into under this section. Purchases under a contract entered into under this section are exempt from any competitive selection or bidding requirements otherwise required by law. A county, municipal corporation, or township or a special district, school district, or other political subdivision that is a member of the council is not entitled to participate in a contract entered into under this section if it has received bids for the same work under another contract, unless participation in a contract under this section will enable the member to obtain the same work, upon the same terms, conditions, and specifications, at a lower price.

Sec. 173.14. As used in sections 173.14 to 173.27 of the Revised Code:

(A)(1) Except as otherwise provided in division (A)(2) of this section, "long-term care facility" includes any residential facility that provides personal care services for more than twenty-four hours for two or more unrelated adults, including all of the following:

(a) A "nursing home," "residential care facility," or "home for the aging" as defined in section 3721.01 of the Revised Code;

(b) A facility authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e);

(c) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(d) An "adult care facility" as defined in section ~~3722.01~~ 5119.70 of the Revised Code;

(e) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans;

(f) An adult foster home certified under section ~~173.36~~ 5119.692 of the

Revised Code.

(2) "Long-term care facility" does not include a "residential facility" as defined in section 5119.22 of the Revised Code or a "residential facility" as defined in section 5123.19 of the Revised Code.

(B) "Resident" means a resident of a long-term care facility and, where appropriate, includes a prospective, previous, or deceased resident of a long-term care facility.

(C) "Community-based long-term care services" means health and social services provided to persons in their own homes or in community care settings, and includes any of the following:

(1) Case management;

(2) Home health care;

(3) Homemaker services;

(4) Chore services;

(5) Respite care;

(6) Adult day care;

(7) Home-delivered meals;

(8) Personal care;

(9) Physical, occupational, and speech therapy;

(10) Transportation;

(11) Any other health and social services provided to persons that allow them to retain their independence in their own homes or in community care settings.

(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.

(E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient.

(F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(G) "Regional long-term care ombudsperson program" means an entity, either public or private and nonprofit, designated as a regional long-term care ombudsperson program by the state long-term care ombudsperson.

(H) "Representative of the office of the state long-term care ombudsperson program" means the state long-term care ombudsperson or a member of the ombudsperson's staff, or a person certified as a representative of the office under section 173.21 of the Revised Code.

(I) "Area agency on aging" means an area agency on aging established under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C.A. 3001, as amended.

Sec. 173.21. (A) The office of the state long-term care ~~ombudsman~~ ombudsperson program, through the state long-term care ~~ombudsman~~ ombudsperson and the regional long-term care ~~ombudsman~~ ombudsperson programs, shall require each representative of the office to complete a training and certification program in accordance with this section and to meet the continuing education requirements established under this section.

(B) The department of aging shall adopt rules under Chapter 119. of the Revised Code specifying the content of training programs for representatives of the office of the state long-term care ~~ombudsman~~ ombudsperson program. Training for representatives other than those who are volunteers providing services through regional long-term care ~~ombudsman~~ ombudsperson programs shall include instruction regarding federal, state, and local laws, rules, and policies on long-term care facilities and community-based long-term care services; investigative techniques; and other topics considered relevant by the department and shall consist of the following:

(1) A minimum of forty clock hours of basic instruction, which shall be completed before the trainee is permitted to handle complaints without the supervision of a representative of the office certified under this section;

(2) An additional sixty clock hours of instruction, which shall be completed within the first fifteen months of employment;

(3) An internship of twenty clock hours, which shall be completed within the first twenty-four months of employment, including instruction in, and observation of, basic nursing care and long-term care provider operations and procedures. The internship shall be performed at a site that has been approved as an internship site by the state long-term care ~~ombudsman~~ ombudsperson.

(4) One of the following, which shall be completed within the first twenty-four months of employment:

(a) Observation of a survey conducted by the director of health to certify a facility to receive funds under sections 5111.20 to 5111.32 of the Revised Code;

(b) Observation of an inspection conducted by the director of mental health to license an adult care facility under section ~~3722.04~~ 5119.73 of the Revised Code.

(5) Any other training considered appropriate by the department.

(C) Persons who for a period of at least six months prior to June 11, 1990, served as ombudsmen through the long-term care ~~ombudsman~~ ombudsperson program established by the department of aging under division (M) of section 173.01 of the Revised Code shall not be required to

complete a training program. These persons and persons who complete a training program shall take an examination administered by the department of aging. On attainment of a passing score, the person shall be certified by the department as a representative of the office. The department shall issue the person an identification card, which the representative shall show at the request of any person with whom ~~he~~ the representative deals while performing ~~his~~ the representative's duties and which ~~he~~ shall ~~surrender~~ be surrendered at the time ~~he~~ the representative separates from the office.

(D) The state ~~ombudsman~~ ombudsperson and each regional program shall conduct training programs for volunteers on their respective staffs in accordance with the rules of the department of aging adopted under division (B) of this section. Training programs may be conducted that train volunteers to complete some, but not all, of the duties of a representative of the office. Each regional office shall bear the cost of training its representatives who are volunteers. On completion of a training program, the representative shall take an examination administered by the department of aging. On attainment of a passing score, ~~he~~ a volunteer shall be certified by the department as a representative authorized to perform services specified in the certification. The department shall issue an identification card, which the representative shall show at the request of any person with whom ~~he~~ the representative deals while performing ~~his~~ the representative's duties and which ~~he~~ shall ~~surrender~~ be surrendered at the time ~~he~~ the representative separates from the office. Except as a supervised part of a training program, no volunteer shall perform any duty unless he is certified as a representative having received appropriate training for that duty.

(E) The state ~~ombudsman~~ ombudsperson shall provide technical assistance to regional programs conducting training programs for volunteers and shall monitor the training programs.

(F) Prior to scheduling an observation of a certification survey or licensing inspection for purposes of division (B)(4) of this section, the state ~~ombudsman~~ ombudsperson shall obtain permission to have the survey or inspection observed from both the director of health and the long-term care facility at which the survey or inspection is to take place.

(G) The department of aging shall establish continuing education requirements for representatives of the office.

Sec. 173.26. (A) Each of the following facilities shall annually pay to the department of aging six dollars for each bed maintained by the facility for use by a resident during any part of the previous year:

(1) Nursing homes, residential care facilities, and homes for the aging as defined in section 3721.01 of the Revised Code;

(2) Facilities authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e);

(3) County homes and district homes operated pursuant to Chapter 5155. of the Revised Code;

(4) Adult care facilities as defined in section ~~3722.01~~ 5119.70 of the Revised Code;

(5) Facilities approved by the Veterans Administration under Section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.

The department shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish deadlines for payments required by this section. A facility that fails, within ninety days after the established deadline, to pay a payment required by this section shall be assessed at two times the original invoiced payment.

(B) All money collected under this section shall be deposited in the state treasury to the credit of the office of the state long-term care ombudsperson program fund, which is hereby created. Money credited to the fund shall be used solely to pay the costs of operating the regional long-term care ombudsperson programs.

(C) The state long-term care ombudsperson and the regional programs may solicit and receive contributions to support the operation of the office or a regional program, except that no contribution shall be solicited or accepted that would interfere with the independence or objectivity of the office or program.

Sec. 173.391. (A) The department of aging or its designee shall do all of the following in accordance with Chapter 119. of the Revised Code:

(1) Certify a person or government entity to provide community-based long-term care services under a program the department administers if the person or government entity satisfies the requirements for certification established by rules adopted under division (B) of this section and pays the fee, if any, established by rules adopted under division (G) of this section;

(2) When required to do so by rules adopted under division (B) of this section, take one or more of the following disciplinary actions against a person or government entity ~~issued a certificate~~ certified under division

(A)(1) of this section:

(a) Issue a written warning;

(b) Require the submission of a plan of correction or evidence of compliance with requirements identified by the department;

(c) Suspend referrals;

(d) Remove clients;

(e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid;

(f) Suspend the certification;

(g) Revoke the ~~certificate~~ certification;

~~(g)~~(h) Impose another sanction.

(3) ~~Hold~~ Except as provided in division (E) of this section, hold hearings when there is a dispute between the department or its designee and a person or government entity concerning actions the department or its designee takes ~~or does not take~~ regarding a decision not to certify the person or government entity under division (A)(1) of this section or a disciplinary action under division (A)~~(1) or~~ (2)~~(c)~~(e) to ~~(g)~~(h) of this section.

(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A)(2) of this section in individual situations. The rules shall establish procedures for all of the following:

(1) Ensuring that community-based long-term care agencies comply with section 173.394 of the Revised Code;

(2) Evaluating the services provided by the agencies to ensure that ~~they~~ the services are provided in a quality manner advantageous to the individual receiving the services;

(3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take;

(4) Determining what constitutes another sanction for purposes of division (A)(2)(h) of this section.

(C) The procedures established in rules adopted under division (B)(2) of this section shall require that all of the following be considered as part of an evaluation described in division (B)(2) of this section:

(1) The ~~service provider's~~ community-based long-term care agency's experience and financial responsibility;

(2) The ~~service provider's~~ agency's ability to comply with standards for the community-based long-term care services that the ~~provider~~ agency provides under a program the department administers;

(3) The ~~service provider's~~ agency's ability to meet the needs of the

individuals served;

(4) Any other factor the director considers relevant.

(D) The rules adopted under division (B)(3) of this section shall specify that the reasons disciplinary action may be taken under division (A)(2) of this section include good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct the director determines is injurious, or poses a threat, to the health or safety of individuals being served.

(E) Subject to division (F) of this section, the department is not required to hold hearings under division (A)(3) of this section if any of the following conditions apply:

(1) Rules adopted by the director of aging pursuant to this chapter require the community-based long-term care agency to be a party to a provider agreement; hold a license, certificate, or permit; or maintain a certification, any of which is required or issued by a state or federal government entity other than the department of aging, and either of the following is the case:

(a) The provider agreement has not been entered into or the license, certificate, permit, or certification has not been obtained or maintained.

(b) The provider agreement, license, certificate, permit, or certification has been denied, revoked, not renewed, or suspended or has been otherwise restricted.

(2) The agency's certification under this section has been denied, suspended, or revoked for any of the following reasons:

(a) A government entity of this state, other than the department of aging, has terminated or refused to renew any of the following held by, or has denied any of the following sought by, a community-based long-term care agency: a provider agreement, license, certificate, permit, or certification. Division (E)(2)(a) of this section applies regardless of whether the agency has entered into a provider agreement in, or holds a license, certificate, permit, or certification issued by, another state.

(b) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or has been convicted of, an offense materially related to the medicaid program.

(c) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or been convicted of, an offense listed in division (C)(1)(a) of section 173.394 of the Revised Code, but only if none of the personal character standards established by the department in rules adopted under division (F) of section 173.394 of the Revised Code apply.

(d) The United States department of health and human services has taken adverse action against the agency and that action impacts the agency's participation in the medicaid program.

(e) The agency has failed to enter into or renew a provider agreement with the PASSPORT administrative agency, as that term is defined in section 173.42 of the Revised Code, that administers programs on behalf of the department of aging in the region of the state in which the agency is certified to provide services.

(f) The agency has not billed or otherwise submitted a claim to the department for payment under the medicaid program in at least two years.

(g) The agency denied or failed to provide the department or its designee access to the agency's facilities during the agency's normal business hours for purposes of conducting an audit or structural compliance review.

(h) The agency has ceased doing business.

(i) The agency has voluntarily relinquished its certification for any reason.

(3) The agency's provider agreement with the department of job and family services has been suspended under division (C) of section 5111.031 of the Revised Code.

(4) The agency's provider agreement with the department of job and family services is denied or revoked because the agency or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section 5111.031 of the Revised Code.

(F) If the department does not hold hearings when any condition described in division (E) of this section applies, the department may send a notice to the agency describing a decision not to certify the agency under division (A)(1) of this section or the disciplinary action the department proposes to take under division (A)(2)(e) to (h) of this section. The notice shall be sent to the agency's address that is on record with the department and may be sent by regular mail.

(G) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee to be charged by the department of aging or its designee for certification issued under this section.

All fees collected by the department or its designee under this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used to pay for community-based long-term care services, administrative costs associated with community-based long-term care agency certification

under this section, and administrative costs related to the publication of the Ohio long-term care consumer guide.

Sec. 173.40. (A) As used in sections 173.40 to 173.402 of the Revised Code~~, "PASSPORT~~:

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"PASSPORT program" means the program created under this section.

"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the PASSPORT program.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) There is hereby created the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for individuals who are aged and disabled ~~medicaid recipients~~ and meet the program's applicable eligibility requirements. ~~The~~ Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component.

(C)(1) Unless the medicaid-funded component of the PASSPORT program is terminated under division (C)(2) of this section, all of the following apply:

(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code.

(b) The medicaid-funded component shall be operated as a separate medicaid waiver component~~, as defined in section 5111.85 of the Revised Code, until the United States secretary of health and human services approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code~~. ~~The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver. The department of aging shall administer the program through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. The~~

(c) For an individual to be eligible for the medicaid-funded component, the individual must be a medicaid recipient and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (C)(1)(d) of this section.

(d) The director of job and family services shall adopt rules under

section 5111.85 of the Revised Code and the director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the ~~program~~ medicaid-funded component.

(2) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the medicaid-funded component of the PASSPORT program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the PASSPORT program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.

(D)(1) The department of aging shall administer the state-funded component of the PASSPORT program. The state-funded component shall not be administered as part of the medicaid program.

(2) For an individual to be eligible for the state-funded component, the individual must meet one of the following requirements and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (D)(4) of this section:

(a) The individual must have been enrolled in the state-funded component on September 1, 1991, (as the state-funded component was authorized by uncodified law in effect at that time) and have had one or more applications for enrollment in the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) denied.

(b) The individual must have had the individual's enrollment in the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) terminated and the individual must still need the home and community-based services provided under the PASSPORT program to protect the individual's health and safety.

(c) The individual must have an application for the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the

financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component).

(3) An individual who is eligible for the state-funded component because the individual meets the requirement of division (D)(2)(c) of this section may participate in the component for not more than three months.

(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section.

Sec. 173.401. (A) As used in this section:

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the PASSPORT program.~~

(B) ~~The~~ Subject to division (C)(2) of section 173.40 of the Revised Code, the department shall establish a home first component of the PASSPORT program under which eligible individuals may be enrolled in the medicaid-funded component of the PASSPORT program in accordance with this section. An individual is eligible for the PASSPORT program's home first component if ~~all~~ both of the following apply:

(1) The individual ~~is~~ has been determined to be eligible for the medicaid-funded component of the PASSPORT program.

(2) ~~The individual is on the unified waiting list established under section 173.404 of the Revised Code.~~

~~(3)~~ At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the

individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual should be admitted to a nursing facility.

(C) Each month, each area agency on aging shall identify individuals residing in the area that the agency serves who are eligible for the home first component of the PASSPORT program. When an area agency on aging identifies such an individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would rather participate in the PASSPORT program than continue or begin to reside in a nursing facility. If the administrator determines that the PASSPORT program is appropriate for the individual and the individual would rather participate in the PASSPORT program than continue or begin to reside in a nursing facility, the administrator shall so notify the department of aging. On receipt of the notice from the administrator, the department shall approve the individual's enrollment in the medicaid-funded component of the PASSPORT program regardless of the unified waiting list established under section 173.404 of the Revised Code, unless the enrollment would cause the ~~PASSPORT program~~ component to exceed any limit on the number of individuals who may be enrolled in the ~~program~~ component as set by the United States secretary of health and human services in the PASSPORT waiver.

~~(D) Each quarter, the department of aging shall certify to the director of budget and management the estimated increase in costs of the PASSPORT program resulting from enrollment of individuals in the PASSPORT program pursuant to this section.~~

Sec. 173.403. ~~"Choices~~ (A) As used in this section:

"Choices program" means the program created under this section.

~~There~~ "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) Subject to division (C) of this section, there is hereby created the choices program. The program shall provide home and community-based services. ~~The choices program shall be operated as a separate medicaid waiver component, as defined in section 5111.85 of the Revised Code, until the United States secretary of health and human services approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code. The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver.~~ The department of aging shall administer the program through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. Subject to federal approval, the program shall be available statewide.

(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the choices program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the choices program should be terminated, the program shall cease to exist on a date the departments shall specify.

Sec. 173.404. (A) As used in this section:

(1) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program created under section 173.40 of the Revised Code;

(b) The choices program created under section 173.403 of the Revised Code;

(c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code.

(2) "PACE program" means the component of the medicaid program the

department of aging administers pursuant to section 173.50 of the Revised Code.

(B) ~~The~~ If the department of aging determines that there are insufficient funds to enroll all individuals who have applied and been determined eligible for department of aging-administered medicaid waiver components and the PACE program, the department ~~of aging~~ shall establish a unified waiting list for ~~department of aging-administered medicaid waiver~~ the components and ~~the PACE~~ program. Only individuals eligible for a department of aging-administered medicaid waiver component or the PACE program may be placed on the unified waiting list. An individual who may be enrolled in a department of aging-administered medicaid waiver component or the PACE program through a home first component established under section 173.401, 173.501, or 5111.894 of the Revised Code may be so enrolled without being placed on the unified waiting list.

Sec. 173.41. (A) The department of aging shall promote the development of a statewide aging and disabilities resource network through which older adults, adults with disabilities, and their caregivers are provided with both of the following:

(1) Information on any long-term care service options available to the individuals;

(2) Streamlined access to long-term care services, both publicly funded services and services available through private payment.

(B) Area agencies on aging shall establish the network throughout the state. In doing so, the agencies shall collaborate with centers for independent living and other locally funded organizations to establish a cost-effective and consumer-friendly network that builds on existing, local infrastructures of services that support consumers in their communities.

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the Revised Code:

(1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.

(2) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program created under section 173.40 of the Revised Code;

(b) The choices program created under section 173.403 of the Revised Code;

(c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code;

(d) Any other medicaid waiver component, as defined in section 5111.85 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the department of job and family services under section 5111.91 of the Revised Code.

(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following:

(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component;

(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section 5111.02 of the Revised Code:

(i) Home health services;

(ii) Private duty nursing services;

(iii) Durable medical equipment;

(iv) Services of a clinical nurse specialist;

(v) Services of a certified nurse practitioner.

(c) Services available to a participant of the PACE program.

(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.

(5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

(6) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(7) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.

(8) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.

(9) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.

(10) "Representative" means a person acting on behalf of an individual specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.

(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility or granted assistance in receiving home and community-based services covered by medicaid components the department of aging administers.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may have the program administered on a regional basis by one or more program administrators. The department and each program administrator shall administer the program in such a manner that all of the following are included:

(1) Coordination and collaboration with respect to all available funding sources for long-term care services;

(2) Assessments of individuals regarding their long-term care service needs;

(3) Assessments of individuals regarding their on-going eligibility for long-term care services;

(4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;

(5) Priorities for using available resources efficiently and effectively.

(D) The program's long-term care consultations shall be provided by individuals certified by the department under section 173.422 of the Revised Code.

(E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:

(1) The availability of any long-term care options open to the individual;

(2) Sources and methods of both public and private payment for long-term care services;

(3) Factors to consider when choosing among the available programs, services, and benefits;

(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family,

friends, and community.

(F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the Revised Code and may be provided concurrently with the assessment required under section 5111.204 of the Revised Code.

(G)(1) Unless an exemption specified in division (I) of this section is applicable, each of the following shall be provided with a long-term care consultation:

(a) An individual who applies or indicates an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for the individual's care in a nursing facility;

(b) An individual who requests a long-term care consultation;

(c) An individual identified by the department or a program administrator as being likely to benefit from a long-term care consultation.

(2) In addition to the individuals specified in division (G)(1) of this section, a long-term care consultation may be provided to a nursing facility resident regardless of the source of payment being used for the resident's care in the nursing facility.

(H)(1) Except as provided in division (H)(2) or (3) of this section, a long-term care consultation provided pursuant to division (G) of this section shall be provided as follows:

(a) If the individual for whom the consultation is being provided has applied for medicaid and the consultation is being provided concurrently with the assessment required under section 5111.204 of the Revised Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment.

(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or program administrator receives notice of the reason for which the consultation is to be provided pursuant to division (G) of this section.

(2) An individual or the individual's representative may request that a long-term care consultation be provided on a date that is later than the date required under division (H)(1)(a) or (b) of this section.

(3) If a long-term care consultation cannot be completed within the number of days required by division (H)(1) or (2) of this section, the department or program administrator may do any of the following:

(a) In the case of an individual specified in division (G)(1) of this

section, exempt the individual from the consultation pursuant to rules that may be adopted under division (L) of this section;

(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility;

(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable.

(I) An individual is not required to be provided a long-term care consultation under division (G)(1) of this section if any of the following apply:

(1) The department or program administrator has attempted to provide the consultation, but the individual or the individual's representative refuses to cooperate;

(2) The individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code;

(3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care facility licensed under ~~Chapter 3722.~~ sections 5119.70 to 5119.88 of the Revised Code, or an independent living arrangement;

(4) The individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) The individual is seeking admission to a facility that is not a nursing facility with a provider agreement under section 5111.22, 5111.671, or 5111.672 of the Revised Code;

(6) The individual is exempted from the long-term care consultation requirement by the department or the program administrator pursuant to rules that may be adopted under division (L) of this section.

(J) As part of the long-term care consultation program, the department or program administrator shall assist an individual or individual's representative in accessing all sources of care and services that are appropriate for the individual and for which the individual is eligible, including all available home and community-based services covered by medicaid components the department of aging administers. The assistance shall include providing for the conduct of assessments or other evaluations and the development of individualized plans of care or services under section 173.424 of the Revised Code.

(K) No nursing facility for which an operator has a provider agreement

under section 5111.22, 5111.671, or 5111.672 of the Revised Code shall admit any individual as a resident, unless the nursing facility has received evidence that a long-term care consultation has been completed for the individual or division (I) of this section is applicable to the individual.

(L) The director of aging may adopt any rules the director considers necessary for the implementation and administration of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and may specify any or all of the following:

(1) Procedures for providing long-term care consultations pursuant to this section;

(2) Information to be provided through long-term care consultations regarding long-term care services that are available;

(3) Criteria and procedures to be used to identify and recommend appropriate service options for an individual receiving a long-term care consultation;

(4) Criteria for exempting individuals from the long-term care consultation requirement;

(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;

(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation;

(7) A description of the types of information from a nursing facility that is needed under the long-term care consultation program to assist a resident with relocation from the facility;

(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services;

(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section.

(M) To assist the department and each program administrator with identifying individuals who are likely to benefit from a long-term care consultation, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code for purposes of the medicaid program. Except when prohibited by state or federal law, the department of health, department of job and family services, or nursing facility holding the data shall grant access to the data on receipt of the request from the department

of aging or program administrator.

(N)(1) The director of aging, after providing notice and an opportunity for a hearing, may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code for any of the following reasons:

(a) The nursing facility admits an individual, without evidence that a long-term care consultation has been provided, as required by this section;

(b) The nursing facility denies a person attempting to provide a long-term care consultation access to the facility or a resident of the facility;

(c) The nursing facility denies the department of aging or program administrator access to the facility or a resident of the facility, as the department or administrator considers necessary to administer the program.

(2) In accordance with section 5111.62 of the Revised Code, all fines collected under division (N)(1) of this section shall be deposited into the state treasury to the credit of the residents protection fund.

Sec. 173.45. As used in this section and in sections 173.46 to 173.49 of the Revised Code:

(A) "Adult care facility" has the same meaning as in section 5119.70 of the Revised Code.

(B) "Community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code.

(C) "Long-term care facility" means a nursing home or residential care facility.

~~(B)~~(D) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

~~(C)~~(E) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

Sec. 173.46. (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the internet. The guide may be developed as a continuation or modification of the guide published by the department prior to ~~the effective date of this section~~ September 29, 2005, under rules adopted under section 173.02 of the Revised Code.

(B) The Ohio long-term care consumer guide shall include information on each long-term care facility in this state. For each facility, the guide shall include the following information, as applicable to the facility:

(1) Information regarding the facility's compliance with state statutes

and rules and federal statutes and regulations;

(2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative;

(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code;

(4) Any other information the department specifies in rules adopted under section 173.49 of the Revised Code.

(C) The Ohio long-term care consumer guide may include information on adult care facilities and providers of community-based long-term care services. The department may adopt rules under section 173.49 of the Revised Code to specify the information to be included in the guide pursuant to this division.

Sec. 173.47. (A) For purposes of publishing the Ohio long-term care consumer guide, the department of aging shall conduct or provide for the conduct of an annual customer satisfaction survey of each long-term care facility. The results of the surveys may include information obtained from long-term care facility residents, their families, or both.

(B)~~(1) The department may charge fees for the conduct of annual customer satisfaction surveys. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with section 173.48 of the Revised Code.~~

~~(2) The fees charged under this section shall not exceed the following amounts:~~

~~(a) Four hundred dollars for the customer satisfaction survey of a long-term care facility that is a nursing home;~~

~~(b) Three hundred dollars for the customer satisfaction survey pertaining to a long-term care facility that is a residential care facility.~~

~~(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code.~~

~~(C)~~ Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey.

Sec. 173.48. (A)(1) The department of aging may charge annual fees to long-term care facilities for the publication of the Ohio long-term care consumer guide. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with division (B) of this section.

(2) The annual fees charged under this section shall not exceed the following amounts:

(a) Six hundred fifty dollars for each long-term care facility that is a nursing home;

(b) Three hundred dollars for each long-term care facility that is a residential care facility.

(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code.

(B) There is hereby created in the state treasury the long-term care consumer guide fund. Money collected from the fees charged for the ~~conduct of customer satisfaction surveys~~ publication of the Ohio long-term care consumer guide under division (A) of this section ~~173.47 of the Revised Code~~ shall be credited to the fund. The department ~~of aging~~ shall use money in the fund for costs associated with publishing the Ohio long-term care consumer guide, including, but not limited to, costs incurred in conducting or providing for the conduct of customer satisfaction surveys.

Sec. 173.501. (A) As used in this section:

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"PACE provider" has the same meaning as in 42 U.S.C. 1396u-4(a)(3).

(B) The department of aging shall establish a home first component of the PACE program under which eligible individuals may be enrolled in the PACE program in accordance with this section. An individual is eligible for the PACE program's home first component if ~~all~~ both of the following apply:

(1) The individual ~~is~~ has been determined to be eligible for the PACE program.

(2) ~~The individual is on the unified waiting list established under section 173.404 of the Revised Code.~~

~~(3)~~ At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PACE program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual is

to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual should be admitted to a nursing facility.

(C) Each month, the department of aging shall identify individuals who are eligible for the home first component of the PACE program. When the department identifies such an individual, the department shall notify the PACE provider serving the area in which the individual resides. The PACE provider shall determine whether the PACE program is appropriate for the individual and whether the individual would rather participate in the PACE program than continue or begin to reside in a nursing facility. If the PACE provider determines that the PACE program is appropriate for the individual and the individual would rather participate in the PACE program than continue or begin to reside in a nursing facility, the PACE provider shall so notify the department of aging. On receipt of the notice from the PACE provider, the department of aging shall approve the individual's enrollment in the PACE program in accordance with priorities established in rules adopted under section 173.50 of the Revised Code.

~~(D) Each quarter, the department of aging shall certify to the director of budget and management the estimated increase in costs of the PACE program resulting from enrollment of individuals in the PACE program pursuant to this section.~~

Sec. 183.30. ~~(A) Except as provided in division (C) of this section, no more than five per cent of the total disbursements, encumbrances, and obligations of the southern Ohio agricultural and community development foundation in a fiscal year shall be for administrative expenses of the foundation in the same fiscal year.~~

~~(B) Except as provided in division (C) of this section, no more than five per cent of the total disbursements, encumbrances, and obligations of the biomedical research and technology transfer trust fund in a fiscal year shall be for expenses relating to the administration of the trust fund by the third~~

~~frontier commission in the same fiscal year.~~

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

Payments may be made from the biomedical research and technology transfer trust fund for third frontier commission expenses related to the administration of awards made from the fund prior to the effective date of this section. No such payments shall be made after June 30, 2013.

Sec. 183.51. (A) As used in this section and in the applicable bond proceedings unless otherwise provided:

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

(2) "Bond service fund" means the bond service fund created in the bond proceedings for the obligations.

(3) "Capital facilities" means, as applicable, capital facilities or projects as referred to in section 151.03 or 151.04 of the Revised Code.

(4) "Consent decree" means the consent decree and final judgment entered November 25, 1998, in the court of common pleas of Franklin county, Ohio, as the same may be amended or supplemented from time to time.

(5) "Cost of capital facilities" has the same meaning as in section 151.01 of the Revised Code, as applicable.

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

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

(8) "Improvement fund" means, as applicable, the school building program assistance fund created in section 3318.25 of the Revised Code and the higher education improvement fund created in section 154.21 of the

Revised Code.

(9) "Issuing authority" means the buckeye tobacco settlement financing authority created in section 183.52 of the Revised Code.

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

(11) "Obligations" means bonds, notes, or other evidences of obligation of the issuing authority, including any appertaining interest coupons, issued by the issuing authority under this section and Section 2i of Article VIII, Ohio Constitution, for the purpose of providing funds to the state, in exchange for the assignment and sale described in division (B) of this section, for the purpose of paying costs of capital facilities for: (a) housing branches and agencies of state government limited to facilities for a system of common schools throughout the state and (b) state-supported or state-assisted institutions of higher education.

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

(a) Pledged tobacco settlement receipts;

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

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

(d) Additional or any other specific revenues or receipts lawfully available to be pledged, and pledged, pursuant to the bond proceedings, including but not limited to amounts received under credit enhancement facilities, to the payment of debt service.

(13) "Pledged tobacco settlement receipts" means all amounts received by the issuing authority pursuant to division (B) of this section.

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

(15) "Special funds" or "funds," unless the context indicates otherwise, means the bond service fund, and any other funds, including any reserve funds, created under the bond proceedings and stated to be special funds in those proceedings, including moneys and investments, and earnings from investments, credited and to be credited to the particular fund. "Special funds" does not include any improvement fund or investment earnings on amounts in any improvement fund, or other funds created by the bond proceedings that are not stated by those proceedings to be special funds.

(B) The state may assign and sell to the issuing authority, and the issuing authority may accept and purchase, all or a portion of the amounts to be received by the state under the tobacco master settlement agreement for a purchase price payable by the issuing authority to the state consisting of the net proceeds of obligations and any residual interest, if any. Any such assignment and sale shall be irrevocable in accordance with its terms during the period any obligations secured by amounts so assigned and sold are outstanding under the applicable bond proceedings, and shall constitute a contractual obligation to the holders or owners of those obligations. Any such assignment and sale shall also be treated as an absolute transfer and true sale for all purposes, and not as a pledge or other security interest. The characterization of any such assignment and sale as a true sale and absolute transfer shall not be negated or adversely affected by only a portion of the amounts to be received under the tobacco master settlement agreement being transferred, the acquisition or retention by the state of a residual interest, the participation of any state officer or employee as a member or officer of, or providing staff support to, the issuing authority, any responsibility of an officer or employee of the state for collecting the amounts to be received under the tobacco master settlement agreement or otherwise enforcing that agreement or retaining any legal title to or interest in any portion of the amounts to be received under that agreement for the purpose of these collection activities, any characterization of the issuing authority or its obligations for purposes of accounting, taxation, or securities regulation, or by any other factors whatsoever. A true sale shall exist under this section regardless of whether the issuing authority has any recourse against the state or any other term of the bond proceedings or the treatment or characterization of the transfer as a financing for any purpose. Upon and following the assignment and sale, the state shall not have any right, title, or interest in the portion of the receipts under the tobacco master settlement agreement so assigned and sold, other than any residual interest that may be described in the applicable bond proceedings for those obligations, and that portion, if any, shall be the property of the issuing authority and not of the

state, and shall be paid directly to the issuing authority, and shall be owned, received, held, and disbursed by the issuing authority and not by the state.

The state may covenant, pledge, and agree in the bond proceedings, with and for the benefit of the issuing authority, the holders and owners of obligations, and providers of any credit enhancement facilities, that it shall: (1) maintain statutory authority for, and cause to be collected and paid directly to the issuing authority or its assignee, the pledged receipts, (2) enforce the rights of the issuing authority to receive the receipts under the tobacco master settlement agreement assigned and sold to the issuing authority, (3) not materially impair the rights of the issuing authority to fulfill the terms of its agreements with the holders or owners of outstanding obligations under the bond proceedings, (4) not materially impair the rights and remedies of the holders or owners of outstanding obligations or materially impair the security for those outstanding obligations, and (5) enforce Chapter 1346. of the Revised Code, the tobacco master settlement agreement, and the consent decree to effectuate the collection of the pledged tobacco settlement receipts. The bond proceedings may provide or authorize the manner for determining material impairment of the security for any outstanding obligations, including by assessing and evaluating the pledged receipts in the aggregate.

As further provided for in division (H) of this section, the bond proceedings may also include such other covenants, pledges, and agreements by the state to protect and safeguard the security and rights of the holders and owners of the obligations, and of the providers of any credit enhancement facilities, including, without limiting the generality of the foregoing, any covenant, pledge, or agreement customary in transactions involving the issuance of securities the debt service on which is payable from or secured by amounts received under the tobacco master settlement agreement. Notwithstanding any other provision of law, any covenant, pledge, and agreement of the state, if and when made in the bond proceedings, shall be controlling and binding upon, and enforceable against the state in accordance with its terms for so long as any obligations are outstanding under the applicable bond proceedings. The bond proceedings may also include limitations on the remedies available to the issuing authority, the holders and owners of the obligations, and the providers of any credit enhancement facilities, including, without limiting the generality of the foregoing, a provision that those remedies may be limited to injunctive relief in circumstances where there has been no prior determination by a court of competent jurisdiction that the state has not enforced Chapter 1346. of the Revised Code, the tobacco master settlement

agreement, or the consent decree as may have been covenanted or agreed in the bond proceedings under division (B)(5) of this section.

Nothing in this section or the bond proceedings shall preclude or limit, or be construed to preclude or limit, the state from regulating or authorizing or permitting the regulation of smoking or from taxing and regulating the sale of cigarettes or other tobacco products, or from defending or prosecuting cases or other actions relating to the sale or use of cigarettes or other tobacco products. Except as otherwise may be agreed in writing by the attorney general, nothing in this section or the bond proceedings shall modify or limit, or be construed to modify or limit, the responsibility, power, judgment, and discretion of the attorney general to protect and discharge the duties, rights, and obligations of the state under the tobacco master settlement agreement, the consent decree, or Chapter 1346. of the Revised Code.

The governor and the director of budget and management, in consultation with the attorney general, on behalf of the state, and any member or officer of the issuing authority as authorized by that issuing authority, on behalf of the issuing authority, may take any action and execute any documents, including any purchase and sale agreements, necessary to effect the assignment and sale and the acceptance of the assignment and title to the receipts including, providing irrevocable direction to the escrow agent acting under the tobacco master settlement agreement to transfer directly to the issuing authority the amounts to be received under that agreement that are subject to such assignment and sale. Any purchase and sale agreement or other bond proceedings may contain the terms and conditions established by the state and the issuing authority to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of the issuing authority and its assignees and the owners of the obligations. Any such purchase and sale agreement shall be sufficient to effectuate such purchase and sale without regard to any other laws governing other property sales or financial transactions by the state.

Not later than two years following the date on which there are no longer any obligations outstanding under the bond proceedings, all assets of the issuing authority shall vest in the state, the issuing authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of amounts under the tobacco master settlement agreement, and the issuing authority shall be dissolved.

(C) The issuing authority is authorized to issue and to sell obligations as provided in this section. The aggregate principal amount of obligations

issued under this section shall not exceed six billion dollars, exclusive of obligations issued under division (M)(1) of this section to refund, renew, or advance refund other obligations issued or incurred. At least seventy-five per cent of the aggregate net proceeds of the obligations issued under the authority of this section, exclusive of obligations issued to refund, renew, or advance refund other obligations, shall be paid to the state for deposit into the school building program assistance fund created in section 3318.25 of the Revised Code.

(D) Each issue of obligations shall be authorized by resolution or order of the issuing authority. The bond proceedings shall provide for or authorize the manner for determining the principal amount or maximum principal amount of obligations of an issue, the principal maturity or maturities, the interest rate or rates, the date of and the dates of payment of interest on the obligations, their denominations, and the place or places of payment of debt service which may be within or outside the state. Unless otherwise provided by law, the latest principal maturity may not be later than the earlier of the thirty-first day of December of the fiftieth calendar year after the year of issuance of the particular obligations or of the fiftieth calendar year after the year in which the original obligation to pay was issued or entered into. Sections 9.96, 9.98, 9.981, 9.982, and 9.983 of the Revised Code apply to the obligations.

The purpose of the obligations may be stated in the bond proceedings in general terms, such as, as applicable, "paying costs of capital facilities for a system of common schools" and "paying costs of facilities for state-supported and state-assisted institutions of higher education." Unless otherwise provided in the bond proceedings or in division (C) of this section, the net proceeds from the issuance of the obligations shall be paid to the state for deposit into the applicable improvement fund. In addition to the investments authorized in Chapter 135. of the Revised Code, the net proceeds held in an improvement fund may be invested by the treasurer of state in guaranteed investment contracts with providers rated at the time of any investment in the three highest rating categories by two nationally recognized rating agencies, all subject to the terms and conditions set forth in those agreements or the bond proceedings. Notwithstanding ~~division (B)(4) of section 3318.38~~ anything to the contrary in Chapter 3318. of the Revised Code, net proceeds of obligations deposited into the school building program assistance fund created in section 3318.25 of the Revised Code may be used to pay basic project costs under ~~section 3318.38 of the Revised Code~~ that chapter at the times determined by the Ohio school facilities commission without regard to whether those expenditures are in proportion

to the state's and the school district's respective shares of that basic project cost; provided that this shall not result in any change in the state or school district shares of the basic project costs ~~provided under Chapter 3318. of the Revised Code~~ as determined under that chapter. As used in the preceding sentence, "Ohio school facilities commission" and "basic project costs" have the same meanings as in section 3318.01 of the Revised Code.

(E) The issuing authority may, without need for any other approval, appoint or provide for the appointment of paying agents, bond registrars, securities depositories, credit enhancement providers or counterparties, clearing corporations, and transfer agents, and retain or contract for the services of underwriters, investment bankers, financial advisers, accounting experts, marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the judgment of the issuing authority to carry out the issuing authority's functions under this section and section 183.52 of the Revised Code. The attorney general as counsel to the issuing authority shall represent the authority in the execution of its powers and duties, and shall institute and prosecute all actions on its behalf. The issuing authority, in consultation with the attorney general, shall select counsel, and the attorney general shall appoint the counsel selected, for the purposes of carrying out the functions under this section and related sections of the Revised Code. Financing costs are payable, as may be provided in the bond proceedings, from the proceeds of the obligations, from special funds, or from other moneys available for the purpose, including as to future financing costs, from the pledged receipts.

(F) The issuing authority may irrevocably pledge and assign all, or such portion as the issuing authority determines, of the pledged receipts to the payment of the debt service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions in the bond proceedings with respect to pledged receipts as authorized by this section, which provisions are controlling notwithstanding any other provisions of law pertaining to them. Any and all pledged receipts received by the issuing authority and required by the bond proceedings, consistent with this section, to be deposited, transferred, or credited to the bond service fund, and all other money transferred or allocated to or received for the purposes of that fund, shall be deposited and credited to the bond service fund created in the bond proceedings for the obligations, subject to any applicable provisions of those bond proceedings, but without necessity for any act of appropriation. Those pledged receipts shall immediately be subject to the lien of that

pledge without any physical delivery thereof or further act, and shall not be subject to other court judgments. The lien of the pledge of those pledged receipts shall be valid and binding against all parties having claims of any kind against the issuing authority, irrespective of whether those parties have notice thereof. The pledge shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code and a perfected lien for purposes of any other interest, all without the necessity for separation or delivery of funds or for the filing or recording of the applicable bond proceedings by which that pledge is created or any certificate, statement, or other document with respect thereto. The pledge of the pledged receipts shall be effective and the money therefrom and thereof may be applied to the purposes for which pledged.

(G) Obligations may be further secured, as determined by the issuing authority, by an indenture or a trust agreement between the issuing authority and a corporate trustee, which may be any trust company or bank having a place of business within the state. Any indenture or trust agreement may contain the resolution or order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions that are customary or appropriate in an agreement of that type, including, but not limited to:

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

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

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

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

(1) The redemption of obligations prior to maturity at the option of the issuing authority or of the holder or upon the occurrence of certain conditions, and at a particular price or prices and under particular terms and conditions;

(2) The form of and other terms of the obligations;

(3) The establishment, deposit, investment, and application of special

funds, and the safeguarding of moneys on hand or on deposit, in lieu of the applicability of provisions of Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this section with respect to the application of particular funds or moneys. Any financial institution that acts as a depository of any moneys in special funds or other funds under the bond proceedings may furnish indemnifying bonds or pledge securities as required by the issuing authority.

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

(5) The maintenance of each pledge or instrument comprising part of the bond proceedings until the issuing authority has fully paid or provided for the payment of the debt service on the obligations or met other stated conditions;

(6) In the event of default in any payments required to be made by the bond proceedings, or by any other agreement of the issuing authority made as part of a contract under which the obligations were issued or secured, including a credit enhancement facility, the enforcement of those payments by mandamus, a suit in equity, an action at law, or any combination of those remedial actions;

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

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

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

(10) Amendment of the bond proceedings;

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

The bond proceedings shall make provision for the payment of the expenses of the enforcement activity of the attorney general referred to in division (B) of this section from the amounts from the tobacco master settlement agreement assigned and sold to the issuing authority under that

division or from the proceeds of obligations, or a combination thereof, which may include provision for both annual payments and a special fund providing reserve amounts for the payment of those expenses.

The issuing authority shall not, and shall covenant in the bond proceedings that it shall not, be authorized to and shall not file a voluntary petition under the United States Bankruptcy Code, 11 U.S.C. 101 et seq., as amended, or voluntarily commence any similar bankruptcy proceeding under state law including, without limitation, consenting to the appointment of a receiver or trustee or making a general or specific assignment for the benefit of creditors, and neither any public officer or any organization, entity, or other person shall authorize the issuing authority to be or become a debtor under the United States Bankruptcy Code or take any of those actions under the United States Bankruptcy Code or state law. The state hereby covenants, and the issuing authority shall covenant, with the holders or owners of the obligations, that the state shall not permit the issuing authority to file a voluntary petition under the United States Bankruptcy Code or take any of those actions under the United States Bankruptcy Code or state law during the period obligations are outstanding and for any additional period for which the issuing authority covenants in the bond proceedings, which additional period may, but need not, be a period of three hundred sixty-seven days or more.

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

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

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

(L) Except to the extent that rights are restricted by the bond proceedings, any owner of obligations or provider of or counterparty to a credit enhancement facility may by any suitable form of legal proceedings protect and enforce any rights relating to obligations or that facility under the laws of this state or granted by the bond proceedings. Those rights include the right to compel the performance of all applicable duties of the issuing authority and the state. Each duty of the issuing authority and that issuing authority's officers, staff, and employees, and of each state entity or agency, or using district or using institution, and its officers, members, staff, or employees, undertaken pursuant to the bond proceedings, is hereby established as a duty of the entity or individual having authority to perform that duty, specifically enjoined by law and resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The individuals who are from time to time members of the issuing authority, or their designees acting pursuant to section 183.52 of the Revised Code, or the issuing authority's officers, staff, agents, or employees, when acting within the scope of their employment or agency, shall not be liable in their personal capacities on any obligations or otherwise under the bond proceedings, or for otherwise exercising or carrying out any purposes or powers of the issuing authority.

(M)(1) Subject to any applicable limitations in division (C) of this section, the issuing authority may also authorize and provide for the issuance of:

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

bond proceedings authorizing the issuance of bond anticipation notes the issuing authority shall set forth for the bonds anticipated an estimated schedule of annual principal payments the latest of which shall be no later than provided in division (D) of this section. While the notes are outstanding there shall be deposited, as shall be provided in the bond proceedings for those notes, from the sources authorized for payment of debt service on the bonds, amounts sufficient to pay the principal of the bonds anticipated as set forth in that estimated schedule during the time the notes are outstanding, which amounts shall be used solely to pay the principal of those notes or of the bonds anticipated.

(b) Obligations for the refunding, including funding and retirement, and advance refunding, with or without payment or redemption prior to maturity, of any obligations previously issued under this section and any bonds or notes previously issued for the purpose of paying costs of capital facilities for: (i) state-supported or state-assisted institutions of higher education as authorized by sections 151.01 and 151.04 of the Revised Code, pursuant to Sections 2i and 2n of Article VIII, Ohio Constitution, and (ii) housing branches and agencies of state government limited to facilities for a system of common schools throughout the state as authorized by sections 151.01 and 151.03 of the Revised Code, pursuant to Sections 2i and 2n of Article VIII, Ohio Constitution. Refunding obligations may be issued in amounts sufficient to pay or to provide for repayment of the principal amount, including principal amounts maturing prior to the redemption of the remaining prior obligations or bonds or notes, any redemption premium, and interest accrued or to accrue to the maturity or redemption date or dates, payable on the prior obligations or bonds or notes, and related financing costs and any expenses incurred or to be incurred in connection with that issuance and refunding. Subject to the applicable bond proceedings, the portion of the proceeds of the sale of refunding obligations issued under division (M)(1)(b) of this section to be applied to debt service on the prior obligations or bonds or notes shall be credited to an appropriate separate account in the bond service fund and held in trust for the purpose by the issuing authority or by a corporate trustee, and may be invested as provided in the bond proceedings. Obligations authorized under this division shall be considered to be issued for those purposes for which the prior obligations or bonds or notes were issued.

(2) The principal amount of refunding, advance refunding, or renewal obligations issued pursuant to division (M) of this section shall be in addition to the amount authorized in division (C) of this section.

(N) Obligations are lawful investments for banks, savings and loan

associations, credit union share guaranty corporations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of the state and political subdivisions and taxing districts of this state, notwithstanding any other provisions of the Revised Code or rules adopted pursuant to those provisions by any state agency with respect to investments by them, and are also acceptable as security for the repayment of the deposit of public moneys. The exemptions from taxation in Ohio as provided for in particular sections of the Ohio Constitution and section 5709.76 of the Revised Code apply to the obligations.

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

(2) Payments received by the issuing authority under interest rate hedges entered into as credit enhancement facilities under this section shall be deposited as provided in the applicable bond proceedings.

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

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

(R) Subject to the bond proceedings pertaining to any obligations then outstanding in accordance with their terms, the issuing authority may in the

bond proceedings pledge all, or such portion as the issuing authority determines, of the moneys in the bond service fund to the payment of debt service on particular obligations, and for the establishment and maintenance of any reserves for payment of particular debt service.

(S)(1) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of special funds may be invested by or on behalf of the issuing authority only in one or more of the following:

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

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

(c) Certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of financial institutions;

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

(e) Other investment agreements or repurchase agreements that are consistent with the ratings on the obligations.

(2) The income from investments referred to in division (S)(1) of this section shall be credited to special funds or otherwise as the issuing authority determines in the bond proceedings. Those investments may be sold or exchanged at times as the issuing authority determines, provides for, or authorizes.

(T) The treasurer of state shall have responsibility for keeping records, making reports, and making payments, relating to any arbitrage rebate requirements under the applicable bond proceedings.

(U) The issuing authority shall make quarterly reports to the general assembly of the amounts in, and activities of, each improvement fund, including amounts and activities on the subfund level. Each report shall include a detailed description and analysis of the amount of proceeds remaining in each fund from the sale of obligations pursuant to this section, and any other deposits, credits, interest earnings, disbursements, expenses, transfers, or activities of each fund.

(V) The costs of the annual audit of the authority conducted pursuant to section 117.112 of the Revised Code are payable, as may be provided in the bond proceedings, from the proceeds of the obligations, from special funds, or from other moneys available for the purpose, including as to future

financing costs, from the pledged receipts.

Sec. 185.01. As used in this chapter:

(A) "Advanced practice nurse" has the same meaning as in section 4723.01 of the Revised Code.

(B) "Collaboration" has the same meaning as in section 4723.01 of the Revised Code.

(C) ~~"Health care coverage and quality council" means the entity established under section 3923.90 of the Revised Code.~~

~~(D)~~ "Patient centered medical home education advisory group" means the entity established under section 185.03 of the Revised Code to implement and administer the patient centered medical home education pilot project.

~~(E)~~(D) "Patient centered medical home education pilot project" means the pilot project established under section 185.02 of the Revised Code.

Sec. 185.03. (A) The patient centered medical home education advisory group is hereby created for the purpose of implementing and administering the patient centered medical home pilot project. The advisory group shall develop a set of expected outcomes for the pilot project.

(B) The advisory group shall consist of the following voting members:

(1) One individual with expertise in the training and education of primary care physicians who is appointed by the dean of the university of Toledo college of medicine;

(2) One individual with expertise in the training and education of primary care physicians who is appointed by the dean of the Boonshoft school of medicine at Wright state university;

(3) One individual with expertise in the training and education of primary care physicians who is appointed by the president and dean of the northeast Ohio medical university;

(4) One individual with expertise in the training and education of primary care physicians who is appointed by the dean of the Ohio university college of osteopathic medicine;

(5) Two individuals appointed by the governing board of the Ohio academy of family physicians;

(6) One individual appointed by the governing board of the Ohio chapter of the American college of physicians;

(7) One individual appointed by the governing board of the American academy of pediatrics;

(8) One individual appointed by the governing board of the Ohio osteopathic association;

(9) One individual with expertise in the training and education of

advanced practice nurses who is appointed by the governing board of the Ohio council of deans and directors of baccalaureate and higher degree programs in nursing;

(10) One individual appointed by the governing board of the Ohio nurses association;

(11) One individual appointed by the governing board of the Ohio association of advanced practice nurses;

(12) ~~A member of the health care coverage and quality council, other than the advisory group member specified in division (C)(2) of this section,~~ One individual appointed by the governing board of the Ohio council for home care and hospice;

(13) One individual appointed by the superintendent of insurance.

(C) The advisory group shall consist of the following nonvoting, ex officio members:

(1) The executive director of the state medical board, or the director's designee;

(2) The executive director of the board of nursing or the director's designee;

(3) The chancellor of the Ohio board of regents, or the chancellor's designee;

(4) The individual within the department of job and family services who serves as the director of medicaid, or the director's designee;

(5) The director of health or the director's designee.

(D) Advisory group members who are appointed shall serve at the pleasure of their appointing authorities. Terms of office of appointed members shall be three years, except that a member's term ends if the pilot project ceases operation during the member's term.

Vacancies shall be filled in the manner provided for original appointments.

Members shall serve without compensation, except to the extent that serving on the advisory group is considered part of their regular employment duties.

(E) The advisory group shall select from among its members a chairperson and vice-chairperson. The advisory group may select any other officers it considers necessary to conduct its business.

A majority of the members of the advisory group constitutes a quorum for the transaction of official business. A majority of a quorum is necessary for the advisory group to take any action, except that when one or more members of a quorum are required to abstain from voting as provided in division (C)(1)(d) or (C)(2)(c) of section 185.05 of the Revised Code, the

number of members necessary for a majority of a quorum shall be reduced accordingly.

The advisory group shall meet as necessary to fulfill its duties. The times and places for the meetings shall be selected by the chairperson.

(F) Sections 101.82 to 101.87 of the Revised Code do not apply to the advisory group.

Sec. 185.06. (A) To be eligible for inclusion in the patient centered medical home education pilot project, a physician practice shall meet all of the following requirements:

(1) Consist of physicians who are board-certified in family medicine, general pediatrics, or internal medicine, as those designations are issued by a medical specialty certifying board recognized by the American board of medical specialties or American osteopathic association;

(2) Be capable of adapting the practice during the period in which the practice receives funding from the patient centered medical home education advisory group in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the advisory group;

(3) ~~Comply with any reporting requirements recommended by the health care coverage and quality council under division (A)(12) of section 3923.91 of the Revised Code;~~

~~(4)~~ Meet any other criteria established by the advisory group as part of the selection process.

(B) To be eligible for inclusion in the pilot project, an advanced practice nurse primary care practice shall meet all of the following requirements:

(1) Consist of advanced practice nurses who meet all of the following requirements:

(a) Hold a certificate to prescribe issued under section 4723.48 of the Revised Code;

(b) Are board-certified as a family nurse practitioner or adult nurse practitioner by the American academy of nurse practitioners or American nurses credentialing center, board-certified as a geriatric nurse practitioner or women's health nurse practitioner by the American nurses credentialing center, or is board-certified as a pediatric nurse practitioner by the American nurses credentialing center or pediatric nursing certification board;

(c) Has a collaboration agreement with a physician with board certification as specified in division (A)(1) of this section and who is an active participant on the health care team.

(2) Be capable of adapting the primary care practice during the period in which the practice receives funding from the advisory group in such a

manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the advisory group;

(3) ~~Comply with any reporting requirements recommended by the health care coverage and quality council under division (A)(12) of section 3923.91 of the Revised Code;~~

~~(4)~~ Meet any other criteria established by the advisory group as part of the selection process.

Sec. 185.10. The patient centered medical home education advisory group shall seek funding sources for the patient centered medical home education pilot project. In doing so, the advisory group may apply for grants, seek federal funds, seek private donations, or seek any other type of funding that may be available for the pilot project. ~~To ensure that appropriate sources of and opportunities for funding are identified and pursued, the advisory group may ask for assistance from the health care coverage and quality council.~~

Sec. 187.01. As used in this chapter, "JobsOhio" means the nonprofit corporation formed under this section, and includes any subsidiary of that corporation. In any section of law that refers to the nonprofit corporation formed under this section, reference to the corporation includes reference to any such subsidiary unless otherwise specified or clearly appearing from the context.

The governor is hereby authorized to form a nonprofit corporation, to be named "JobsOhio," with the purposes of promoting economic development, job creation, job retention, job training, and the recruitment of business to this state. Except as otherwise provided in this chapter, the corporation shall be organized and operated in accordance with Chapter 1702. of the Revised Code. The governor shall sign and file articles of incorporation for the corporation with the secretary of state. The legal existence of the corporation shall begin upon the filing of the articles.

~~The~~ In addition to meeting the requirements for articles of incorporation in Chapter 1702. of the Revised Code, the articles of incorporation for the nonprofit corporation shall set forth the following:

(A) The designation of the name of the corporation as JobsOhio;

(B) The creation of a board of directors consisting of ~~the governor and eight~~ nine directors, to be appointed by the governor, who satisfy the qualifications prescribed by section 187.02 of the Revised Code;

(C) A requirement that the governor make initial appointments to the board within sixty days after the filing of the articles of incorporation. Of the initial appointments made to the board, two shall be for a term ending

one year after the date the articles were filed, two shall be for a term ending two years after the date the articles were filed, and ~~four~~ five shall be for a term ending four years after the date the articles were filed. The articles shall state that, following the initial appointments, the governor shall appoint directors to terms of office of four years, with each term of office ending on the same day of the same month as did the term that it succeeds. If any director dies, resigns, or the director's status changes such that any of the requirements of division (C) of section 187.02 of the Revised Code are no longer met, that director's seat on the board shall become immediately vacant. The governor shall forthwith fill the vacancy by appointment for the remainder of the term of office of the vacated seat.

(D) ~~The designation of~~ A requirement that the governor ~~as the~~ appoint one director to be chairperson of the board and procedures for electing directors to serve as officers of the corporation and members of an executive committee;

(E) A provision for the appointment of a chief investment officer of the corporation by the recommendation of the board and approval of the governor. The chief investment officer shall serve at the pleasure of the ~~governor~~ board and shall have the power to execute contracts, spend corporation funds, and hire employees on behalf of the corporation. If the position of chief investment officer becomes vacant for any reason, the vacancy shall be filled in the same manner as provided in this division.

(F) Provisions requiring the board to do all of the following:

(1) Adopt one or more resolutions providing for compensation of the chief investment officer;

(2) Approve an employee compensation plan recommended by the chief investment officer;

(3) Approve a contract with the director of development for the corporation to assist the director and the department of development with providing services or otherwise carrying out the functions or duties of the department, including the operation and management of programs, offices, divisions, or boards, as may be determined by the director of development in consultation with the governor;

(4) Approve all major contracts for services recommended by the chief investment officer;

(5) Establish an annual strategic plan and standards of measure to be used in evaluating the corporation's success in executing the plan;

(6) Establish a conflicts of interest policy that, at a minimum, complies with section 187.06 of the Revised Code;

(7) Hold a minimum of four board of directors meetings per year at

which a quorum of the board is physically present, and such other meetings, at which directors' physical presence is not required, as may be necessary. Meetings at which a quorum of the board is required to be physically present are subject to divisions (C), (D), and (E) of section 187.03 of the Revised Code.

(8) Establish a records retention policy and present the policy, and any subsequent changes to the policy, at a meeting of the board of directors at which a quorum of the board is required to be physically present pursuant to division (F)(7) of this section;

(9) Adopt standards of conduct for the directors.

(G) A statement that directors shall not receive any compensation from the corporation, except that ~~governor-appointed~~ directors may be reimbursed for actual and necessary expenses incurred in connection with services performed for the corporation;

(H) A provision authorizing the board to amend provisions of the corporation's articles of incorporation or regulations, except provisions required by this chapter;

(I) Procedures by which the corporation would be dissolved and by which all corporation rights~~, liabilities,~~ and assets would be distributed to the state or to another corporation organized under this chapter. These procedures shall incorporate any separate procedures subsequently set forth in this chapter for the dissolution of the corporation. The articles shall state that no dissolution shall take effect until the corporation has made adequate provision for the payment of any outstanding bonds, notes, or other obligations.

(J) A provision establishing an audit committee to be comprised of directors. The articles shall require that the audit committee hire an independent certified public accountant to perform a financial audit of the corporation at least once every year.

(K) A provision authorizing ~~the governor, as chairperson of the board,~~ a majority of the disinterested directors to remove a director for misconduct, as that term may be defined in the articles or regulations of the corporation. The removal of a director under this division creates a vacancy on the board that the governor shall fill by appointment for the remainder of the term of office of the vacated seat.

Sec. 187.02. (A) To qualify for appointment to the board of directors of JobsOhio, an individual must satisfy all of the following:

(1) Has an understanding of generally accepted accounting principles and financial statements;

(2) Possesses the ability to assess the general application of such

principles in connection with the accounting for estimates, accruals, and reserves;

(3) Has experience preparing, auditing, analyzing, or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be presented by the JobsOhio corporation's financial statements, or experience actively supervising one or more persons engaged in such activities;

(4) Has an understanding of internal controls and the procedures for financial reporting;

(5) Has an understanding of audit committee functions.

(B) Specific experience demonstrating the qualifications required by division (A) of this section may be evidenced by any of the following:

(1) Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor, or experience in one or more positions that involve the performance of similar functions;

(2) Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor, or person performing similar functions;

(3) Experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing, or evaluation of financial statements~~;~~

~~(4) Other experience considered relevant by the governor consistent with division (A) of this section~~.

(C) Each individual appointed to the board of directors shall be a citizen of the United States. At least six of the individuals appointed to the board shall be residents of or domiciled in this state.

Sec. 187.03. (A) JobsOhio may perform such functions as permitted and shall perform such duties as prescribed by law, but shall not be considered a state or public department, agency, office, body, institution, or instrumentality for purposes of section 1.60 or Chapter 102., 121., 125., or 149. of the Revised Code. JobsOhio and its board of directors are not subject to the following sections of Chapter 1702. of the Revised Code: sections 1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 1702.26, 1702.27, 1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 1702.37, 1702.38, 1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 1702.58, 1702.59, 1702.60, 1702.80, and 1702.99. Nothing in this division shall be construed to impair the powers and duties of the Ohio ethics commission described in section 102.06 of the Revised Code to investigate and enforce section 102.02 of the Revised Code with regard to individuals required to file statements under

division (B)(2) of this section.

(B)(1) ~~With the exception of the governor, directors~~ Directors and employees of JobsOhio are not employees or officials of the state and, except as provided in division (B)(2) of this section, are not subject to Chapter 102., 124., 145., or 4117. of the Revised Code.

(2) The chief investment officer, any other officer or employee with significant administrative, supervisory, contracting, or investment authority, and any ~~governor-appointed~~ director of JobsOhio shall file, with the Ohio ethics commission, a financial disclosure statement pursuant to section 102.02 of the Revised Code that includes, in place of the information required by divisions (A)(2), (7), (8), and (9) of that section, the information required by divisions (A) and (B) of section 102.022 of the Revised Code. The governor shall comply with all applicable requirements of section 102.02 of the Revised Code.

(3) Actual or in-kind expenditures for the travel, meals, or lodging of the governor or of any public official or employee designated by the governor for the purpose of this division shall not be considered a violation of section 102.03 of the Revised Code if the expenditures are made by the corporation, or on behalf of the corporation by any person, in connection with the governor's performance of official duties ~~as chairperson of the board of directors of~~ related to JobsOhio. The governor may designate any person, including a person who is a public official or employee as defined in section 102.01 of the Revised Code, for the purpose of this division if such expenditures are made on behalf of the person in connection with the governor's performance of official duties ~~as chairperson~~ related to JobsOhio. A public official or employee so designated by the governor shall comply with all applicable requirements of section 102.02 of the Revised Code.

At the times and frequency agreed to under division (B)(2)(b) of section 187.04 of the Revised Code, beginning in 2012, the corporation shall file with the department of development a written report of all such expenditures paid or incurred during the preceding calendar year. The report shall state the dollar value and purpose of each expenditure, the date of each expenditure, the name of the person that paid or incurred each expenditure, and the location, if any, where services or benefits of an expenditure were received, provided that any such information that may disclose proprietary information as defined in division (C) of this section shall not be included in the report.

(4) The prohibition applicable to former public officials or employees in division (A)(1) of section 102.03 of the Revised Code does not apply to any person appointed to be a director or hired as an employee of JobsOhio.

(5) Notwithstanding division (A)(2) of section 145.01 of the Revised Code, any person who is a former state employee shall no longer be considered a public employee for purposes of Chapter 145. of the Revised Code upon commencement of employment with JobsOhio.

(6) Any director, officer, or employee of JobsOhio may request an advisory opinion from the Ohio ethics commission with regard to questions concerning the provisions of sections 102.02 and 102.022 of the Revised Code to which the person is subject.

(C) Meetings of the board of directors at which a quorum of the board is required to be physically present pursuant to division (F) of section 187.01 of the Revised Code shall be open to the public except, by a majority vote of the directors present at the meeting, such a meeting may be closed to the public only for one or more of the following purposes:

(1) To consider business strategy of the corporation;

(2) To consider proprietary information belonging to potential applicants or potential recipients of business recruitment, retention, or creation incentives. For the purposes of this division, "proprietary information" means marketing plans, specific business strategy, production techniques and trade secrets, financial projections, or personal financial statements of applicants or members of the applicants' immediate family, including, but not limited to, tax records or other similar information not open to the public inspection.

(3) To consider legal matters, including litigation, in which the corporation is or may be involved;

(4) To consider personnel matters related to an individual employee of the corporation.

(D) The board of directors shall establish a reasonable method whereby any person may obtain the time and place of all public meetings described in division (C) of this section. The method shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all such meetings.

(E) The board of directors shall promptly prepare, file, and maintain minutes of all public meetings described in division (C) of this section.

(F) Not later than March 1, 2012, and the first day of March of each year thereafter, the chief investment officer of JobsOhio shall prepare and submit a report of the corporation's activities for the preceding year to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate. The annual report shall include the following:

(1) An analysis of the state's economy;

(2) A description of the structure, operation, and financial status of the corporation;

(3) A description of the corporation's strategy to improve the state economy and the standards of measure used to evaluate its progress;

(4) An evaluation of the performance of current strategies and major initiatives;

(5) An analysis of any statutory or administrative barriers to successful economic development, business recruitment, and job growth in the state identified by JobsOhio during the preceding year.

Sec. 187.09. (A) Any action brought by or on behalf of JobsOhio against a director or former director in that individual's capacity as a director shall be brought in the court of common pleas of Franklin county.

(B) Except as provided in division (D) of this section, any claim asserting that any one or more sections of the Revised Code amended or enacted by H.B. 1 of the 129th general assembly, any section of Chapter 4313. of the Revised Code enacted by H.B. 153 of the 129th general assembly, or any portion of one or more of those sections, violates any provision of the Ohio Constitution shall be brought in the court of common pleas of Franklin county within ninety days after the effective date of the amendment of this section by H.B. 153 of the 129th general assembly.

(C) Except as provided in division (D) of this section, any claim asserting that any action taken by JobsOhio violates any provision of the Ohio Constitution shall be brought in the court of common pleas of Franklin county within sixty days after the action is taken.

(D) Divisions (B) and (C) of this section shall not apply to any claim within the original jurisdiction of the supreme court or a court of appeals pursuant to Article IV of the Ohio Constitution.

(E) The court of common pleas of Franklin county shall give any claim filed pursuant to division (B) or (C) of this section priority over all other civil cases before the court, irrespective of position on the court's calendar, and shall make a determination on the claim expeditiously. A court of appeals shall give any appeal from a final order issued in a case brought pursuant to division (B) or (C) of this section priority over all other civil cases before the court, irrespective of position on the court's calendar, and shall make a determination on the appeal expeditiously.

Sec. 187.13. (A) No person, except the nonprofit corporation formed under section 187.01 of the Revised Code or its designees, may use the name "JobsOhio" or "Jobs Ohio," or words of a similar meaning in another language, as any part of a designation or name under which the person conducts or may conduct business in this state, unless the person receives

the written consent of JobsOhio. As used in this section, "person" has the same meaning as in section 1702.01 of the Revised Code.

(B) The name of any subsidiary of JobsOhio shall include the name "JobsOhio" and an additional designation that differentiates the subsidiary from other JobsOhio corporations formed under section 187.01 of the Revised Code.

Sec. 189.01. As used in sections 189.01 to 189.09 of the Revised Code, "political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. "Political subdivision" includes a county hospital commission appointed under section 339.14 of the Revised Code, board of hospital commissioners appointed for a municipal hospital under section 749.04 of the Revised Code, board of hospital trustees appointed for a municipal hospital under section 749.22 of the Revised Code, regional planning commission created pursuant to section 713.21 of the Revised Code, county planning commission created pursuant to section 713.22 of the Revised Code, joint planning council created pursuant to section 713.231 of the Revised Code, interstate regional planning commission created pursuant to section 713.30 of the Revised Code, port authority created pursuant to section 4582.02 or 4582.26 of the Revised Code or in existence on December 16, 1964, regional council established by political subdivisions pursuant to Chapter 167. of the Revised Code, emergency planning district and joint emergency planning district designated under section 3750.03 of the Revised Code, joint emergency medical services district created pursuant to section 307.052 of the Revised Code, fire and ambulance district created pursuant to section 505.375 of the Revised Code, joint interstate emergency planning district established by an agreement entered into under section 3750.03 of the Revised Code, county solid waste management district and joint solid waste management district established under section 343.01 or 343.012 of the Revised Code, community school established under Chapter 3314. of the Revised Code, the county or counties served by a community-based correctional facility and program or district community-based correctional facility and program established and operated under sections 2301.51 to 2301.58 of the Revised Code, a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated, and the facility governing board of a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated.

Sec. 189.02. There is hereby created the local government innovation program to be administered by the department of development and the local government innovation council established in section 189.03 of the Revised Code. The program shall provide loans and grants for local government innovation projects in accordance with this chapter.

Sec. 189.03. (A) There is hereby created the local government innovation council to establish criteria for and make loans and awards to political subdivisions for local government innovation projects and take such other actions, in consultation with the department of development, as necessary to implement the local government innovation program established in section 189.02 of the Revised Code.

(B) The council shall consist of the following members:

(1) The director of development, or the director's designee;

(2) The director of budget and management, or the director's designee;

(3) The auditor of state, or the auditor's designee;

(4) Two members of the senate, one member appointed by the president of the senate and one member appointed by the minority leader of the senate;

(5) Two members of the house of representatives, one member appointed by the speaker of the house of representatives and one member appointed by the minority leader of the house of representatives;

(6) One member recommended by the Ohio municipal league, appointed by the governor;

(7) One member recommended by the county commissioners association of Ohio, appointed by the governor;

(8) One member recommended by the Ohio township association, appointed by the governor;

(9) One member recommended by the Ohio chamber of commerce, appointed by the governor;

(10) One member recommended by the Ohio school boards association, appointed by the governor;

(11) One member, appointed by the governor, who is recommended by an Ohio-based advocacy group selected by the governor;

(12) One member, appointed by the governor, who is recommended by an Ohio-based foundation selected by the governor;

(13) One member with expertise in local government issues appointed by the chancellor of the board of regents.

(C) Initial appointments to the council shall be made not later than September 30, 2011. Of the governor's initial appointees, three shall serve an initial term of one year, two shall serve an initial term of two years, and

two shall serve an initial term of three years. Thereafter, each member appointed by the governor shall serve a four-year term, or a term ending when the council ceases to exist, whichever occurs first. The remaining members of the council shall be appointed for four-year terms, or terms ending when the council ceases to exist, whichever occurs first. Members may be reappointed to the council.

Vacancies on the council shall be filled in the same manner as the original appointments.

(D) At its first meeting, the council shall select a chairperson from among its members. After the first meeting, the council shall meet at the call of the chairperson or upon the request of a majority of the council's members. A majority of the council constitutes a quorum.

(E) The department of development shall provide administrative assistance to the council.

(F) Council members shall receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of council duties.

Sec. 189.04. (A) The local government innovation council shall award loans to a qualified political subdivision or a qualified group of political subdivisions to be used for the purchase of equipment, facilities, or systems or for implementation costs.

Loans made under division (A) of this section shall be repaid by recipients using savings achieved from the innovation project.

(B) Up to twenty per cent of the funds in the local government innovation fund, established in section 189.05 of the Revised Code, may be awarded by the council as grants to political subdivisions for use in process improvement or implementation of innovation project awards.

(C) The council shall award, in total grants and loans, not more than one hundred thousand dollars to an individual political subdivision and not more than five hundred thousand dollars per innovation project under this section.

Sec. 189.05. Funds for awards made by the local government innovation council shall be made from the local government innovation fund, which is hereby created in the state treasury. The fund shall consist of moneys appropriated to it and any grants or donations received from nonpublic entities. Interest earned on the money in the fund shall be credited to the fund.

Sec. 189.06. (A) All political subdivisions of the state are eligible to apply for awards under the local government innovation program. The local government innovation council shall award loans and grants under the program in accordance with a competitive process to be developed by the

council.

(B) Not later than December 31, 2011, the council shall establish criteria for evaluating proposals and making awards to political subdivisions. The criteria shall be developed in consultation with nonpublic entities involved in local government issues, state institutions of higher education, and the department of development, as determined by the council. The criteria shall include a requirement that at least one of the political subdivisions that is a party to the proposal provide matching funds. The matching funds may be provided by a nonpublic entity. The criteria for evaluating proposals may include the following provisions:

(1) The expected return on investment, based on the ratio of expected savings;

(2) The number of participating entities in the proposal;

(3) The probability of the proposal's success;

(4) The percentage of local matching funds available;

(5) The ability to replicate the proposal in other political subdivisions;

(6) Whether the proposal is part of a larger consolidation effort by the applicant or applicants;

(7) Whether the proposal is to implement performance audit recommendations under section 117.462 of the Revised Code;

(8) Whether the applicant has successfully completed an innovation project in the past.

Sec. 189.07. A political subdivision seeking an award under the local government innovation program shall submit a proposal to the subdivision's district public works integrating committee. The committee shall submit the proposal to the department of development, with advisory comments. The department shall provide the proposal to the local government innovation council for evaluation and selection.

Sec. 189.08. (A) Starting not later than March 1, 2012, the local government innovation council shall begin evaluating proposals received from the department of development for awards to political subdivisions. Not later than July 1, 2012, the council shall make its first round of awards to the political subdivisions.

(B) After making the first round of awards, the council shall evaluate proposals and make awards on a quarterly basis, or on another schedule determined by the council, with the council determining the funding levels for each round of awards.

(C) When making awards from the local government innovation fund created in section 189.05 of the Revised Code, the funds available for each round of awards shall be divided into the following tiers:

(1) At least thirty per cent to political subdivisions that are not counties and have a population of less than 50,000 residents as determined in the decennial census conducted in 2010 or counties with a population of less than 130,000 residents as determined in the decennial census conducted in 2010;

(2) At least thirty per cent to political subdivisions that are not counties and have a population of 50,000 residents or more as determined in the decennial census conducted in 2010 or counties with a population of 130,000 residents or more as determined in the decennial census conducted in 2010.

If a proposal includes participants from both division (C)(1) and (2) of this section, the award may be drawn from either or both tiers in the local government innovation fund.

Sec. 189.09. Not later than January 31, 2013, the local government innovation council shall submit a report to the governor, president and minority leader of the senate, and speaker and minority leader of the house of representatives outlining the council's activities for the preceding year, including a listing of recipients of grants and loans, if any, made to political subdivisions, the amount of such grants and loans, and any other information about the local government innovation program that the council determines necessary to include in the report.

Sec. 189.10. The local government innovation council shall cease to exist on December 31, 2015.

Sec. 301.02. Previous to the presentation of a petition to the general assembly praying that a new county be erected, or for the location or relocation of a county seat, notice of the intention to present such petition shall be given, at least thirty days before the ensuing session of the general assembly, by advertisement in a newspaper ~~published~~ of general circulation in each county from which such new county is intended to be taken. If no ~~paper~~ newspaper is ~~printed~~ of general circulation within the county, notice shall be given by advertisement affixed to the door of the house where courts are held for such county, for such period of thirty days. The notice shall set forth the boundary lines of the new county, or the place where it is proposed to locate such county seat.

Sec. 301.15. Within sixty days after their appointment, the commissioners provided for by section 301.14 of the Revised Code, or any two of them, shall assemble at some convenient place in the new county. Twenty days' notice of the time, place, and purpose of such meeting shall be given by publication in a newspaper ~~published in and circulated~~ of general circulation in ~~such~~ the county, or by being posted in three of the most public

places in such county. When assembled, after having taken the oath of office prescribed by sections 3.22 and 3.23 of the Revised Code, such commissioners shall proceed to examine and select the most proper place as a seat of justice, as near the center of the county as possible, having regard to the situation, extent of population, quality of land, and the convenience and interest of the inhabitants.

Sec. 301.28. (A) As used in this section:

(1) "Financial transaction device" includes a credit card, debit card, charge card, or prepaid or stored value card, or automated clearinghouse network credit, debit, or e-check entry that includes, but is not limited to, accounts receivable and internet-initiated, point of purchase, and telephone-initiated applications or any other device or method for making an electronic payment or transfer of funds.

(2) "County expenses" includes fees, costs, taxes, assessments, fines, penalties, payments, or any other expense a person owes to a county office under the authority of a county official other than dog registration and kennel fees required to be paid under Chapter 955. of the Revised Code.

(3) "County official" includes the county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, county coroner, county park district and board of county commissioners, the clerk of the probate court, the clerk of the juvenile court, the clerks of court for all divisions of the courts of common pleas, and the clerk of the court of common pleas, the clerk of a county-operated municipal court, and the clerk of a county court.

The term "county expenses" includes county expenses owed to the board of health of the general health district or a combined health district in the county. If the board of county commissioners authorizes county expenses to be paid by financial transaction devices under this section, then the board of health and the general health district and the combined health district may accept payments by financial transaction devices under this section as if the board were a "county official" and the district were a county office. However, in the case of a general health district formed by unification of general health districts under section 3709.10 of the Revised Code, this entitlement applies only if all the boards of county commissioners of all counties in the district have authorized payments to be accepted by financial transaction devices.

(B) Notwithstanding any other section of the Revised Code and except as provided in division (D) of this section, a board of county commissioners may adopt a resolution authorizing the acceptance of payments by financial transaction devices for county expenses. The resolution shall include the

following:

(1) A specification of those county officials who, and of the county offices under those county officials that, are authorized to accept payments by financial transaction devices;

(2) A list of county expenses that may be paid for through the use of a financial transaction device;

(3) Specific identification of financial transaction devices that the board authorizes as acceptable means of payment for county expenses. Uniform acceptance of financial transaction devices among different types of county expenses is not required.

(4) The amount, if any, authorized as a surcharge or convenience fee under division (E) of this section for persons using a financial transaction device. Uniform application of surcharges or convenience fees among different types of county expenses is not required.

(5) A specific provision as provided in division (G) of this section requiring the payment of a penalty if a payment made by means of a financial transaction device is returned or dishonored for any reason.

The board's resolution shall also designate the county treasurer as an administrative agent to solicit proposals, within guidelines established by the board in the resolution and in compliance with the procedures provided in division (C) of this section, from financial institutions, issuers of financial transaction devices, and processors of financial transaction devices, to make recommendations about those proposals to the board, and to assist county offices in implementing the county's financial transaction devices program. The county treasurer may decline this responsibility within thirty days after receiving a copy of the board's resolution by notifying the board in writing within that period. If the treasurer so notifies the board, the board shall perform the duties of the administrative agent.

If the county treasurer is the administrative agent and fails to administer the county financial transaction devices program in accordance with the guidelines in the board's resolution, the board shall notify the treasurer in writing of the board's findings, explain the failures, and give the treasurer six months to correct the failures. If the treasurer fails to make the appropriate corrections within that six-month period, the board may pass a resolution declaring the board to be the administrative agent. The board may later rescind that resolution at its discretion.

(C) The county shall follow the procedures provided in this division whenever it plans to contract with financial institutions, issuers of financial transaction devices, or processors of financial transaction devices for the purposes of this section. The administrative agent shall request proposals

from at least three financial institutions, issuers of financial transaction devices, or processors of financial transaction devices, as appropriate in accordance with the resolution adopted under division (B) of this section. Prior to sending any financial institution, issuer, or processor a copy of any such request, the county shall advertise its intent to request proposals in a newspaper of general circulation in the county once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall state that the county intends to request proposals; specify the purpose of the request; indicate the date, which shall be at least ten days after the second publication, on which the request for proposals will be mailed to financial institutions, issuers, or processors; and require that any financial institution, issuer, or processor, whichever is appropriate, interested in receiving the request for proposals submit written notice of this interest to the county not later than noon of the day on which the request for proposals will be mailed.

Upon receiving the proposals, the administrative agent shall review them and make a recommendation to the board of county commissioners on which proposals to accept. The board of county commissioners shall consider the agent's recommendation and review all proposals submitted, and then may choose to contract with any or all of the entities submitting proposals, as appropriate. The board shall provide any financial institution, issuer, or processor that submitted a proposal, but with which the board does not enter into a contract, notice that its proposal is rejected. The notice shall state the reasons for the rejection, indicate whose proposals were accepted, and provide a copy of the terms and conditions of the successful bids.

(D) A board of county commissioners adopting a resolution under this section shall send a copy of the resolution to each county official in the county who is authorized by the resolution to accept payments by financial transaction devices. After receiving the resolution and before accepting payments by financial transaction devices, a county official shall provide written notification to the board of county commissioners of the official's intent to implement the resolution within the official's office. Each county office subject to the board's resolution adopted under division (B) of this section may use only the financial institutions, issuers of financial transaction devices, and processors of financial transaction devices with which the board of county commissioners contracts, and each such office is subject to the terms of those contracts.

If a county office under the authority of a county official is directly responsible for collecting one or more county expenses and the county official determines not to accept payments by financial transaction devices

for one or more of those expenses, the office shall not be required to accept payments by financial transaction devices, notwithstanding the adoption of a resolution by the board of county commissioners under this section.

Any office of a clerk of the court of common pleas that accepts financial transaction devices on or before July 1, 1999, and any other county office that accepted such devices before January 1, 1998, may continue to accept such devices without being subject to any resolution passed by the board of county commissioners under division (B) of this section, or any other oversight by the board of the office's financial transaction devices program. Any such office may use surcharges or convenience fees in any manner the county official in charge of the office determines to be appropriate, and, if the county treasurer consents, may appoint the county treasurer to be the office's administrative agent for purposes of accepting financial transaction devices. In order not to be subject to the resolution of the board of county commissioners adopted under division (B) of this section, a county office shall notify the board in writing within thirty days after March 30, 1999, that it accepted financial transaction devices prior to January 1, 1998, or, in the case of the office of a clerk of the court of common pleas, the clerk has accepted or will accept such devices on or before July 1, 1999. Each such notification shall explain how processing costs associated with financial transaction devices are being paid and shall indicate whether surcharge or convenience fees are being passed on to consumers.

(E) A board of county commissioners may establish a surcharge or convenience fee that may be imposed upon a person making payment by a financial transaction device. The surcharge or convenience fee shall not be imposed unless authorized or otherwise permitted by the rules prescribed by an agreement governing the use and acceptance of the financial transaction device.

If a surcharge or convenience fee is imposed, every county office accepting payment by a financial transaction device, regardless of whether that office is subject to a resolution adopted by a board of county commissioners, shall clearly post a notice in that office and shall notify each person making a payment by such a device about the surcharge or fee. Notice to each person making a payment shall be provided regardless of the medium used to make the payment and in a manner appropriate to that medium. Each notice shall include all of the following:

(1) A statement that there is a surcharge or convenience fee for using a financial transaction device;

(2) The total amount of the charge or fee expressed in dollars and cents for each transaction, or the rate of the charge or fee expressed as a

percentage of the total amount of the transaction, whichever is applicable;

(3) A clear statement that the surcharge or convenience fee is nonrefundable.

(F) If a person elects to make a payment to the county by a financial transaction device and a surcharge or convenience fee is imposed, the payment of the surcharge or fee shall be considered voluntary and the surcharge or fee is not refundable.

(G) If a person makes payment by financial transaction device and the payment is returned or dishonored for any reason, the person is liable to the county for payment of a penalty over and above the amount of the expense due. The board of county commissioners shall determine the amount of the penalty, which may be either a fee not to exceed twenty dollars or payment of the amount necessary to reimburse the county for banking charges, legal fees, or other expenses incurred by the county in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies provided by law.

(H) No person making any payment by financial transaction device to a county office shall be relieved from liability for the underlying obligation except to the extent that the county realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial transaction device issuer or other guarantor of payment in the transaction, the underlying obligation shall survive and the county shall retain all remedies for enforcement that would have applied if the transaction had not occurred.

(I) A county official or employee who accepts a financial transaction device payment in accordance with this section and any applicable state or local policies or rules is immune from personal liability for the final collection of such payments.

Sec. 305.171. The following applies until the department of administrative services implements for counties the health care plans under section 9.901 of the Revised Code. If those plans do not include or address any benefits listed in division (A) of this section, the following provisions continue in effect for those benefits.

(A) The board of county commissioners of any county may contract for, purchase, or otherwise procure and pay all or any part of the cost of group insurance policies that may provide benefits including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs, and that may provide sickness and accident insurance, group legal services, or group life

insurance, or a combination of any of the foregoing types of insurance or coverage, for county officers and employees and their immediate dependents from the funds or budgets from which the county officers or employees are compensated for services, issued by an insurance company.

(B) The board of county commissioners also may negotiate and contract for any plan or plans of health care services with health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code, provided that each county officer or employee shall be permitted to do both of the following:

(1) Exercise an option between a plan offered by an insurance company and a plan or plans offered by health insuring corporations under this division, on the condition that the county officer or employee shall pay any amount by which the cost of the plan chosen by the county officer or employee pursuant to this division exceeds the cost of the plan offered under division (A) of this section;

(2) Change from one of the plans to another at a time each year as determined by the board.

(C) Section 307.86 of the Revised Code does not apply to the purchase of benefits for county officers or employees under divisions (A) and (B) of this section when those benefits are provided through a jointly administered health and welfare trust fund in which the county or contracting authority and a collective bargaining representative of the county employees or contracting authority agree to participate.

(D) The board of trustees of a jointly administered trust fund that receives contributions pursuant to collective bargaining agreements entered into between the board of county commissioners of any county and a collective bargaining representative of the employees of the county may provide for self-insurance of all risk in the provision of fringe benefits, and may provide through the self-insurance method specific fringe benefits as authorized by the rules of the board of trustees of the jointly administered trust fund. The fringe benefits may include, but are not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination of any of the foregoing types of insurance or coverage, for county employees and their dependents.

(E) The board of county commissioners may provide the benefits described in divisions (A) to (D) of this section through an individual self-insurance program or a joint self-insurance program as provided in section 9.833 of the Revised Code.

(F) When a board of county commissioners offers health benefits authorized under this section to a county officer or employee, the board may offer the benefits through a cafeteria plan meeting the requirements of section 125 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, as amended, and, as part of that plan, may offer the county officer or employee the option of receiving a cash payment in any form permissible under such cafeteria plans. A cash payment made to a county officer or employee under this division shall not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the county officer or employee under a policy or plan.

(G) The board of county commissioners may establish a policy authorizing any county appointing authority to make a cash payment to any county officer or employee in lieu of providing a benefit authorized under this section if the county officer or employee elects to take the cash payment instead of the offered benefit. A cash payment made to a county officer or employee under this division shall not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the county officer or employee under an offered policy or plan.

(H) No cash payment in lieu of a health benefit shall be made to a county officer or employee under division (F) or (G) of this section unless the county officer or employee signs a statement affirming that the county officer or employee is covered under another health insurance or health care policy, contract, or plan, and setting forth the name of the employer, if any, that sponsors the coverage, the name of the carrier that provides the coverage, and the identifying number of the policy, contract, or plan.

(I) The legislative authority of a county-operated municipal court, after consultation with the judges, or the clerk and deputy clerks, of the municipal court, shall negotiate and contract for, purchase, or otherwise procure, and pay the costs, premiums, or charges for, group health care coverage for the judges, and group health care coverage for the clerk and deputy clerks, in accordance with section 1901.111 or 1901.312 of the Revised Code.

(J) As used in this section:

(1) "County officer or employee" includes, but is not limited to, a member or employee of the county board of elections.

(2) "County-operated municipal court" and "legislative authority" have the same meanings as in section 1901.03 of the Revised Code.

(3) "Health care coverage" has the same meaning as in section 1901.111 of the Revised Code.

Sec. 305.23. (A) As used in this section:

(1) "County office" means the offices of the county commissioner,

county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, county coroner, county park district, veterans service commission, clerk of the juvenile court, clerks of court for all divisions of the courts of common pleas, including the clerk of the court of common pleas, clerk of a county-operated municipal court, and clerk of a county court, and any agency, department, or division under the authority of, or receiving funding in whole or in part from, any of those county offices.

(2) "Human resources" means any and all functions relating to human resource management, including civil service, employee benefits administration, collective bargaining, labor relations, risk management, workers' compensation, unemployment compensation, and any human resource management function required by state or federal law, but "human resources" does not authorize a board of county commissioners to adopt a resolution establishing a centralized human resource service that requires any county office to conform to any classification and compensation plan, position descriptions, or organizational structure; to determine the rate of compensation of any employee appointed by the appointing authority of a county office or the salary ranges for positions of a county office within the aggregate limits set in the appropriation resolution of the board of county commissioners; to determine the number of or the terms of employment of any employee appointed by the appointing authority of a county office within the aggregate limits set in the board's appropriation resolution; or to exercise powers relating to the hiring, qualifications, evaluation, suspension, demotion, disciplinary action, layoff, furloughing, establishment of a modified work-week schedule, or the termination of any employee appointed by the appointing authority of any county office.

(B) Subject to division (C) of this section, a board of county commissioners may adopt a resolution establishing centralized purchasing, printing, transportation, vehicle maintenance, human resources, revenue collection, and mail operation services for a county office. Before adopting a resolution under this section, the board of county commissioners, in a written notice, shall inform any other county office that will be impacted by the resolution of the board's desire to establish a centralized service or services. The written notice shall include a statement that provides the rationale and the estimated savings anticipated for centralizing a service or services. In addition, the board may request any other county office to serve as the agent and responsible party for administering a centralized service or services. That county office may enter into an agreement with the board of county commissioners to administer the centralized service or services under such terms and conditions as are included in the agreement, but nothing in

this section authorizes the board of county commissioners to require a county office to serve as the agent and responsible party for administering a centralized service or services at the board's request.

A resolution establishing a centralized service or services shall specify all of the following:

(1) The name of the county office that will be the agent and responsible party for administering a centralized service or services, and if the agent and responsible party is not the board of county commissioners, the designation of the county office that has entered into an agreement under division (B) of this section with the board to be the agent and responsible party;

(2) Which county offices are required to use the centralized services;

(3) If not all of the centralized services, which centralized service each county office must use;

(4) A list of rates and charges the county office shall pay for the centralized services;

(5) The date upon which each county office specified in the resolution shall begin using the centralized services.

Not later than ten days after a resolution is adopted under this section, the clerk of the board of county commissioners shall send a copy of the resolution to each county office that is specified in the resolution.

(C) A board of county commissioners shall not adopt a resolution that establishes a centralized service or services regarding any of the following:

(1) Purchases made for contract services with moneys from the special fund designated as "general fund moneys to supplement the equipment needs of the county recorder" under section 317.321 of the Revised Code, from the real estate assessment fund established under section 325.31 of the Revised Code, or from the funds that are paid out of the general fund of the county under sections 325.071 and 325.12 of the Revised Code;

(2) Purchases of financial software used by the county auditor;

(3) The printing of county property tax bills;

(4) The collection of any taxes, assessments, and fees the county treasurer is required by law to collect;

(5) Purchases of software used by the county recorder.

(D) Nothing in this section authorizes the board of county commissioners to have control or authority over funds that are received directly by a county office under another section of the Revised Code, or to control, or have authority regarding, the expenditure or use of such funds.

Sec. 306.322. (A) For any regional transit authority that levies a property tax and that includes in its membership political subdivisions that are located in a county having a population of at least four hundred thousand

according to the most recent federal census, the procedures of this section apply until November 5, 2013, and are in addition to and an alternative to those established in sections 306.32 and 306.321 for joining to the regional transit authority additional counties, municipal corporations, or townships.

(B) Any municipal corporation or township may adopt a resolution or ordinance proposing to join a regional transit authority described in division (A) of this section. In its resolution or ordinance, the political subdivision may propose joining the regional transit authority for a limited period of three years or without a time limit.

(C) The political subdivision proposing to join the regional transit authority shall submit a copy of its resolution or ordinance to the legislative authority of each municipal corporation and the board of trustees of each township comprising the regional transit authority. Within thirty days of receiving the resolution or ordinance for inclusion in the regional transit authority, the legislative authority of each municipal corporation and the board of trustees of each township shall consider the question of whether to include the additional subdivision in the regional transit authority, shall adopt a resolution or ordinance approving or rejecting the inclusion of the additional subdivision, and shall present its resolution or ordinance to the board of trustees of the regional transit authority.

(D) If a majority of the political subdivisions comprising the regional transit authority approve the inclusion of the additional political subdivision, the board of trustees of the regional transit authority, not later than the tenth day following the day on which the last ordinance or resolution is presented, shall notify the subdivision proposing to join the regional transit authority that it may certify the proposal to the board of elections for the purpose of having the proposal placed on the ballot at the next general election or at a special election conducted on the day of the next primary election that occurs not less than ninety days after the resolution or ordinance is certified to the board of elections.

(E) Upon certification of a proposal to the board of elections pursuant to this section, the board of elections shall make the necessary arrangements for the submission of the question to the electors of the territory to be included in the regional transit authority qualified to vote on the question, and the election shall be held, canvassed, and certified in the same manner as regular elections for the election of officers of the subdivision proposing to join the regional transit authority, except that, if the resolution proposed the inclusion without a time limitation the question appearing on the ballot shall read:

"Shall the territory within the ..... (Name or names of

political subdivisions to be joined) be added to .... (Name) regional transit authority?" and shall a(n) ..... (here insert type of tax or taxes) at a rate of taxation not to exceed ..... (here insert maximum tax rate or rates) be levied for all transit purposes?"

If the resolution proposed the inclusion with a three-year time limitation, the question appearing on the ballot shall read:

"Shall the territory within the ..... (Name or names of political subdivisions to be joined) be added to .... (Name) regional transit authority?" for three years and shall a(n) ..... (here insert type of tax or taxes) at a rate of taxation not to exceed ..... (here insert maximum tax rate or rates) be levied for all transit purposes for three years?"

(F) If the question is approved by at least a majority of the electors voting on the question, the addition of the new territory is effective six months from the date of the certification of its passage, and the regional transit authority may extend the levy of the tax against all the taxable property within the territory that was added. If the question is approved at a general election or at a special election occurring prior to the general election but after the fifteenth day of July, the regional transit authority may amend its budget and resolution adopted pursuant to section 5705.34 of the Revised Code, and the levy shall be placed on the current tax list and duplicate and collected as other taxes are collected from all taxable property within the territorial boundaries of the regional transit authority, including the territory within the political subdivision added as a result of the election. If the budget of the regional transit authority is amended pursuant to this paragraph, the county auditor shall prepare and deliver an amended certificate of estimated resources to reflect the change in anticipated revenues of the regional transit authority.

(G) If the question is approved by at least a majority of the electors voting on the question, the board of trustees of the regional transit authority immediately shall amend the resolution or ordinance creating the regional transit authority to include the additional political subdivision.

(H) If the question approved by a majority of the electors voting on the question added the subdivision for three years, the territory of the additional municipal corporation or township in the regional transit authority shall be removed from the territory of the regional transit authority three years after the date the territory was added, as determined in the effective date of the election, and shall no longer be a part of that authority without any further action by either the political subdivisions that were included in the authority prior to submitting the question to the electors or of the political subdivision

added to the authority as a result of the election. The regional transit authority reduced to its territory as it existed prior to the inclusion of the additional municipal corporation or township shall be entitled to levy and collect any property taxes that it was authorized to levy and collect prior to the enlargement of its territory and for which authorization has not expired, as if the enlargement had not occurred.

Sec. 306.35. Upon the creation of a regional transit authority as provided by section 306.32 of the Revised Code, and upon the qualifying of its board of trustees and the election of a president and a vice-president, the authority shall exercise in its own name all the rights, powers, and duties vested in and conferred upon it by sections 306.30 to 306.53 of the Revised Code. Subject to any reservations, limitations, and qualifications that are set forth in those sections, the regional transit authority:

(A) May sue or be sued in its corporate name;

(B) May make contracts in the exercise of the rights, powers, and duties conferred upon it;

(C) May adopt and at will alter a seal and use such seal by causing it to be impressed, affixed, reproduced, or otherwise used, but failure to affix the seal shall not affect the validity of any instrument;

(D)(1) May adopt, amend, and repeal bylaws for the administration of its affairs and rules for the control of the administration and operation of transit facilities under its jurisdiction, and for the exercise of all of its rights of ownership in those transit facilities;

(2) The regional transit authority also may adopt bylaws and rules for the following purposes:

(a) To prohibit selling, giving away, or using any beer or intoxicating liquor on transit vehicles or transit property;

(b) For the preservation of good order within or on transit vehicles or transit property;

(c) To provide for the protection and preservation of all property and life within or on transit vehicles or transit property;

(d) To regulate and enforce the collection of fares.

(3) Before a bylaw or rule adopted under division (D)(2) of this section takes effect, the regional transit authority shall provide for a notice of its adoption to be published once a week for two consecutive weeks in a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code.

(4) No person shall violate any bylaw or rule of a regional transit authority adopted under division (D)(2) of this section.

(E) May fix, alter, and collect fares, rates, and rentals and other charges for the use of transit facilities under its jurisdiction to be determined exclusively by it for the purpose of providing for the payment of the expenses of the regional transit authority, the acquisition, construction, improvement, extension, repair, maintenance, and operation of transit facilities under its jurisdiction, the payment of principal and interest on its obligations, and to fulfill the terms of any agreements made with purchasers or holders of any such obligations, or with any person or political subdivision;

(F) Shall have jurisdiction, control, possession, and supervision of all property, rights, easements, licenses, moneys, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to it;

(G) ~~May~~ (1) Except as provided in division (G)(2) of this section, may acquire, construct, improve, extend, repair, lease, operate, maintain, or manage transit facilities within or without its territorial boundaries, considered necessary to accomplish the purposes of its organization and make charges for the use of transit facilities~~;~~.

(2) Beginning on July 1, 2011, a regional transit authority shall not extend its service or facilities into a political subdivision outside the territorial boundaries of the authority without giving prior notice to the legislative authority of the political subdivision. The legislative authority shall have thirty days after receiving the notice to comment on the proposal.

(H) May levy and collect taxes as provided in sections 306.40 and 306.49 of the Revised Code;

(I) May issue bonds secured by its general credit as provided in section 306.40 of the Revised Code;

(J) May hold, encumber, control, acquire by donation, by purchase for cash or by installment payments, by lease-purchase agreement, by lease with option to purchase, or by condemnation, and may construct, own, lease as lessee or lessor, use, and sell, real and personal property, or any interest or right in real and personal property, within or without its territorial boundaries, for the location or protection of transit facilities and improvements and access to transit facilities and improvements, the relocation of buildings, structures, and improvements situated on lands acquired by the regional transit authority, or for any other necessary purpose, or for obtaining or storing materials to be used in constructing, maintaining, and improving transit facilities under its jurisdiction;

(K) May exercise the power of eminent domain to acquire property or any interest in property, within or without its territorial boundaries, that is

necessary or proper for the construction or efficient operation of any transit facility or access to any transit facility under its jurisdiction in accordance with section 306.36 of the Revised Code;

(L) May provide by agreement with any county, including the counties within its territorial boundaries, or any municipal corporation or any combination of counties or municipal corporations for the making of necessary surveys, appraisals, and examinations preliminary to the acquisition or construction of any transit facility and the amount of the expense for the surveys, appraisals, and examinations to be paid by each such county or municipal corporation;

(M) May provide by agreement with any county, including the counties within its territorial boundaries, or any municipal corporation or any combination of those counties or municipal corporations for the acquisition, construction, improvement, extension, maintenance, or operation of any transit facility owned or to be owned and operated by it or owned or to be owned and operated by any such county or municipal corporation and the terms on which it shall be acquired, leased, constructed, maintained, or operated, and the amount of the cost and expense of the acquisition, lease, construction, maintenance, or operation to be paid by each such county or municipal corporation;

(N) May issue revenue bonds for the purpose of acquiring, replacing, improving, extending, enlarging, or constructing any facility or permanent improvement that it is authorized to acquire, replace, improve, extend, enlarge, or construct, including all costs in connection with and incidental to the acquisition, replacement, improvement, extension, enlargement, or construction, and their financing, as provided by section 306.37 of the Revised Code;

(O) May enter into and supervise franchise agreements for the operation of a transit system;

(P) May accept the assignment of and supervise an existing franchise agreement for the operation of a transit system;

(Q) May exercise a right to purchase a transit system in accordance with the acquisition terms of an existing franchise agreement; and in connection with the purchase the regional transit authority may issue revenue bonds as provided by section 306.37 of the Revised Code or issue bonds secured by its general credit as provided in section 306.40 of the Revised Code;

(R) May apply for and accept grants or loans from the United States, the state, or any other public body for the purpose of providing for the development or improvement of transit facilities, mass transportation facilities, equipment, techniques, methods, or services, and grants or loans

needed to exercise a right to purchase a transit system pursuant to agreement with the owner of those transit facilities, or for providing lawful financial assistance to existing transit systems; and may provide any consideration that may be required in order to obtain those grants or loans from the United States, the state, or other public body, either of which grants or loans may be evidenced by the issuance of revenue bonds as provided by section 306.37 of the Revised Code or general obligation bonds as provided by section 306.40 of the Revised Code;

(S) May employ and fix the compensation of consulting engineers, superintendents, managers, and such other engineering, construction, accounting and financial experts, attorneys, and other employees and agents necessary for the accomplishment of its purposes;

(T) May procure insurance against loss to it by reason of damages to its properties resulting from fire, theft, accident, or other casualties or by reason of its liability for any damages to persons or property occurring in the construction or operation of transit facilities under its jurisdiction or the conduct of its activities;

(U) May maintain funds that it considers necessary for the efficient performance of its duties;

(V) May direct its agents or employees, when properly identified in writing, after at least five days' written notice, to enter upon lands within or without its territorial boundaries in order to make surveys and examinations preliminary to the location and construction of transit facilities, without liability to it or its agents or employees except for actual damage done;

(W) On its own motion, may request the appropriate zoning board, as defined in section 4563.03 of the Revised Code, to establish and enforce zoning regulations pertaining to any transit facility under its jurisdiction in the manner prescribed by sections 4563.01 to 4563.21 of the Revised Code;

(X) If it acquires any existing transit system, shall assume all the employer's obligations under any existing labor contract between the employees and management of the system. If the board acquires, constructs, controls, or operates any such facilities, it shall negotiate arrangements to protect the interests of employees affected by the acquisition, construction, control, or operation. The arrangements shall include, but are not limited to:

(1) The preservation of rights, privileges, and benefits under existing collective bargaining agreements or otherwise, the preservation of rights and benefits under any existing pension plans covering prior service, and continued participation in social security in addition to participation in the public employees retirement system as required in Chapter 145. of the Revised Code;

(2) The continuation of collective bargaining rights;

(3) The protection of individual employees against a worsening of their positions with respect to their employment;

(4) Assurances of employment to employees of those transit systems and priority reemployment of employees terminated or laid off;

(5) Paid training or retraining programs;

(6) Signed written labor agreements.

The arrangements may include provisions for the submission of labor disputes to final and binding arbitration.

(Y) May provide for and maintain security operations, including a transit police department, subject to section 306.352 of the Revised Code. Regional transit authority police officers shall have the power and duty to act as peace officers within transit facilities owned, operated, or leased by the transit authority to protect the transit authority's property and the person and property of passengers, to preserve the peace, and to enforce all laws of the state and ordinances and regulations of political subdivisions in which the transit authority operates. Regional transit authority police officers also shall have the power and duty to act as peace officers when they render emergency assistance outside their jurisdiction to any other peace officer who is not a regional transit authority police officer and who has arrest authority under section 2935.03 of the Revised Code. Regional transit authority police officers may render emergency assistance if there is a threat of imminent physical danger to the peace officer, a threat of physical harm to another person, or any other serious emergency situation and if either the peace officer who is assisted requests emergency assistance or it appears that the peace officer who is assisted is unable to request emergency assistance and the circumstances observed by the regional transit authority police officer reasonably indicate that emergency assistance is appropriate.

Before exercising powers of arrest and the other powers and duties of a peace officer, each regional transit authority police officer shall take an oath and give bond to the state in a sum that the board of trustees prescribes for the proper performance of the officer's duties.

Persons employed as regional transit authority police officers shall complete training for the position to which they have been appointed as required by the Ohio peace officer training commission as authorized in section 109.77 of the Revised Code, or be otherwise qualified. The cost of the training shall be provided by the regional transit authority.

(Z) May procure a policy or policies insuring members of its board of trustees against liability on account of damages or injury to persons and property resulting from any act or omission of a member in the member's

official capacity as a member of the board or resulting solely out of the member's membership on the board;

(AA) May enter into any agreement for the sale and leaseback or lease and leaseback of transit facilities, which agreement may contain all necessary covenants for the security and protection of any lessor or the regional transit authority including, but not limited to, indemnification of the lessor against the loss of anticipated tax benefits arising from acts, omissions, or misrepresentations of the regional transit authority. In connection with that transaction, the regional transit authority may contract for insurance and letters of credit and pay any premiums or other charges for the insurance and letters of credit. The fiscal officer shall not be required to furnish any certificate under section 5705.41 of the Revised Code in connection with the execution of any such agreement.

(BB) In regard to any contract entered into on or after March 19, 1993, for the rendering of services or the supplying of materials or for the construction, demolition, alteration, repair, or reconstruction of transit facilities in which a bond is required for the faithful performance of the contract, may permit the person awarded the contract to utilize a letter of credit issued by a bank or other financial institution in lieu of the bond;

(CC) May enter into agreements with municipal corporations located within the territorial jurisdiction of the regional transit authority permitting regional transit authority police officers employed under division (Y) of this section to exercise full arrest powers, as provided in section 2935.03 of the Revised Code, for the purpose of preserving the peace and enforcing all laws of the state and ordinances and regulations of the municipal corporation within the areas that may be agreed to by the regional transit authority and the municipal corporation.

Sec. 306.43. (A) The board of trustees of a regional transit authority or any officer or employee designated by such board may make any contract for the purchase of goods or services, the cost of which does not exceed one hundred thousand dollars. When an expenditure, other than for the acquisition of real estate, the discharge of claims, or the acquisition of goods or services under the circumstances described in division (H) of this section, is expected to exceed one hundred thousand dollars, such expenditure shall be made through full and open competition by the use of competitive procedures. The regional transit authority shall use the competitive procedure, as set forth in divisions (B), (C), (D), and (E) of this section, that is most appropriate under the circumstances of the procurement.

(B) Competitive sealed bidding is the preferred method of procurement and a regional transit authority shall use that method if all of the following

conditions exist:

(1) A clear, complete and adequate description of the goods, services, or work is available;

(2) Time permits the solicitation, submission, and evaluation of sealed bids;

(3) The award will be made on the basis of price and other price-related factors;

(4) It is not necessary to conduct discussions with responding offerors about their bids;

(5) There is a reasonable expectation of receiving more than one sealed bid.

A regional transit authority shall publish a notice calling for bids once a week for no less than two consecutive weeks in ~~at least one~~ a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. A regional transit authority may require that a bidder for any contract other than a construction contract provide a bid guaranty in the form, quality, and amount considered appropriate by the regional transit authority. The board may let the contract to the lowest responsive and responsible bidder. Where fewer than two responsive bids are received, a regional transit authority may negotiate price with the sole responsive bidder or may rescind the solicitation and procure under division (H)(2) of this section.

(C) A regional transit authority may use two-step competitive bidding, consisting of a technical proposal and a separate, subsequent sealed price bid from those submitting acceptable technical proposals, if both of the following conditions exist:

(1) A clear, complete, and adequate description of the goods, services, or work is not available, but definite criteria exist for the evaluation of technical proposals;

(2) It is necessary to conduct discussions with responding offerors.

A regional transit authority shall publish a notice calling for technical proposals once a week for no less than two consecutive weeks in ~~at least one~~ a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. A regional transit authority may require a bid guaranty in the form, quality, and amount the regional transit authority considers appropriate. The board may let the contract to the lowest responsive and responsible bidder. Where fewer than two responsive and responsible bids are received, a regional transit authority may negotiate price with the sole responsive and responsible bidder or may rescind the solicitation and procure under division

(H)(2) of this section.

(D) A regional transit authority shall make a procurement by competitive proposals if competitive sealed bidding or two-step competitive bidding is not appropriate.

A regional transit authority shall publish a notice calling for proposals once a week for no less than two consecutive weeks in ~~at least one~~ a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. A regional transit authority may require a proposal guaranty in the form, quality, and amount considered appropriate by the regional transit authority. The board may let the contract to the proposer making the offer considered most advantageous to the authority. Where fewer than two competent proposals are received, a regional transit authority may negotiate price and terms with the sole proposer or may rescind the solicitation and procure under division (H)(2) of this section.

(E)(1) A regional transit authority shall procure the services of an architect or engineer in the manner prescribed by the "Federal Mass Transportation Act of 1987," Public Law No. 100-17, section 316, 101 Stat. 227, 232-234, 49 U.S.C.A. app. 1608 and the services of a construction manager in the manner prescribed by sections 9.33 to 9.332 of the Revised Code.

(2) A regional transit authority may procure revenue rolling stock in the manner prescribed by division (B), (C), or (D) of this section.

(3) All contracts for construction in excess of one hundred thousand dollars shall be made only after the regional transit authority has published a notice calling for bids once a week for two consecutive weeks in ~~at least one~~ a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. The board may award a contract to the lowest responsive and responsible bidder. Where only one responsive and responsible bid is received, the regional transit authority may negotiate price with the sole responsive bidder or may rescind the solicitation. The regional transit authority shall award construction contracts in accordance with sections 153.12 to 153.14 and 153.54 of the Revised Code. Divisions (B) and (C) of this section shall not apply to the award of contracts for construction.

(F) All contracts involving expenditures in excess of one hundred thousand dollars shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. The plans and specifications shall at all times be made and considered part of the contract. For all contracts other than construction contracts, a regional transit

authority may require performance, payment, or maintenance guaranties or any combination of such guaranties in the form, quality, and amount it considers appropriate. The contract shall be approved by the board and signed on behalf of the regional transit authority and by the contractor.

(G) In making a contract, a regional transit authority may give preference to goods produced in the United States in accordance with the Buy America requirements in the "Surface Transportation Assistance Act of 1982," Public Law No. 97-424, section 165, 96 Stat. 2097, 23 U.S.C.A. 101 note, as amended, and the rules adopted thereunder. The regional transit authority also may give preference to providers of goods produced in and services provided in labor surplus areas as defined by the United States department of labor in 41 U.S.C.A. 401 note, Executive Order No. 12073, August 16, 1978, 43 Fed. Reg. 36873, as amended.

(H) Competitive procedures under this section are not required in any of the following circumstances:

(1) The board of trustees of a regional transit authority, by a two-thirds affirmative vote of its members, determines that a real and present emergency exists under any of the following conditions, and the board enters its determination and the reasons for it in its proceedings:

(a) Affecting safety, welfare, or the ability to deliver transportation services;

(b) Arising out of an interruption of contracts essential to the provision of daily transit services;

(c) Involving actual physical damage to structures, supplies, equipment, or property.

(2) The purchase consists of goods or services, or any combination thereof, and after reasonable inquiry the board or any officer or employee the board designates finds that only one source of supply is reasonably available.

(3) The expenditure is for a renewal or renegotiation of a lease or license for telecommunications or electronic data processing equipment, services, or systems, or for the upgrade of such equipment, services, or systems, or for the maintenance thereof as supplied by the original source or its successors or assigns.

(4) The purchase of goods or services is made from another political subdivision, public agency, public transit system, regional transit authority, the state, or the federal government, or as a third-party beneficiary under a state or federal procurement contract, or as a participant in a department of administrative services contract under division (B) of section 125.04 of the Revised Code.

(5) The sale and leaseback or lease and leaseback of transit facilities is made as provided in division (AA) of section 306.35 of the Revised Code.

(6) The purchase substantially involves services of a personal, professional, highly technical, or scientific nature, including but not limited to the services of an attorney, physician, surveyor, appraiser, investigator, court reporter, adjuster, advertising consultant, or licensed broker, or involves the special skills or proprietary knowledge required for the servicing of specialized equipment owned by the regional transit authority.

(7) Services or supplies are available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code.

(8) The purchase consists of the product or services of a public utility.

(9) The purchase is for the services of individuals with disabilities to work in the authority's commissaries or cafeterias, and those individuals are supplied by a nonprofit corporation or association whose purpose is to assist individuals with disabilities, whether or not that corporation or association is funded entirely or in part by the federal government, or the purchase is for services provided by a nonprofit corporation or association whose purpose is to assist individuals with disabilities, whether or not that corporation or association is funded entirely or in part by the federal government. For purposes of division (H)(9) of this section, "disability" has the same meaning as in section 4112.01 of the Revised Code.

(I) A regional transit authority may enter into blanket purchase agreements for purchases of maintenance, operating, or repair goods or services where the item cost does not exceed five hundred dollars and the annual expenditure does not exceed one hundred thousand dollars.

(J) Nothing contained in this section prohibits a regional transit authority from participating in intergovernmental cooperative purchasing arrangements.

(K) Except as otherwise provided in this chapter, a regional transit authority shall make a sale or other disposition of property through full and open competition. Except as provided in division (L) of this section, all dispositions of personal property and all grants of real property for terms exceeding five years shall be made by public auction or competitive procedure.

(L) The competitive procedures required by division (K) of this section are not required in any of the following circumstances:

(1) The grant is a component of a joint development between public and private entities and is intended to enhance or benefit public transit.

(2) The grant of a limited use or of a license affecting land is made to an owner of abutting real property.

(3) The grant of a limited use is made to a public utility.

(4) The grant or disposition is to a department of the federal or state government, to a political subdivision of the state, or to any other governmental entity.

(5) Used equipment is traded on the purchase of equipment and the value of the used equipment is a price-related factor in the basis for award for the purchase.

(6) The value of the personal property is such that competitive procedures are not appropriate and the property either is sold at its fair market value or is disposed of by gift to a nonprofit entity having the general welfare or education of the public as one of its principal objects.

(M) The board of trustees of a regional transit authority, when making a contract funded exclusively by state or local moneys or any combination thereof, shall make a good faith effort to use disadvantaged business enterprise participation to the same extent required under Section 105(f) of the "Surface Transportation Assistance Act of 1982," Public Law No. 97-424, 96 Stat. 2100, and Section 106(c) of the "Surface Transportation and Uniform Relocation Assistance Act of 1987," Public Law No. 100-17, 101 Stat. 145, and the rules adopted thereunder.

(N) As used in this section:

(1) "Goods" means all things, including specially manufactured goods, that are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities, and things in action. "Goods" also includes other identified things attached to realty as described in section 1302.03 of the Revised Code.

(2) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of goods or reports other than goods or reports that are merely incidental to the required performance, including but not limited to insurance, bonding, or routine operation, routine repair, or routine maintenance of existing structures, buildings, real property, or equipment, but does not include employment agreements, collective bargaining agreements, or personal services.

(3) "Construction" means the process of building, altering, repairing, improving, painting, decorating, or demolishing any structure or building, or other improvements of any kind to any real property owned or leased by a regional transit authority.

(4) "Full and open competition" has the same meaning as in the "Office of Federal Procurement Policy Act," Public Law No. 98-369, section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403.

(5) A bidder is "responsive" if, applying the criteria of division (A) of

section 9.312 of the Revised Code, the bidder is "responsive" as described in that section.

(6) A bidder is "responsible" if, applying the criteria of division ~~(A)~~(B) of section 9.312 of the Revised Code and of the "Office of Federal Procurement Policy Act," Public Law No. 98-369, section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403, the bidder is "responsible" as described in those sections.

Sec. 306.55. Beginning July 1, 2011 and until November 5, 2013, any municipal corporation or township that has created or joined a regional transit authority that levies a property tax and that includes in its membership political subdivisions that are located in a county having a population of at least four hundred thousand according to the most recent federal census, may withdraw from the regional transit authority in the manner provided in this section. The legislative authority of the municipal corporation or board of township trustees of the township proposing to withdraw shall adopt a resolution to submit the question of withdrawing from the regional transit authority to the electors of the territory to be withdrawn and shall certify the proposal to the board of elections for the purpose of having the proposal placed on the ballot at the next general election or at a special election conducted on the day of the next primary election that occurs not less than ninety days after the resolution is certified to the board of elections.

Upon certification of a proposal to the board of elections pursuant to this section, the board of elections shall make the necessary arrangements for the submission of the question to the electors of the territory to be withdrawn from the regional transit authority qualified to vote on the question, and the election shall be held, canvassed, and certified in the same manner as regular elections for the election of officers of the subdivision proposing to withdraw from the regional transit authority, except that the question appearing on the ballot shall read:

"Shall the territory within the ..... (Name of political subdivision to be withdrawn) be withdrawn from .... (Name) regional transit authority?"

If the question is approved by at least a majority of the electors voting on the question, the withdrawal is effective six months from the date of the certification of its passage.

The board of elections to which the resolution was certified shall certify the results of the election to the board or legislative authority of the subdivision that submitted the resolution to withdraw and to the board of trustees of the regional transit authority from which the subdivision

proposed to withdraw.

If the question of withdrawing from the regional transit authority is approved, the power of the regional transit authority to levy a tax on taxable property in the withdrawing subdivision terminates.

Sec. 306.551. Any municipal corporation or township that withdraws from a regional transit authority under section 306.55 of the Revised Code may enter into a contract with a regional transit authority or other provider of transit services to provide transportation service for handicapped, disabled, or elderly persons and for any other service the legislative authority of the municipal corporation or township may determine to be appropriate.

Sec. 306.70. A tax proposed to be levied by a board of county commissioners or by the board of trustees of a regional transit authority pursuant to sections 5739.023 and 5741.022 of the Revised Code shall not become effective until it is submitted to the electors residing within the county or within the territorial boundaries of the regional transit authority and approved by a majority of the electors voting on it. Such question shall be submitted at a general election or at a special election on a day specified in the resolution levying the tax and occurring not less than ninety days after such resolution is certified to the board of elections, in accordance with section 3505.071 of the Revised Code.

The board of elections of the county or of each county in which any territory of the regional transit authority is located shall make the necessary arrangements for the submission of such question to the electors of the county or regional transit authority, and the election shall be held, canvassed, and certified in the same manner as regular elections for the election of county officers. Notice of the election shall be published in ~~one or more newspapers which in the aggregate are~~ a newspaper of general circulation in the territory of the county or of the regional transit authority once a week for two consecutive weeks prior to the election ~~and, if~~ or as provided in section 7.16 of the Revised Code. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The notice shall state the type, rate, and purpose of the tax to be levied, the length of time during which the tax will be in effect, and the time and place of the election.

More than one such question may be submitted at the same election. The form of the ballots cast at such election shall be:

"Shall a(n) ..... (sales and use) ..... tax be levied for all transit purposes of the ..... (here insert name of the county or regional transit authority) at a rate not exceeding ..... (here insert percentage)

per cent for ..... (here insert number of years the tax is to be in effect, or that it is to be in effect for a continuing period of time)?"

If the tax proposed to be levied is a continuation of an existing tax, whether at the same rate or at an increased or reduced rate, or an increase in the rate of an existing tax, the notice and ballot form shall so state.

The board of elections to which the resolution was certified shall certify the results of the election to the county auditor of the county or secretary-treasurer of the regional transit authority levying the tax and to the tax commissioner of the state.

Sec. 307.022. (A) The board of county commissioners of any county may do both of the following without following the competitive bidding requirements of section 307.86 of the Revised Code:

(1) Enter into a lease, including a lease with an option to purchase, of correctional facilities for a term not in excess of forty years. Before entering into the lease, the board shall publish, once a week for three consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, a notice that the board is accepting proposals for a lease pursuant to this division. The notice shall state the date before which the proposals are required to be submitted in order to be considered by the board.

(2) Subject to compliance with this section, grant leases, easements, and licenses with respect to, or sell, real property owned by the county if the real property is to be leased back by the county for use as correctional facilities.

The lease under division (A)(1) of this section shall require the county to contract, in accordance with Chapter 153., sections 307.86 to 307.92, and Chapter 4115. of the Revised Code, for the construction, improvement, furnishing, and equipping of correctional facilities to be leased pursuant to this section. Prior to the board's execution of the lease, it may require the lessor under the lease to cause sufficient money to be made available to the county to enable the county to comply with the certification requirements of division (D) of section 5705.41 of the Revised Code.

A lease entered into pursuant to division (A)(1) of this section by a board may provide for the county to maintain and repair the correctional facility during the term of the leasehold, may provide for the county to make rental payments prior to or after occupation of the correctional facilities by the county, and may provide for the board to obtain and maintain any insurance that the lessor may require, including, but not limited to, public liability, casualty, builder's risk, and business interruption insurance. The obligations incurred under a lease entered into pursuant to division (A)(1) of this section shall not be considered to be within the debt limitations of

section 133.07 of the Revised Code.

(B) The correctional facilities leased under division (A)(1) of this section may include any or all of the following:

(1) Facilities in which one or more other governmental entities are participating or in which other facilities of the county are included;

(2) Facilities acquired, constructed, renovated, or financed by the Ohio building authority and leased to the county pursuant to section 307.021 of the Revised Code;

(3) Correctional facilities that are under construction or have been completed and for which no permanent financing has been arranged.

(C) As used in this section:

(1) "Correctional facilities" includes, but is not limited to, jails, detention facilities, workhouses, community-based correctional facilities, and family court centers.

(2) "Construction" has the same meaning as in division (B) of section 4115.03 of the Revised Code.

Sec. 307.041. (A) As used in this section, "energy conservation measure" means an installation or modification of an installation in, or remodeling of, an existing building, to reduce energy consumption. "Energy conservation measure" includes the following:

(1) Insulation of the building structure and of systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(3) Automatic energy control systems;

(4) Heating, ventilating, or air conditioning system modifications or replacements;

(5) Caulking and weatherstripping;

(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless such an increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;

(7) Energy recovery systems;

(8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(9) Acquiring, constructing, furnishing, equipping, improving the site

of, and otherwise improving a central utility plant to provide heating and cooling services to a building or buildings together with distribution piping and ancillary distribution controls, equipment, and related facilities from the central utility plant to the building or buildings;

(10) Any other modification, installation, or remodeling approved by the board of county commissioners as an energy conservation measure.

(B) For the purpose of evaluating county buildings for energy conservation measures, a county may contract with an architect, professional engineer, energy services company, contractor, or other person experienced in the design and implementation of energy conservation measures for an energy conservation report. The report shall include all of the following:

(1) Analyses of the buildings' energy needs and recommendations for building installations, modifications of existing installations, or building remodeling that would significantly reduce energy consumption in the buildings owned by that county;

(2) Estimates of all costs of those installations, those modifications, or that remodeling, including costs of design, engineering, installation, maintenance, and repairs;

(3) Estimates of the amounts by which energy consumption could be reduced;

(4) The interest rate used to estimate the costs of any energy conservation measures that are to be financed;

(5) The average system life of the energy conservation measures;

(6) Estimates of the likely savings that will result from the reduction in energy consumption over the average system life of the energy conservation measure, including the methods used to estimate the savings;

(7) A certification under the seal of a registered professional engineer that the energy conservation report uses reasonable methods of analysis and estimation.

(C)(1) A county desiring to implement energy conservation measures may proceed under either of the following methods:

(a) Using a report or any part of an energy conservation report prepared under division (B) of this section, advertise for bids and, except as otherwise provided in this section, comply with sections 307.86 to 307.92 of the Revised Code;

(b) Notwithstanding sections 307.86 to 307.92 of the Revised Code, request proposals from at least three vendors for the implementation of energy conservation measures. A request for proposals shall require the installer that is awarded a contract under division (C)(2)(b) of this section to prepare an energy conservation report in accordance with division (B) of

this section. Prior to sending any installer of energy conservation measures a copy of any request for proposals, the county shall advertise its intent to request proposals for the installation of energy conservation measures in a newspaper of general circulation in the county once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall state that the county intends to request proposals for the installation of energy conservation measures; indicate the date, which shall be at least ten days after the second publication, on which the request for proposals will be mailed to installers of energy conservation measures; and state that any installer of energy conservation measures interested in receiving the request for proposals shall submit written notice to the county not later than noon of the day on which the request for proposals will be mailed.

(2)(a) Upon receiving bids under division (C)(1)(a) of this section, the county shall analyze them and select the lowest and best bid or bids most likely to result in the greatest energy savings considering the cost of the project and the county's ability to pay for the improvements with current revenues or by financing the improvements.

(b) Upon receiving proposals under division (C)(1)(b) of this section, the county shall analyze the proposals and the installers' qualifications and select the most qualified installer to prepare an energy conservation report in accordance with division (B) of this section. After receipt and review of the energy conservation report, the county may award a contract to the selected installer to install the energy conservation measures that are most likely to result in the greatest energy savings considering the cost of the project and the county's ability to pay for the improvements with current revenues or by financing the improvements.

(c) The awarding of a contract to install energy conservation measures under division (C)(2)(a) or (b) of this section shall be conditioned upon a finding by the contracting authority that the amount of money spent on the energy conservation measures is not likely to exceed the amount of money the county would save in energy, operating, maintenance, and avoided capital costs over the average system life of the energy conservation measures as specified in the energy conservation report. In making such a finding, the contracting authority may take into account increased costs due to inflation as shown in the energy conservation report. Nothing in this division prohibits a county from rejecting all bids or proposals under division (C)(1)(a) or (b) of this section or from selecting more than one bid or proposal.

(D) A board of county commissioners may enter into an installment

payment contract for the purchase and installation of energy conservation measures. Provisions of installment payment contracts that deal with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 307.86 of the Revised Code, and shall be on the following terms:

(1) Not less than a specified percentage, as determined and approved by the board of county commissioners, of the costs of the contract shall be paid within two years from the date of purchase.

(2) The remaining balance of the costs of the contract shall be paid within the lesser of the average system life of the energy conservation measures as specified in the energy conservation report or thirty years.

(E) The board of county commissioners may issue the notes of the county specifying the terms of a purchase of energy conservation measures under this section and securing any deferred payments provided for in division (D) of this section. The notes shall be payable at the times provided and bear interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The notes may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. Revenues derived from local taxes or otherwise for the purpose of conserving energy or for defraying the current operating expenses of the county may be pledged and applied to the payment of interest and the retirement of the notes. The notes may be sold at private sale or given to the contractor under an installment payment contract authorized by division (D) of this section.

(F) Debt incurred under this section shall not be included in the calculation of the net indebtedness of a county under section 133.07 of the Revised Code.

Sec. 307.10. (A) No sale of real property, or lease of real property used or to be used for the purpose of airports, landing fields, or air navigational facilities, or parts thereof, as provided by section 307.09 of the Revised Code shall be made unless it is authorized by a resolution adopted by a majority of the board of county commissioners. When a sale of real property as provided by section 307.09 of the Revised Code is authorized, the board may either deed the property to the highest responsible bidder, after advertisement once a week for four consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, or offer the real property for sale at a public auction, after giving at least thirty days' notice of the auction by publication in a newspaper of general circulation in the county. The board may reject any and all bids. The board may, as it considers best, sell real property pursuant

to this section as an entire tract or in parcels. The board, by resolution adopted by a majority of the board, may lease real property, in accordance with division (A) of section 307.09 of the Revised Code, without advertising for bids.

(B) The board, by resolution, may transfer real property in fee simple belonging to the county and not needed for public use to the United States government, to the state or any department or agency thereof, to municipal corporations or other political subdivisions of the state, to the county board of developmental disabilities, or to a county land reutilization corporation organized under Chapter 1724. of the Revised Code for public purposes upon the terms and in the manner that it may determine to be in the best interests of the county, without advertising for bids. The board shall execute a deed or other proper instrument when such a transfer is approved.

(C) The board, by resolution adopted by a majority of the board, may grant leases, rights, or easements to the United States government, to the state or any department or agency thereof, or to municipal corporations and other political subdivisions of the state, or to privately owned electric light and power companies, natural gas companies, or telephone or telegraph companies for purposes of rendering their several public utilities services, in accordance with division (B) of section 307.09 of the Revised Code, without advertising for bids. When such grant of lease, right, or easement is authorized, a deed or other proper instrument therefor shall be executed by the board.

Sec. 307.12. (A) Except as otherwise provided in divisions (D), (E), and (G) of this section, when the board of county commissioners finds, by resolution, that the county has personal property, including motor vehicles acquired for the use of county officers and departments, and road machinery, equipment, tools, or supplies, that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, and when the fair market value of the property to be sold or donated under this division is, in the opinion of the board, in excess of two thousand five hundred dollars, the board may do either of the following:

(1) Sell the property at public auction or by sealed bid to the highest bidder. Notice of the time, place, and manner of the sale shall be published in a newspaper of general circulation in the county at least ten days prior to the sale, and a typewritten or printed notice of the time, place, and manner of the sale shall be posted at least ten days before the sale in the offices of the county auditor and the board of county commissioners.

If a board conducts a sale of property by sealed bid, the form of the bid shall be as prescribed by the board, and each bid shall contain the name of

the person submitting it. Bids received shall be opened and tabulated at the time stated in the notice. The property shall be sold to the highest bidder, except that the board may reject all bids and hold another sale, by public auction or sealed bid, in the manner prescribed by this section.

(2) Donate any motor vehicle that does not exceed four thousand five hundred dollars in value to a nonprofit organization exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3) for the purpose of meeting the transportation needs of participants in the Ohio works first program established under Chapter 5107. of the Revised Code and participants in the prevention, retention, and contingency program established under Chapter 5108. of the Revised Code.

(B) When the board of county commissioners finds, by resolution, that the county has personal property, including motor vehicles acquired for the use of county officers and departments, and road machinery, equipment, tools, or supplies, that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, and when the fair market value of the property to be sold or donated under this division is, in the opinion of the board, two thousand five hundred dollars or less, the board may do either of the following:

(1) Sell the property by private sale, without advertisement or public notification;

(2) Donate the property to an eligible nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating any property under this division, the board shall adopt a resolution expressing its intent to make unneeded, obsolete, or unfit-for-use county personal property available to these organizations. The resolution shall include guidelines and procedures the board considers necessary to implement a donation program under this division and shall indicate whether the county will conduct the donation program or the board will contract with a representative to conduct it. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

The resolution shall include within its procedures a requirement that any nonprofit organization desiring to obtain donated property under this division shall submit a written notice to the board or its representative. The written notice shall include evidence that the organization is a nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of the organization's primary purpose; a description of the type or types of

property the organization needs; and the name, address, and telephone number of a person designated by the organization's governing board to receive donated property and to serve as its agent.

After adoption of the resolution, the board shall publish, in a newspaper of general circulation in the county, notice of its intent to donate unneeded, obsolete, or unfit-for-use county personal property to eligible nonprofit organizations. The notice shall include a summary of the information provided in the resolution and shall be published ~~at least~~ twice or as provided in section 7.16 of the Revised Code. The second and any subsequent notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually in a conspicuous place in the offices of the county auditor and the board of county commissioners~~, and, if~~. If the county maintains a web site on the internet, the notice shall be posted continually at that web site.

The board or its representative shall maintain a list of all nonprofit organizations that notify the board or its representative of their desire to obtain donated property under this division and that the board or its representative determines to be eligible, in accordance with the requirements set forth in this section and in the donation program's guidelines and procedures, to receive donated property.

The board or its representatives also shall maintain a list of all county personal property the board finds to be unneeded, obsolete, or unfit for use and to be available for donation under this division. The list shall be posted continually in a conspicuous location in the offices of the county auditor and the board of county commissioners, and, if the county maintains a web site on the internet, the list shall be posted continually at that web site. An item of property on the list shall be donated to the eligible nonprofit organization that first declares to the board or its representative its desire to obtain the item unless the board previously has established, by resolution, a list of eligible nonprofit organizations that shall be given priority with respect to the item's donation. Priority may be given on the basis that the purposes of a nonprofit organization have a direct relationship to specific public purposes of programs provided or administered by the board. A resolution giving priority to certain nonprofit organizations with respect to the donation of an item of property shall specify the reasons why the organizations are given that priority.

(C) Members of the board of county commissioners shall consult with the Ohio ethics commission, and comply with the provisions of Chapters 102. and 2921. of the Revised Code, with respect to any sale or donation under division (A) or (B) of this section to a nonprofit organization of which

a county commissioner, any member of the county commissioner's family, or any business associate of the county commissioner is a trustee, officer, board member, or employee.

(D) Notwithstanding anything to the contrary in division (A), (B), or (E) of this section and regardless of the property's value, the board of county commissioners may sell or donate county personal property, including motor vehicles, to the federal government, the state, any political subdivision of the state, or a county land reutilization corporation without advertisement or public notification.

(E) Notwithstanding anything to the contrary in division (A), (B), or (G) of this section and regardless of the property's value, the board of county commissioners may sell personal property, including motor vehicles acquired for the use of county officers and departments, and road machinery, equipment, tools, or supplies, that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, by internet auction. The board shall adopt, during each calendar year, a resolution expressing its intent to sell that property by internet auction. The resolution shall include a description of how the auctions will be conducted and shall specify the number of days for bidding on the property, which shall be no less than ten days, including Saturdays, Sundays, and legal holidays. The resolution shall indicate whether the county will conduct the auction or the board will contract with a representative to conduct the auction and shall establish the general terms and conditions of sale. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

After adoption of the resolution, the board shall publish, in a newspaper of general circulation in the county, notice of its intent to sell unneeded, obsolete, or unfit-for-use county personal property by internet auction. The notice shall include a summary of the information provided in the resolution and shall be published ~~at least~~ twice or as provided in section 7.16 of the Revised Code. The second and any subsequent notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually throughout the calendar year in a conspicuous place in the offices of the county auditor and the board of county commissioners~~, and, if~~. If the county maintains a web site on the internet, the notice shall be posted continually throughout the calendar year at that web site.

When property is to be sold by internet auction, the board or its representative may establish a minimum price that will be accepted for

specific items and may establish any other terms and conditions for the particular sale, including requirements for pick-up or delivery, method of payment, and sales tax. This type of information shall be provided on the internet at the time of the auction and may be provided before that time upon request after the terms and conditions have been determined by the board or its representative.

(F) When a county officer or department head determines that county-owned personal property under the jurisdiction of the officer or department head, including motor vehicles, road machinery, equipment, tools, or supplies, is not of immediate need, the county officer or department head may notify the board of county commissioners, and the board may lease that personal property to any municipal corporation, township, other political subdivision of the state, or to a county land reutilization corporation. The lease shall require the county to be reimbursed under terms, conditions, and fees established by the board, or under contracts executed by the board.

(G) If the board of county commissioners finds, by resolution, that the county has vehicles, equipment, or machinery that is not needed, or is unfit for public use, and the board desires to sell the vehicles, equipment, or machinery to the person or firm from which it proposes to purchase other vehicles, equipment, or machinery, the board may offer to sell the vehicles, equipment, or machinery to that person or firm, and to have the selling price credited to the person or firm against the purchase price of other vehicles, equipment, or machinery.

(H) If the board of county commissioners advertises for bids for the sale of new vehicles, equipment, or machinery to the county, it may include in the same advertisement a notice of the willingness of the board to accept bids for the purchase of county-owned vehicles, equipment, or machinery that is obsolete or not needed for public use, and to have the amount of those bids subtracted from the selling price of the other vehicles, equipment, or machinery as a means of determining the lowest responsible bidder.

(I) If a board of county commissioners determines that county personal property is not needed for public use, or is obsolete or unfit for the use for which it was acquired, and that the property has no value, the board may discard or salvage that property.

(J) A county engineer, in the engineer's discretion, may dispose of scrap construction materials on such terms as the engineer determines reasonable, including disposal without recovery of costs, if the total value of the materials does not exceed twenty-five thousand dollars. The engineer shall maintain records of all dispositions made under this division, including

identification of the origin of the materials, the final disposition, and copies of all receipts resulting from the dispositions.

As used in division (I) of this section, "scrap construction materials" means construction materials that result from a road or bridge improvement, remain after the improvement is completed, and are not reusable. Construction material that is metal and that results from a road or bridge improvement and remains after the improvement is completed is scrap construction material only if it cannot be used in any other road or bridge improvement or other project in its current state.

Sec. 307.676. (A) As used in this section:

(1) "Food and beverages" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption, including ice, water, spirituous liquors, wine, mixed beverages, beer, soft drinks, soda, and other beverages.

(2) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(3) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(B) The legislative authority of a county with a population of one million or more according to the most recent federal decennial census may, by resolution adopted on or before August 30, 2004, by a majority of the members of the legislative authority and with the subsequent approval of a majority of the electors of the county voting upon it, levy a tax of not more than two per cent on every retail sale in the county of food and beverages to be consumed on the premises where sold to pay the expenses of administering the tax and to provide revenues for the county general fund. Such resolution shall direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than ninety days after the resolution is certified to the board of elections, and such resolution may further direct the board of elections to include upon the ballot submitted to the electors any specific purposes for which the tax will be used. The legislative authority shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax and may provide for imposition of a penalty, interest, or both for late payments, provided that any such penalty may not exceed ten per cent of the amount of tax due and the rate at which interest accrues may not exceed the rate per annum required under section 5703.47 of the Revised Code.

(C) A tax levied under this section shall remain in effect for the period

of time specified in the resolution or ordinance levying the tax, but in no case for a longer period than forty years.

(D) A tax levied under this section is in addition to any other tax levied under Chapter 307., 4301., 4305., 5739., 5741., or any other chapter of the Revised Code. "Price," as defined in sections 5739.01 and 5741.01 of the Revised Code, does not include any tax levied under this section and any tax levied under this section does not include any tax imposed under Chapter 5739. or 5741. of the Revised Code.

(E)(1) No amount collected from a tax levied under this section shall be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2003, for the principal purpose of constructing, improving, expanding, equipping, financing, or operating a convention center unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any convention facilities authority, corporation, or other entity described in division (E)(1) of this section.

(2)(a) No amount collected from a tax levied under this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county directing the board of elections to submit the question of the levy, extension, or increase to the electors of the county, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (E)(2)(a) of this section be used only for the direct and indirect costs of capital improvements in accordance with the agreement, including the financing of capital improvements. Immediately following the execution of the agreement, the county shall:

(i) In accordance with section 7.12 of the Revised Code, cause the agreement to be published ~~at least~~ once in a newspaper of general

circulation in that county; or

(ii) Post the agreement in at least five public places in the county, as determined by the legislative authority, for a period not less than fifteen days.

(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement described in division (E)(2)(a) of this section shall be considered to be the approval of the majority of the mayors of the other municipal corporations for purposes of that division.

(F) Each year, the auditor of state shall conduct an audit of the uses of any amounts collected from taxes levied under this section and shall prepare a report of the auditor of state's findings. The auditor of state shall submit the report to the legislative authority of the county that has levied the tax, the speaker of the house of representatives, the president of the senate, and the leaders of the minority parties of the house of representatives and the senate.

(G) The levy of any taxes under Chapter 5739. of the Revised Code on the same transactions subject to a tax under this section does not prevent the levy of a tax under this section.

Sec. 307.70. In any county electing a county charter commission, the board of county commissioners shall appropriate money for the expenses of such commission in the preparation of a county charter, or charter amendment, and the study of problems involved. No appropriation shall be made for the compensation of members of the commission for their services. The board shall appropriate money for the printing and mailing or otherwise distributing to each elector in the county, as far as may be reasonably possible, a copy of a charter submitted to the electors of the county by a charter commission or by the board pursuant to petition as provided by Section 4 of Article X, Ohio Constitution. The copy of the charter shall be mailed or otherwise distributed at least thirty days prior to the election. The board shall appropriate money for the printing and distribution or publication of proposed amendments to a charter submitted by a charter commission pursuant to Section 4 of Article X, Ohio Constitution. Notice of amendments to a county charter shall be given by mailing or otherwise distributing a copy of each proposed amendment to each elector in the county, as far as may be reasonably possible, at least thirty days prior to the election or, if the board so determines, by publishing the full text of the proposed amendments once a week for at least two consecutive weeks in a newspaper ~~published in the county. If no newspaper is published in the county or the board is unable to obtain publication in a newspaper published~~

~~in the county, the proposed amendments may be published in a newspaper~~ of general circulation within the county, or as provided in section 7.16 of the Revised Code. No public officer is precluded, because of being a public officer, from also holding office as a member of a county charter commission, except that not more than four officeholders may be elected to a county charter commission at the same time. No member of a county charter commission, because of charter commission membership, is precluded from seeking or holding other public office.

Sec. 307.79. (A) The board of county commissioners may adopt, amend, and rescind rules establishing technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of those management and conservation practices. The rules shall be designed to implement the applicable areawide waste treatment management plan prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. Part 122. The rules to implement phase II of the storm water program of the national pollutant discharge elimination system shall not be inconsistent with, more stringent than, or broader in scope than the rules or regulations adopted by the environmental protection agency under 40 C.F.R. Part 122. The rules adopted under this section shall not apply inside the limits of municipal corporations or the limits of townships with a limited home rule government that have adopted rules under section 504.21 of the Revised Code, to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, or to land being used in a surface mine operation as defined in section 1514.01 of the Revised Code.

The rules adopted under this section may require persons to file plans governing erosion control, sediment control, and water management before clearing, grading, excavating, filling, or otherwise wholly or partially disturbing one or more contiguous acres of land owned by one person or operated as one development unit for the construction of nonfarm buildings, structures, utilities, recreational areas, or other similar nonfarm uses. If the rules require plans to be filed, the rules shall do all of the following:

(1) Designate the board itself, its employees, or another agency or

official to review and approve or disapprove the plans;

(2) Establish procedures and criteria for the review and approval or disapproval of the plans;

(3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved;

(4) Establish procedures for the issuance of the permits;

(5) Establish procedures under which a person may appeal the denial of a permit.

Areas of less than one contiguous acre shall not be exempt from compliance with other provisions of this section or rules adopted under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections.

No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water resources in the department of natural resources.

(B) Rules or amendments may be adopted under this section only after public hearings at not fewer than two regular sessions of the board. The board of county commissioners shall cause to be published, in a newspaper of general circulation in the county, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings, or as provided in section 7.16 of the Revised Code. The proposed rules or amendments shall be made available by the board to the public at the board office or other location indicated in the notice. The rules or amendments shall take effect on the thirty-first day following the date of their adoption.

(C) The board of county commissioners may employ personnel to assist in the administration of this section and the rules adopted under it. The board also, if the action does not conflict with the rules, may delegate duties to review sediment control and water management plans to its employees, and may enter into agreements with one or more political subdivisions, other county officials, or other government agencies, in any combination, in order to obtain reviews and comments on plans governing erosion control, sediment control, and water management or to obtain other services for the administration of the rules adopted under this section.

(D) The board of county commissioners or any duly authorized

representative of the board may, upon identification to the owner or person in charge, enter any land upon obtaining agreement with the owner, tenant, or manager of the land in order to determine whether there is compliance with the rules adopted under this section. If the board or its duly authorized representative is unable to obtain such an agreement, the board or representative may apply for, and a judge of the court of common pleas for the county where the land is located may issue, an appropriate inspection warrant as necessary to achieve the purposes of this chapter.

(E)(1) If the board of county commissioners or its duly authorized representative determines that a violation of the rules adopted under this section exists, the board or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. In addition, if the board or representative determines such a rule violation exists, regardless of whether or not the violator has obtained the proper permits, the board or representative may authorize the issuance of a notice of violation. If, after a period of not less than thirty days has elapsed following the issuance of the notice of violation, the violation continues, the board or its duly authorized representative shall issue a second notice of violation. Except as provided in division (E)(3) of this section, if, after a period of not less than fifteen days has elapsed following the issuance of the second notice of violation, the violation continues, the board or its duly authorized representative may issue a stop work order after first obtaining the written approval of the prosecuting attorney of the county if, in the opinion of the prosecuting attorney, the violation is egregious.

Once a stop work order is issued, the board or its duly authorize representative shall request, in writing, the prosecuting attorney of the county to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this section. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule or stop work order issued under this section shall be considered a separate violation subject to a civil fine.

(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order.

(3) No stop work order shall be issued under this section against any

public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water resources in the department of natural resources.

(F) No person shall violate any rule adopted or order issued under this section. Notwithstanding division (E) of this section, if the board of county commissioners determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine.

Sec. 307.791. The question of repeal of a county sediment control rule adopted under section 307.79 of the Revised Code may be initiated by filing with the board of elections of the county not less than ninety days before the general or primary election in any year a petition requesting that an election be held on such question. Such petition shall be signed by qualified electors residing in the county equal in number to ten per cent of those voting for governor at the most recent gubernatorial election in the county.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the county at the next general or primary election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the county once a week for two consecutive weeks prior to the election ~~and, if~~ or as provided in section 7.16 of the Revised Code. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The notice shall state the purpose, time, and place of the election and ~~the complete text~~ a succinct summary of each rule sought to be repealed. The form of the ballot cast at such election shall be prescribed by the secretary of state. The question covered by such petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

If a majority of the qualified electors voting on the question of repeal approve the repeal, the result of the election shall be certified immediately after the canvass by the board of elections to the board of county commissioners, who shall thereupon rescind the rule.

Sec. 307.80. The board of county commissioners of any county may, by resolution, establish a county microfilming board. The county microfilming board shall consist of the county treasurer or ~~his~~ the treasurer's representative, the county auditor or ~~his~~ the auditor's representative, the clerk of the court of common pleas or ~~his~~ the clerk's representative, a member or representative of the board of county commissioners chosen by the board of county commissioners, and the county recorder or ~~his~~ the recorder's representative who shall serve as secretary.

After the initial meeting of the county microfilming board, no county office shall purchase, lease, operate, or contract for the use of any microfilming or other image processing equipment, software, or services without prior approval of the board.

As used in sections 307.80 to 307.806 of the Revised Code, "county office" means any officer, department, board, commission, agency, court, or other office of the county and the court of common pleas. The county hospital shall not be considered a "county office" when the county hospital uses microfilming to record and store for future access physical and psychiatric examinations or treatment records of its patients. The county hospital shall participate, at the request of the county microfilming board, in purchasing film and equipment and in entering into contracts for services for microfilming.

Sec. 307.801. Within ninety days after a county microfilming board has been established, it shall hold its initial meeting at such time as the secretary of the board determines. Thereafter, the board shall meet annually on the ~~third~~ second Monday in January and at such other times and places as the secretary determines. The secretary shall, within five days after receiving a written request from any other member of the board, call the board together for a meeting. A majority of the board constitutes a quorum at any regular or special meeting.

The board may, by unanimous consent, adopt such rules as it considers necessary for its operation, but no rule of the board shall derogate the authority or responsibility of any elected official.

Sec. 307.802. The county microfilming board shall coordinate the use of all microfilming or image processing equipment, software, or services in use throughout the county offices at the time the board is established.

The board may, in writing, authorize any county office to contract for

microfilming or image processing services, or operate or acquire microfilming or image processing equipment or software, where the board determines such action is desirable. The authorization shall be signed by a majority of the members of the board and shall be filed in the office of the board of county commissioners.

The county microfilming board may establish a microfilming center which shall provide a centralized system for the use of microfilming or image processing equipment, software, or services for all county offices.

Sec. 307.803. The board of county commissioners may purchase, lease, or otherwise acquire any microfilming or image processing equipment, software, or services that the board determines is necessary, or that the county microfilming board or county board of information services and records management authorizes, from funds budgeted and appropriated by the board of county commissioners for such purposes.

Sec. 307.806. The county microfilming board may enter into a contract with the legislative authorities of any municipal corporation, township, port authority, water or sewer district, school district, library district, county law library association, health district, park district, soil and water conservation district, conservancy district, other taxing district, regional council established pursuant to Chapter 167. of the Revised Code, or otherwise, county land reutilization corporation organized under Chapter 1724. of the Revised Code, or with the board of county commissioners or the microfilming board of any other county, or with any other federal or state governmental agency, and such authorities may enter into contracts with the county microfilming board, to provide microfilming or image processing services to any of them. The board shall establish a schedule of charges upon which the cost of providing such services shall be based. All moneys collected by the board for services rendered pursuant to contracts entered into under this section shall be deposited in the county general fund; however, such moneys may be segregated into a special fund in the county treasury until the end of the calendar year. County offices may also be charged for such services and the appropriation so charged and the appropriation of the board so credited.

Sec. 307.81. (A) Where lands have been dedicated to or for the use of the public for parks or park lands, and where such lands have remained unimproved and unused by the public and there appears to be little or no possibility that such lands will be improved and used by the public, the board of county commissioners of the county in which the lands are located may, by resolution, declare such parks or park lands vacated upon the petition of a majority of the abutting freeholders. No such parks or park

lands shall be vacated unless notice of the pendency and prayer of the petition is given in a newspaper of general circulation in the county in which such lands are situated for three consecutive weeks preceding action on such petition or as provided in section 7.16 of the Revised Code. No such lands shall be vacated prior to a public hearing had thereon.

(B) Before the board of county commissioners may act on a petition to vacate unimproved and unused parks or park lands under division (A) of this section, the board shall offer such parks or park lands to all political subdivisions described in division (C) of this section. The board shall give notice to those political subdivisions by first class mail that the parks or park lands may be declared vacated unless the board of county commissioners accepts an offer from another political subdivision to buy or lease the lands. The failure of delivery of any such notice does not invalidate any proceedings for the disposition of parks or park lands under this division. Any such political subdivision that wishes to buy or lease the parks or park lands shall make an offer for the lands to the board in writing not later than ninety days after receiving the notice. The board may reject any offer, except that if it receives an offer in which the political subdivision agrees to use the lands for park purposes and in which the board finds all of the other terms acceptable, the board shall accept that offer. No offer shall be accepted until notice of the offer is published for three consecutive weeks in a newspaper of general circulation in the county in which the lands are situated or as provided in section 7.16 of the Revised Code, and a public hearing is held. Proceeds from the sale or lease of the lands shall be placed in the general fund of the county and be disbursed as prescribed in section 307.82 of the Revised Code. Any deed conveying the lands shall be executed as provided in that section.

(C) In order to receive a notice or to make an offer regarding parks or park lands under division (B) of this section, a political subdivision must meet both of the following conditions:

(1) Have the authority to acquire, develop, and maintain public parks or recreation areas;

(2) Contain the parks or park lands in question within its boundaries, or adjoin a political subdivision that contains those parks or park lands within its boundaries.

Sec. 307.82. Upon the vacation of parks or park lands, the board of county commissioners shall offer such lands for sale at a public auction at the courthouse of the county in which such lands are situated. No lands shall be sold until the board gives notice of intention to sell such lands. Such notice shall be published once a week for four consecutive weeks in a

newspaper of general circulation in the county in which sale is to be had or as provided in section 7.16 of the Revised Code. The board shall sell such lands to the highest and best bidder, provided, the board may reject any and all bids made hereunder.

When such sale is made, the auditor of the county in which sale is had and in which such lands are located, shall enter into a deed, conveying said lands to the purchaser thereof. At the time of sale, the auditor shall place the lands sold hereunder on the tax duplicate of the county at a value to be established by ~~him~~ the auditor as in cases where ~~he~~ the auditor re-enters property which has been tax exempt on the taxable list of the county.

The proceeds from the sale of lands sold pursuant to this section shall be placed in the general fund of the county in which such lands are located and may be disbursed as other general fund moneys.

Sec. 307.83. When real estate which has been dedicated to or for the use of the public for parks or park lands is vacated by the board of county commissioners pursuant to division (A) of section 307.81 of the Revised Code or is to be sold or leased for nonpark use under division (B) of that section, and where reversionary interests have been set up in the event of the non-use of such lands for the dedicated purpose, such reversionary interests shall accelerate and vest in the holders thereof upon such vacation, or prior to the acceptance of an offer to buy or lease the land. Thereupon the auditor of the county shall place the lands on the tax duplicate of the county in the names of such reversioners as are known to the board of county commissioners. If the board is unable to establish the names of such reversioners, it shall fix a date on or before which claims to such real estate may be asserted and after which such real estate shall be sold or leased. The board shall give notice of such date and of the sale or lease to be held thereafter, once each week for four consecutive weeks in a newspaper of general circulation in the county wherein such lands are located or as provided in section 7.16 of the Revised Code. In the event that no claims to such lands are asserted or found to be valid, the lands shall be sold pursuant to section 307.82 of the Revised Code in the case of a vacation of the lands pursuant to division (A) of section 307.81 of the Revised Code, or be sold or leased pursuant to division (B) of section 307.81 of the Revised Code if an agreement with a political subdivision is entered into under that division, and the title of any holders of reversionary interests shall be extinguished.

Sec. 307.84. The board of county commissioners of any county may, by resolution, establish a county automatic data processing board. The board shall consist of the county treasurer or the county treasurer's representative, the county recorder or the county recorder's representative, the clerk of the

court of common pleas or the clerk's representative, a member or representative of the board of county commissioners chosen by the board, two members or representatives of the board of elections chosen by the board of elections one of whom shall be a member of the political party receiving the greatest number of votes at the most recent general election for the office of governor and one of whom shall be a member of the political party receiving the second greatest number of votes at such an election, if the board of elections desires to participate, and the county auditor or the county auditor's representative who shall serve as secretary. The members of the county automatic data processing board may by majority vote add to the board any additional members whose officers use the facilities of the board.

After the initial meeting of the county automatic data processing board, no county office shall purchase, lease, operate, or contract for the use of any automatic or electronic data processing or record-keeping equipment, software, or services without prior approval of the board.

As used in sections 307.84 to 307.846 of the Revised Code, "county office" means any officer, department, board, commission, agency, court, or other office of the county, other than a board of county hospital trustees.

Sec. 307.842. The county automatic data processing board shall coordinate the use of all automatic or electronic data processing or record-keeping equipment, software, or services in use throughout the county offices at the time the board is established.

The board may, in writing, authorize any county office to contract for automatic or electronic data processing or record-keeping services, or operate or acquire automatic or electronic data processing or record-keeping equipment, where the board determines such action is desirable. The authorization shall be signed by a majority of the members of the board and shall be filed in the office of the board of county commissioners.

The county automatic data processing board may establish an automatic data processing center which shall provide a centralized system for the use of automatic or electronic data processing or record-keeping equipment, software, or services for all county offices.

Sec. 307.843. The board of county commissioners may purchase, lease, or otherwise acquire any automatic or electronic data processing or record-keeping equipment, software, or services that the board determines is necessary, or that the county automatic data processing board recommends, from funds budgeted and appropriated by the board of county commissioners for such purposes.

Sec. 307.846. The county automatic data processing board may enter into a contract with the legislative authorities of any municipal corporation,

township, port authority, water or sewer district, school district, library district, county law library association, health district, park district, soil and water conservation district, conservancy district, other taxing district, regional council established pursuant to Chapter 167. of the Revised Code, county land reutilization corporation organized under Chapter 1724. of the Revised Code, or otherwise or with the board of county commissioners or the automatic data processing board of any other county, or with any other federal or state governmental agency, and such authorities or entities may enter into contracts with the county automatic data processing board, to provide automatic or electronic data processing or record-keeping services to any of them. The board shall establish a schedule of charges upon which the cost of providing such services shall be based. All moneys collected by the board for services rendered pursuant to contracts entered into under this section shall be deposited in the county general fund; however, such moneys may be segregated into a special fund in the county treasury until the end of the calendar year. County offices may also be charged for such services and the appropriation so charged and the appropriation of the board so credited.

Sec. 307.847. (A) In lieu of having a county records commission and a county microfilming board, a board of county commissioners may, by resolution, require the county automatic data processing board established under section 307.84 of the Revised Code to coordinate the management of information resources of the county, the records and information management operations of all county offices, and the various records and information technologies acquired and operated by county offices. The resolution requiring the board to assume these duties shall specify the date on which the county records commission and the county microfilming board no longer exist. If the duties of the county automatic data processing board are expanded under this section, the prosecuting attorney, county engineer, county coroner, sheriff, and a judge of the court of common pleas selected by a majority vote of all judges of the court shall be added to the membership of the board. Any of these additional members may designate a representative to serve on that member's behalf.

After a resolution is adopted under this section, no county office shall purchase, lease, operate, or contract for the use of any automatic data processing equipment, software, or services; microfilming equipment or services; records center or archives facilities; or any other image processing or electronic data processing or record-keeping equipment, software, or services without prior approval of the board. The board may adopt such rules as it considers necessary for its operation, but no rule shall derogate the authority or responsibility of any county elected official. The board's

rules may include any regulations or standards the board wishes to impose. For purposes of this section, "county office" means any officer, department, board, commission, agency, court, or other office of the county and the court of common pleas, except that in the case of microfilming equipment, "county office" does not include the county hospital when the county hospital uses microfilming to record and store for future access physical and psychiatric examinations or treatment records of its patients. The county hospital shall participate, at the request of the county automatic data processing board, in purchasing film and equipment and in entering into contracts for services for microfilming.

(B) In the resolution expanding the duties of the county automatic data processing board adopted under this section, the board of county commissioners shall designate the date on which all equipment, records, files, effects, and other personal property; contractual obligations; and assets and liabilities of the county records commission and the county microfilming board shall be transferred to the county automatic data processing board.

For purposes of succession of the functions, powers, duties, and obligations of the county records commission and the county microfilming board transferred and assigned to, devolved upon, and assumed by the county automatic data processing board under this section, the county automatic data processing board shall be deemed to constitute the continuation of the county records commission and the county microfilming board, as applicable.

Any business, proceeding, or other matter undertaken or commenced by the county records commission or the county microfilming board pertaining to or connected with the functions, powers, duties, and obligations transferred or assigned and pending on the date of the transfer of duties to the county automatic data processing board shall be conducted, prosecuted or defended, and completed by the county automatic data processing board in the same manner and with the same effect as if conducted by the county records commission or the county microfilming board. In all such actions and proceedings, the county automatic data processing board shall be substituted as a party.

All rules, acts, determinations, approvals, and decisions of the county records commission or the county microfilming board pertaining to the functions transferred and assigned under this section to the county automatic data processing board in force at the time of the transfer, assignment, assumption, or devolution shall continue in force as rules, acts, determinations, approvals, and decisions of the county automatic data

processing board until duly modified or repealed by the board.

Wherever the functions, powers, duties, and obligations of the county records commission or the county microfilming board are referred to or designated in any law, contract, or other document pertaining to those functions, powers, duties, and obligations, the reference or designation shall be deemed to refer to the county automatic data processing board, as appropriate.

No existing right or remedy of any character shall be lost, impaired, or affected by reason of the transfer of duties to the county automatic data processing board, except insofar as those rights and remedies are administered by the county automatic data processing board.

(C) Except for provisions regarding the microfilming, the county automatic data processing board shall have the powers, duties, and functions of the county records commission as provided in section 149.38 of the Revised Code and the county microfilming board as provided in section 307.802 of the Revised Code.

(D) The county automatic data processing board may establish an automatic data processing center, microfilming center, records center, archives, and any other centralized or decentralized facilities it considers necessary to fulfill its duties. Any such centralized facilities shall be used by all county offices. The establishment of either centralized or decentralized facilities shall be contingent on the appropriation of funds by the board of county commissioners.

The county auditor shall be the chief administrator of either centralized or decentralized facilities, as provided under section 307.844 of the Revised Code.

The county auditor shall prepare an annual estimate of the revenues and expenditures of the county automatic data processing board for the ensuing fiscal year and submit it to the board of county commissioners as provided in section 5705.28 of the Revised Code. The estimate shall be sufficient to take care of all the needs of the county automatic data processing board, including, but not limited to, salaries, rental, and purchase of equipment. The board's funds shall be disbursed by the county auditor's warrant drawn on the county treasury five days after receipt of a voucher approved by a majority of that board and by a majority of the board of county commissioners.

On the first Monday in April of each year the county auditor shall file with the county automatic data processing board and the board of county commissioners a report of the operations of each center and a statement of each center's receipts and expenditures during the preceding calendar year.

(E) With the approval of the board of county commissioners, the county automatic data processing board may enter into a contract with the legislative authority of any municipal corporation, township, port authority, water or sewer district, school district, library district, county law library association, health district, park district, soil and water conservation district, conservancy district, other taxing district, or regional council established under Chapter 167. of the Revised Code, or with the board of county commissioners or the automatic data processing board or microfilming board of any other county, or with any other federal or state governmental agency, and such authorities may enter into contracts with the county automatic data processing board to provide microfilming, automatic data processing, or other image processing or electronic data processing or record-keeping services to any of them. The board shall establish a schedule of charges upon which the cost of providing such services shall be based. All moneys collected by the board for services rendered pursuant to contracts entered into under this section shall be deposited in the county general fund, although these moneys may be segregated into a special fund in the county treasury until the end of the calendar year. County offices also may be charged for such services and the appropriations of those offices so charged and the appropriation of the county automatic data processing board so credited.

Sec. 307.86. Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed, including, but not limited to, any product, structure, construction, reconstruction, improvement, maintenance, repair, or service, except the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser, by or on behalf of the county or contracting authority, as defined in section 307.92 of the Revised Code, at a cost in excess of twenty-five thousand dollars, except as otherwise provided in division (D) of section 713.23 and in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall be obtained through competitive bidding. However, competitive bidding is not required when any of the following applies:

(A) The board of county commissioners, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and that determination and the reasons for it are entered in the minutes of the proceedings of the board, when either of the following applies:

(1) The estimated cost is less than fifty thousand dollars.

(2) There is actual physical disaster to structures, radio communications

equipment, or computers.

For purposes of this division, "unanimous vote" means all three members of a board of county commissioners when all three members are present, or two members of the board if only two members, constituting a quorum, are present.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding under division (A)(1) of this section because the estimated cost is less than fifty thousand dollars, but the estimated cost is twenty-five thousand dollars or more, the county or contracting authority shall solicit informal estimates from no fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the county or contracting authority shall maintain a record of such estimates, including the name of each person from whom an estimate is solicited. The county or contracting authority shall maintain the record for the longer of at least one year after the contract is awarded or the amount of time the federal government requires.

(B)(1) The purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the county, and the only source of supply for the supplies, part, or parts is limited to a single supplier.

(2) The purchase consists of services related to information technology, such as programming services, that are proprietary or limited to a single source.

(C) The purchase is from the federal government, the state, another county or contracting authority of another county, or a board of education, educational service center, township, or municipal corporation.

(D) The purchase is made by a county department of job and family services under section 329.04 of the Revised Code and consists of family services duties or workforce development activities or is made by a county board of developmental disabilities under section 5126.05 of the Revised Code and consists of program services, such as direct and ancillary client services, child care, case management services, residential services, and family resource services.

(E) The purchase consists of criminal justice services, social services programs, family services, or workforce development activities by the board of county commissioners from nonprofit corporations or associations under programs funded by the federal government or by state grants.

(F) The purchase consists of any form of an insurance policy or contract authorized to be issued under Title XXXIX of the Revised Code or any form of health care plan authorized to be issued under Chapter 1751. of the

Revised Code, or any combination of such policies, contracts, plans, or services that the contracting authority is authorized to purchase, and the contracting authority does all of the following:

(1) Determines that compliance with the requirements of this section would increase, rather than decrease, the cost of the purchase;

(2) Requests issuers of the policies, contracts, plans, or services to submit proposals to the contracting authority, in a form prescribed by the contracting authority, setting forth the coverage and cost of the policies, contracts, plans, or services as the contracting authority desires to purchase;

(3) Negotiates with the issuers for the purpose of purchasing the policies, contracts, plans, or services at the best and lowest price reasonably possible.

(G) The purchase consists of computer hardware, software, or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government.

(H) Child care services are purchased for provision to county employees.

(I)(1) Property, including land, buildings, and other real property, is leased for offices, storage, parking, or other purposes, and all of the following apply:

(a) The contracting authority is authorized by the Revised Code to lease the property.

(b) The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property.

(c) The contracting authority receives responses from prospective lessors with property meeting the criteria specified in the requests for proposals by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Revised Code.

(d) The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect.

(2) The contracting authority may use the services of a real estate appraiser to obtain advice, consultations, or other recommendations regarding the lease of property under this division.

(J) The purchase is made pursuant to section 5139.34 or sections

5139.41 to 5139.46 of the Revised Code and is of programs or services that provide case management, treatment, or prevention services to any felony or misdemeanant delinquent, unruly youth, or status offender under the supervision of the juvenile court, including, but not limited to, community residential care, day treatment, services to children in their home, or electronic monitoring.

(K) The purchase is made by a public children services agency pursuant to section 307.92 or 5153.16 of the Revised Code and consists of family services, programs, or ancillary services that provide case management, prevention, or treatment services for children at risk of being or alleged to be abused, neglected, or dependent children.

(L) The purchase is to obtain the services of emergency medical service organizations under a contract made by the board of county commissioners pursuant to section 307.05 of the Revised Code with a joint emergency medical services district.

(M) The county contracting authority determines that the use of competitive sealed proposals would be advantageous to the county and the contracting authority complies with section 307.862 of the Revised Code.

Any issuer of policies, contracts, plans, or services listed in division (F) of this section and any prospective lessor under division (I) of this section may have the issuer's or prospective lessor's name and address, or the name and address of an agent, placed on a special notification list to be kept by the contracting authority, by sending the contracting authority that name and address. The contracting authority shall send notice to all persons listed on the special notification list. Notices shall state the deadline and place for submitting proposals. The contracting authority shall mail the notices at least six weeks prior to the deadline set by the contracting authority for submitting proposals. Every five years the contracting authority may review this list and remove any person from the list after mailing the person notification of that action.

Any contracting authority that negotiates a contract under division (F) of this section shall request proposals and negotiate with issuers in accordance with that division at least every three years from the date of the signing of such a contract, unless the parties agree upon terms for extensions or renewals of the contract. Such extension or renewal periods shall not exceed six years from the date the initial contract is signed.

Any real estate appraiser employed pursuant to division (I) of this section shall disclose any fees or compensation received from any source in connection with that employment.

Sec. 308.13. (A) The board of trustees of a regional airport authority or

any officer or employee designated by such board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed fifteen thousand dollars. Except where the contract is for equipment, materials, or supplies available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, when an expenditure, other than for the acquisition of real estate, the discharge of noncontractual claims, personal services, or for the product or services of public utilities, exceeds fifteen thousand dollars, such expenditure shall be made only after a notice calling for bids has been published once a week for three consecutive weeks in ~~at least one~~ a newspaper of general circulation within the territorial boundaries of the regional airport authority, or as provided in section 7.16 of the Revised Code. If the bid is for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, it shall meet the requirements of section 153.54 of the Revised Code. If the bid is for any other contract authorized by this section, it shall be accompanied by a good and approved bond with ample security conditioned on the carrying out of the contract. The board may let the contract to the lowest and best bidder. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered part of the contract. Said contract shall be approved by the board and signed by its chief executive officer and by the contractor, and shall be executed in duplicate.

(B) Whenever a board of trustees of a regional airport authority or any officer or employee designated by the board makes a contract for the purchase of supplies or material or for labor for any work, the cost of which is greater than one thousand dollars but no more than fifteen thousand dollars, the board or designated officer or employee shall solicit informal estimates from no fewer than three potential suppliers before awarding the contract. With regard to each such contract, the board shall maintain a record of such estimates, including the name of each person from whom an estimate is solicited, for no less than one year after the contract is awarded.

Sec. 311.29. (A) As used in this section, "Chautauqua assembly" has the same meaning as in section 4511.90 of the Revised Code.

(B) The sheriff may, from time to time, enter into contracts with any municipal corporation, township, township police district, joint police district, metropolitan housing authority, port authority, water or sewer district, school district, library district, health district, park district created pursuant to section 511.18 or 1545.01 of the Revised Code, soil and water

conservation district, water conservancy district, or other taxing district or with the board of county commissioners of any contiguous county with the concurrence of the sheriff of the other county, and such subdivisions, authorities, and counties may enter into agreements with the sheriff pursuant to which the sheriff undertakes and is authorized by the contracting subdivision, authority, or county to perform any police function, exercise any police power, or render any police service in behalf of the contracting subdivision, authority, or county, or its legislative authority, that the subdivision, authority, or county, or its legislative authority, may perform, exercise, or render.

Upon the execution of an agreement under this division and within the limitations prescribed by it, the sheriff may exercise the same powers as the contracting subdivision, authority, or county possesses with respect to such policing that by the agreement the sheriff undertakes to perform or render, and all powers necessary or incidental thereto, as amply as such powers are possessed and exercised by the contracting subdivision, authority, or county directly.

Any agreement authorized by division (A), (B), or (C) of this section shall not suspend the possession by a contracting subdivision, authority, or county of any police power performed or exercised or police service rendered in pursuance to the agreement nor limit the authority of the sheriff.

(C) The sheriff may enter into contracts with any Chautauqua assembly that has grounds located within the county, and the Chautauqua assembly may enter into agreements with the sheriff pursuant to which the sheriff undertakes to perform any police function, exercise any police power, or render any police service upon the grounds of the Chautauqua assembly that the sheriff is authorized by law to perform, exercise, or render in any other part of the county within the sheriff's territorial jurisdiction. Upon the execution of an agreement under this division, the sheriff may, within the limitations prescribed by the agreement, exercise such powers with respect to such policing upon the grounds of the Chautauqua assembly, provided that any limitation contained in the agreement shall not be construed to limit the authority of the sheriff.

(D) Contracts entered into under division (A), (B), or (C) of this section shall provide for the reimbursement of the county for the costs incurred by the sheriff for such policing including, but not limited to, the salaries of deputy sheriffs assigned to such policing, the current costs of funding retirement pensions and of providing workers' compensation, the cost of training, and the cost of equipment and supplies used in such policing, to the extent that such equipment and supplies are not directly furnished by the

contracting subdivision, authority, county, or Chautauqua assembly. Each such contract shall provide for the ascertainment of such costs and shall be of any duration, not in excess of four years, and may contain any other terms that may be agreed upon. All payments pursuant to any such contract in reimbursement of the costs of such policing shall be made to the treasurer of the county to be credited to a special fund to be known as the "sheriff's policing revolving fund," hereby created. Any moneys coming into the fund shall be used for the purposes provided in divisions (A) to (D) of this section and paid out on vouchers by the county commissioners as other funds coming into their possession. Any moneys credited to the fund and not obligated at the termination of the contract shall be credited to the county general fund.

The sheriff shall assign the number of deputies as may be provided for in any contract made pursuant to division (A), (B), or (C) of this section. The number of deputies regularly assigned to such policing shall be in addition to and an enlargement of the sheriff's regular number of deputies. Nothing in divisions (A) to (D) of this section shall preclude the sheriff from temporarily increasing or decreasing the deputies so assigned as emergencies indicate a need for shifting assignments to the extent provided by the contracts.

All such deputies shall have the same powers and duties, the same qualifications, and be appointed and paid and receive the same benefits and provisions and be governed by the same laws as all other deputy sheriffs.

Contracts under division (A), (B), or (C) of this section may be entered into jointly with the board of county commissioners, and sections 307.14 to 307.19 of the Revised Code apply to this section insofar as they may be applicable.

(E)(1) As used in division (E) of this section:

(a) "Ohio prisoner" has the same meaning as in section 5120.64 of the Revised Code.

(b) "Out-of-state prisoner" and "private contractor" have the same meanings as in section 9.07 of the Revised Code.

(2) The sheriff may enter into a contract with a private person or entity for the return of Ohio prisoners who are the responsibility of the sheriff from outside of this state to a location in this state specified by the sheriff, if there are adequate funds appropriated by the board of county commissioners and there is a certification pursuant to division (D) of section 5705.41 of the Revised Code that the funds are available for this purpose. A contract entered into under this division is within the coverage of section 325.07 of the Revised Code. If a sheriff enters into a contract as described in this

division, subject to division (E)(3) of this section, the private person or entity in accordance with the contract may return Ohio prisoners from outside of this state to locations in this state specified by the sheriff. A contract entered into under this division shall include all of the following:

(a) Specific provisions that assign the responsibility for costs related to medical care of prisoners while they are being returned that is not covered by insurance of the private person or entity;

(b) Specific provisions that set forth the number of days, not exceeding ten, within which the private person or entity, after it receives the prisoner in the other state, must deliver the prisoner to the location in this state specified by the sheriff, subject to the exceptions adopted as described in division (E)(2)(c) of this section;

(c) Any exceptions to the specified number of days for delivery specified as described in division (E)(2)(b) of this section;

(d) A requirement that the private person or entity immediately report all escapes of prisoners who are being returned to this state, and the apprehension of all prisoners who are being returned and who have escaped, to the sheriff and to the local law enforcement agency of this state or another state that has jurisdiction over the place at which the escape occurs;

(e) A schedule of fines that the sheriff shall impose upon the private person or entity if the private person or entity fails to perform its contractual duties, and a requirement that, if the private person or entity fails to perform its contractual duties, the sheriff shall impose a fine on the private person or entity from the schedule of fines and, in addition, may exercise any other rights the sheriff has under the contract.

(f) If the contract is entered into on or after the effective date of the rules adopted by the department of rehabilitation and correction under section 5120.64 of the Revised Code, specific provisions that comport with all applicable standards that are contained in those rules.

(3) If the private person or entity that enters into the contract fails to perform its contractual duties, the sheriff shall impose upon the private person or entity a fine from the schedule, the money paid in satisfaction of the fine shall be paid into the county treasury, and the sheriff may exercise any other rights the sheriff has under the contract. If a fine is imposed under this division, the sheriff may reduce the payment owed to the private person or entity pursuant to any invoice in the amount of the fine.

(4) Upon the effective date of the rules adopted by the department of rehabilitation and correction under section 5120.64 of the Revised Code, notwithstanding the existence of a contract entered into under division (E)(2) of this section, in no case shall the private person or entity that is a

party to the contract return Ohio prisoners from outside of this state into this state for a sheriff unless the private person or entity complies with all applicable standards that are contained in the rules.

(5) Divisions (E)(1) to (4) of this section do not apply regarding any out-of-state prisoner who is brought into this state to be housed pursuant to section 9.07 of the Revised Code in a correctional facility in this state that is managed and operated by a private contractor.

Sec. 311.31. (A) The board of county commissioners of a county may establish, by resolution, a voluntary motor vehicle decal registration program to be controlled and conducted by the sheriff within the unincorporated areas of the county. The board may establish a fee for participation in the program in an amount sufficient to cover the cost of administering the program and the cost of the decals. The board shall coordinate its program with any pre-existing program established by a township located within the county under section 505.67 of the Revised Code.

(B) Any resident of the county may enroll a motor vehicle that ~~he~~ the resident owns in the program by signing a consent form, displaying the decal issued under this section, and paying the prescribed fee. The motor vehicle owner shall remove the decal to withdraw from the program and also prior to the sale or transfer of ownership of the vehicle. Any law enforcement officer may conduct, at any place within this state at which the officer would be permitted to arrest the person operating the vehicle, an investigatory stop of any motor vehicle displaying a decal issued under this section when the vehicle is being driven between the hours of one a.m. and five a.m. A law enforcement officer may conduct an investigatory stop under this division regardless of whether the officer observes a violation of law involving the vehicle or whether ~~he~~ the officer has probable cause to believe that any violation of law involving the vehicle has occurred.

(C) The consent form required under division (B) of this section shall:

(1) Describe the conditions for participation in the program, including a description of an investigatory stop and a statement that any law enforcement officer may conduct, at any place within this state at which the officer would be permitted to arrest the person operating the vehicle, an investigatory stop of the motor vehicle when it is being driven between the hours of one a.m. and five a.m.

(2) Contain other information identifying the vehicle and owner as the sheriff considers necessary.

(D) The state director of public safety, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the color, size, and design

of decals issued under this section and the location where the decals shall be displayed on vehicles that are enrolled in the program.

(E) Divisions (A) to (D) of this section do not require a law enforcement officer to conduct an investigatory stop of a vehicle displaying a decal issued under this section.

(F) As used in this section:

(1) "Investigatory stop" means a temporary stop of a motor vehicle and its operator and occupants for purposes of determining the identity of the person who is operating the vehicle and, if the person who is operating it is not its owner, whether any violation of law has occurred or is occurring. An "investigatory stop" is not an arrest, but, if an officer who conducts an investigatory stop determines that illegal conduct has occurred or is ~~occuring~~ occurring, an "investigatory stop" may be the basis for an arrest.

(2) "Law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint ~~township~~ police district, marshal, deputy marshal, municipal police officer, or state highway patrol trooper.

Sec. 317.06. (A) Each county recorder who is newly elected to a full term of office shall attend and successfully complete at least fifteen hours of continuing education courses during the first year of the recorder's term of office and complete at least another eight hours of such courses each year of the remaining term. Each county recorder who is elected to a subsequent term of office shall attend and successfully complete at least eight hours of such courses in each year of any subsequent term of office. To be counted toward the continuing education hours required by this section, a course must be approved by the Ohio recorders' association. Any county recorder who teaches an approved course shall be entitled to credit for the course in the same manner as if the county recorder had attended the course.

The Ohio recorders' association shall record and, upon request, verify the completion of required course work for each county recorder and issue a statement to each county recorder of the number of hours of continuing education the county recorder has successfully completed. Each year the association shall send a list of the continuing education courses, and the number of hours each county recorder has successfully completed, to the auditor of state and shall provide a copy of this list to any other individual who requests it.

The association shall issue a "failure to complete notice" to any county recorder required to complete continuing education courses under this section who fails to successfully complete at least fifteen hours of continuing education courses during the first year of the county recorder's

first term of office or to complete a total of at least thirty-nine hours of such courses, including the fifteen hours completed in the first year of the first term, by the end of that term. The association shall issue a "failure to complete notice" to any county recorder required to complete continuing education courses under this section who fails to successfully complete at least eight hours of continuing education courses each year of any subsequent term of office or to complete a total of at least thirty-two hours of such courses, by the end of that subsequent term. The notice is for informational purposes only and does not affect any individual's ability to hold the office of county recorder.

(B) Each board of county commissioners shall approve, from money appropriated to the county recorder, a reasonable amount requested by the county recorder of its county to cover the costs the county recorder must incur to meet the requirements of division (A) of this section, including registration fees, lodging and meal expenses, and travel expenses.

Sec. 317.20. (A) When, in the opinion of the board of county commissioners, sectional indexes are needed and it so directs, in addition to the alphabetical indexes provided for in section 317.18 of the Revised Code, the board may provide for making, in books prepared for that purpose, sectional indexes to the records of all real estate in the county beginning with some designated year and continuing through the period of years that the board specifies. The sectional indexes shall place under the heads of the original surveyed sections or surveys, parts of a section or survey, squares, subdivisions, permanent parcel numbers provided for under section 319.28 of the Revised Code, or lots, on the left-hand page or on the upper portion of that page of the index book, the name of the grantor, then the name of the grantee, then the number and page of the record in which the instrument is found recorded, then the character of the instrument, and then a pertinent description of the interest in property conveyed by the deed, lease, or assignment of lease and shall place under similar headings on the right-hand page or on the lower portion of that page of the index book, beginning at the bottom, all the mortgages, liens, notices provided for in sections 5301.51, 5301.52, and 5301.56 of the Revised Code, or other encumbrances affecting the real estate.

(B) The compensation for the services rendered under this section shall be paid from the general revenue fund of the county, and no additional levy shall be made in consequence of the services.

(C) If the board of county commissioners decides to have sectional indexes made, it shall advertise for three consecutive weeks in one newspaper of general circulation in the county or as provided in section 7.16

of the Revised Code for sealed proposals to do the work provided for in this section, shall contract with the lowest and best bidder, and shall require the successful bidder to give a bond for the faithful performance of the contract in the sum that the board fixes. The work shall be done to the acceptance of the auditor of state upon allowance by the board. The board may reject any and all bids for the work, provided that no more than five cents shall be paid for each entry of each tract or lot of land.

(D) When the sectional indexes are brought up and completed, the county recorder shall maintain the indexes and comply with division (E) of this section in connection with registered land.

(E)(1) As used in division (E) of this section, "housing accommodations" and "restrictive covenant" have the same meanings as in section 4112.01 of the Revised Code.

(2) In connection with any transfer of registered land that occurs on and after the effective date of this amendment March 30, 1999, in accordance with Chapters 5309. and 5310. of the Revised Code, the county recorder shall delete from the sectional indexes maintained under this section all references to any restrictive covenant that appears to apply to the transferred registered land, if any inclusion of the restrictive covenant in a transfer, rental, or lease of housing accommodations, any honoring or exercising of the restrictive covenant, or any attempt to honor or exercise the restrictive covenant constitutes an unlawful discriminatory practice under division (H)(9) of section 4112.02 of the Revised Code.

Sec. 319.11. The county auditor shall, on or before ninety days after the close of the fiscal year, prepare a financial report of the county for the preceding fiscal year in such form as prescribed by the auditor of state. Upon completing the report, the county auditor shall publish notice that the report has been completed and is available for public inspection at the office of the county auditor. The notice shall be published once in two newspapers a newspaper of general circulation published in the county, except that if only one newspaper is published in the county, then publication in only one newspaper is required, and if. If there are is no newspapers newspaper of general circulation in the county, then publication is required in the newspaper of general circulation in an adjoining county that has the largest circulation in the that adjoining county. The report shall contain at least the information required by section 117.38 of the Revised Code, and a copy shall be filed with the auditor of state.

No county auditor shall fail or neglect to prepare the report or publish notice of completion of the report as required by this section.

Sec. 319.301. (A) The reductions required by division (D) of this

section do not apply to any of the following:

(1) Taxes levied at whatever rate is required to produce a specified amount of tax money, including a tax levied under section 5705.199 ~~or~~, 5705.211, or 5748.09 of the Revised Code, or an amount to pay debt charges;

(2) Taxes levied within the one per cent limitation imposed by Section 2 of Article XII, Ohio Constitution;

(3) Taxes provided for by the charter of a municipal corporation.

(B) As used in this section:

(1) "Real property" includes real property owned by a railroad.

(2) "Carryover property" means all real property on the current year's tax list except:

(a) Land and improvements that were not taxed by the district in both the preceding year and the current year;

(b) Land and improvements that were not in the same class in both the preceding year and the current year.

(3) "Effective tax rate" means with respect to each class of property:

(a) The sum of the total taxes that would have been charged and payable for current expenses against real property in that class if each of the district's taxes were reduced for the current year under division (D)(1) of this section without regard to the application of division (E)(3) of this section divided by

(b) The taxable value of all real property in that class.

(4) "Taxes charged and payable" means the taxes charged and payable prior to any reduction required by section 319.302 of the Revised Code.

(C) The tax commissioner shall make the determinations required by this section each year, without regard to whether a taxing district has territory in a county to which section 5715.24 of the Revised Code applies for that year. Separate determinations shall be made for each of the two classes established pursuant to section 5713.041 of the Revised Code.

(D) With respect to each tax authorized to be levied by each taxing district, the tax commissioner, annually, shall do both of the following:

(1) Determine by what percentage, if any, the sums levied by such tax against the carryover property in each class would have to be reduced for the tax to levy the same number of dollars against such property in that class in the current year as were charged against such property by such tax in the preceding year subsequent to the reduction made under this section but before the reduction made under section 319.302 of the Revised Code. In the case of a tax levied for the first time that is not a renewal of an existing tax, the commissioner shall determine by what percentage the sums that would otherwise be levied by such tax against carryover property in each

class would have to be reduced to equal the amount that would have been levied if the full rate thereof had been imposed against the total taxable value of such property in the preceding tax year. A tax or portion of a tax that is designated a replacement levy under section 5705.192 of the Revised Code is not a renewal of an existing tax for purposes of this division.

(2) Certify each percentage determined in division (D)(1) of this section, as adjusted under division (E) of this section, and the class of property to which that percentage applies to the auditor of each county in which the district has territory. The auditor, after complying with section 319.30 of the Revised Code, shall reduce the sum to be levied by such tax against each parcel of real property in the district by the percentage so certified for its class. Certification shall be made by the first day of September except in the case of a tax levied for the first time, in which case certification shall be made within fifteen days of the date the county auditor submits the information necessary to make the required determination.

(E)(1) As used in division (E)(2) of this section, "pre-1982 joint vocational taxes" means, with respect to a class of property, the difference between the following amounts:

(a) The taxes charged and payable in tax year 1981 against the property in that class for the current expenses of the joint vocational school district of which the school district is a part after making all reductions under this section;

(b) The following percentage of the taxable value of all real property in that class:

(i) In 1987, five one-hundredths of one per cent;

(ii) In 1988, one-tenth of one per cent;

(iii) In 1989, fifteen one-hundredths of one per cent;

(iv) In 1990 and each subsequent year, two-tenths of one per cent.

If the amount in division (E)(1)(b) of this section exceeds the amount in division (E)(1)(a) of this section, the pre-1982 joint vocational taxes shall be zero.

As used in divisions (E)(2) and (3) of this section, "taxes charged and payable" has the same meaning as in division (B)(4) of this section and excludes any tax charged and payable in 1985 or thereafter under sections 5705.194 to 5705.197 or section 5705.199, 5705.213, ~~or~~ 5705.219, or 5748.09 of the Revised Code.

(2) If in the case of a school district other than a joint vocational or cooperative education school district any percentage required to be used in division (D)(2) of this section for either class of property could cause the total taxes charged and payable for current expenses to be less than two per

cent of the taxable value of all real property in that class that is subject to taxation by the district, the commissioner shall determine what percentages would cause the district's total taxes charged and payable for current expenses against that class, after all reductions that would otherwise be made under this section, to equal, when combined with the pre-1982 joint vocational taxes against that class, the lesser of the following:

(a) The sum of the rates at which those taxes are authorized to be levied;

(b) Two per cent of the taxable value of the property in that class. The auditor shall use such percentages in making the reduction required by this section for that class.

(3)(a) If in the case of a joint vocational school district any percentage required to be used in division (D)(2) of this section for either class of property could cause the total taxes charged and payable for current expenses for that class to be less than the designated amount, the commissioner shall determine what percentages would cause the district's total taxes charged and payable for current expenses for that class, after all reductions that would otherwise be made under this section, to equal the designated amount. The auditor shall use such percentages in making the reductions required by this section for that class.

(b) As used in division (E)(3)(a) of this section, the designated amount shall equal the taxable value of all real property in the class that is subject to taxation by the district times the lesser of the following:

(i) Two-tenths of one per cent;

(ii) The district's effective rate plus the following percentage for the year indicated:

WHEN COMPUTING THE TAXES CHARGED FOR	ADD THE FOLLOWING PERCENTAGE:
1987	0.025%
1988	0.05%
1989	0.075%
1990	0.1%
1991	0.125%
1992	0.15%
1993	0.175%
1994 and thereafter	0.2%

(F) No reduction shall be made under this section in the rate at which any tax is levied.

(G) The commissioner may order a county auditor to furnish any information the commissioner needs to make the determinations required under division (D) or (E) of this section, and the auditor shall supply the

information in the form and by the date specified in the order. If the auditor fails to comply with an order issued under this division, except for good cause as determined by the commissioner, the commissioner shall withhold from such county or taxing district therein fifty per cent of state revenues to local governments pursuant to section 5747.50 of the Revised Code or shall direct the department of education to withhold therefrom fifty per cent of state revenues to school districts pursuant to ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code. The commissioner shall withhold the distribution of such revenues until the county auditor has complied with this division, and the department shall withhold the distribution of such revenues until the commissioner has notified the department that the county auditor has complied with this division.

(H) If the commissioner is unable to certify a tax reduction factor for either class of property in a taxing district located in more than one county by the last day of November because information required under division (G) of this section is unavailable, the commissioner may compute and certify an estimated tax reduction factor for that district for that class. The estimated factor shall be based upon an estimate of the unavailable information. Upon receipt of the actual information for a taxing district that received an estimated tax reduction factor, the commissioner shall compute the actual tax reduction factor and use that factor to compute the taxes that should have been charged and payable against each parcel of property for the year for which the estimated reduction factor was used. The amount by which the estimated factor resulted in an overpayment or underpayment in taxes on any parcel shall be added to or subtracted from the amount due on that parcel in the ensuing tax year.

A percentage or a tax reduction factor determined or computed by the commissioner under this section shall be used solely for the purpose of reducing the sums to be levied by the tax to which it applies for the year for which it was determined or computed. It shall not be used in making any tax computations for any ensuing tax year.

(I) In making the determinations under division (D)(1) of this section, the tax commissioner shall take account of changes in the taxable value of carryover property resulting from complaints filed under section 5715.19 of the Revised Code for determinations made for the tax year in which such changes are reported to the commissioner. Such changes shall be reported to the commissioner on the first abstract of real property filed with the commissioner under section 5715.23 of the Revised Code following the date on which the complaint is finally determined by the board of revision or by a court or other authority with jurisdiction on appeal. The tax commissioner

shall account for such changes in making the determinations only for the tax year in which the change in valuation is reported. Such a valuation change shall not be used to recompute the percentages determined under division (D)(1) of this section for any prior tax year.

Sec. 319.54. (A) On all moneys collected by the county treasurer on any tax duplicate of the county, other than estate tax duplicates, and on all moneys received as advance payments of personal property and classified property taxes, the county auditor, on settlement with the treasurer and tax commissioner, on or before the date prescribed by law for such settlement or any lawful extension of such date, shall be allowed as compensation for the county auditor's services the following percentages:

(1) On the first one hundred thousand dollars, two and one-half per cent;

(2) On the next two million dollars, eight thousand three hundred eighteen ten-thousandths of one per cent;

(3) On the next two million dollars, six thousand six hundred fifty-five ten-thousandths of one per cent;

(4) On all further sums, one thousand six hundred sixty-three ten-thousandths of one per cent.

If any settlement is not made on or before the date prescribed by law for such settlement or any lawful extension of such date, the aggregate compensation allowed to the auditor shall be reduced one per cent for each day such settlement is delayed after the prescribed date. No penalty shall apply if the auditor and treasurer grant all requests for advances up to ninety per cent of the settlement pursuant to section 321.34 of the Revised Code. The compensation allowed in accordance with this section on settlements made before the dates prescribed by law, or the reduced compensation allowed in accordance with this section on settlements made after the date prescribed by law or any lawful extension of such date, shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(B) For the purpose of reimbursing county auditors for the expenses associated with the increased number of applications for reductions in real property taxes under sections 323.152 and 4503.065 of the Revised Code that result from the amendment of those sections by Am. Sub. H.B. 119 of the 127th general assembly, there shall be paid from the state's general revenue fund to the county treasury, to the credit of the real estate assessment fund created by section 325.31 of the Revised Code, an amount equal to one per cent of the total annual amount of property tax relief reimbursement paid to that county under sections 323.156 and 4503.068 of

the Revised Code for the preceding tax year. Payments made under this division shall be made at the same times and in the same manner as payments made under section 323.156 of the Revised Code.

(C) From all moneys collected by the county treasurer on any tax duplicate of the county, other than estate tax duplicates, and on all moneys received as advance payments of personal property and classified property taxes, there shall be paid into the county treasury to the credit of the real estate assessment fund created by section 325.31 of the Revised Code, an amount to be determined by the county auditor, which shall not exceed the percentages prescribed in divisions (C)(1) and (2) of this section.

(1) For payments made after June 30, 2007, and before 2011, the following percentages:

(a) On the first five hundred thousand dollars, four per cent;

(b) On the next five million dollars, two per cent;

(c) On the next five million dollars, one per cent;

(d) On all further sums not exceeding one hundred fifty million dollars, three-quarters of one per cent;

(e) On amounts exceeding one hundred fifty million dollars, five hundred eighty-five thousandths of one per cent.

(2) For payments made in or after 2011, the following percentages:

(a) On the first five hundred thousand dollars, four per cent;

(b) On the next ten million dollars, two per cent;

(c) On amounts exceeding ten million five hundred thousand dollars, three-fourths of one per cent.

Such compensation shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(D) Each county auditor shall receive four per cent of the amount of tax collected and paid into the county treasury, on property omitted and placed by the county auditor on the tax duplicate.

(E) On all estate tax moneys collected by the county treasurer, the county auditor, on settlement semiannually with the tax commissioner, shall be allowed, as compensation for the auditor's services under Chapter 5731. of the Revised Code, the following percentages:

(1) Four per cent on the first one hundred thousand dollars;

(2) One-half of one per cent on all additional sums.

Such percentages shall be computed upon the amount collected and reported at each semiannual settlement, and shall be for the use of the general fund of the county.

(F) On all cigarette license moneys collected by the county treasurer, the county auditor, on settlement semiannually with the treasurer, shall be allowed as compensation for the auditor's services in the issuing of such licenses one-half of one per cent of such moneys, to be apportioned ratably and deducted from the shares of the revenue payable to the county and subdivisions, for the use of the general fund of the county.

(G) The county auditor shall charge and receive fees as follows:

(1) For deeds of land sold for taxes to be paid by the purchaser, five dollars;

(2) For the transfer or entry of land, lot, or part of lot, or the transfer or entry on or after January 1, 2000, of a used manufactured home or mobile home as defined in section 5739.0210 of the Revised Code, fifty cents for each transfer or entry, to be paid by the person requiring it;

(3) For receiving statements of value and administering section 319.202 of the Revised Code, one dollar, or ten cents for each one hundred dollars or fraction of one hundred dollars, whichever is greater, of the value of the real property transferred or, for sales occurring on or after January 1, 2000, the value of the used manufactured home or used mobile home, as defined in section 5739.0210 of the Revised Code, transferred, except no fee shall be charged when the transfer is made:

(a) To or from the United States, this state, or any instrumentality, agency, or political subdivision of the United States or this state;

(b) Solely in order to provide or release security for a debt or obligation;

(c) To confirm or correct a deed previously executed and recorded or when a current owner on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property is a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation and is changing the current owner name listed on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property to the initials of the current owner as prescribed in division (B)(1) of section 319.28 of the Revised Code;

(d) To evidence a gift, in trust or otherwise and whether revocable or irrevocable, between husband and wife, or parent and child or the spouse of either;

(e) On sale for delinquent taxes or assessments;

(f) Pursuant to court order, to the extent that such transfer is not the result of a sale effected or completed pursuant to such order;

(g) Pursuant to a reorganization of corporations or unincorporated associations or pursuant to the dissolution of a corporation, to the extent that the corporation conveys the property to a stockholder as a distribution in kind of the corporation's assets in exchange for the stockholder's shares in the dissolved corporation;

(h) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(i) By lease, whether or not it extends to mineral or mineral rights, unless the lease is for a term of years renewable forever;

(j) When the value of the real property or the manufactured or mobile home or the value of the interest that is conveyed does not exceed one hundred dollars;

(k) Of an occupied residential property, including a manufactured or mobile home, being transferred to the builder of a new residence or to the dealer of a new manufactured or mobile home when the former residence is traded as part of the consideration for the new residence or new manufactured or mobile home;

(l) To a grantee other than a dealer in real property or in manufactured or mobile homes, solely for the purpose of, and as a step in, the prompt sale of the real property or manufactured or mobile home to others;

(m) To or from a person when no money or other valuable and tangible consideration readily convertible into money is paid or to be paid for the real estate or manufactured or mobile home and the transaction is not a gift;

(n) Pursuant to division (B) of section 317.22 of the Revised Code, or section 2113.61 of the Revised Code, between spouses or to a surviving spouse pursuant to section 5302.17 of the Revised Code as it existed prior to April 4, 1985, between persons pursuant to section 5302.17 or 5302.18 of the Revised Code on or after April 4, 1985, to a person who is a surviving, survivorship tenant pursuant to section 5302.17 of the Revised Code on or after April 4, 1985, or pursuant to section 5309.45 of the Revised Code;

(o) To a trustee acting on behalf of minor children of the deceased;

(p) Of an easement or right-of-way when the value of the interest conveyed does not exceed one thousand dollars;

(q) Of property sold to a surviving spouse pursuant to section 2106.16 of the Revised Code;

(r) To or from an organization exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat.

2085, 26 U.S.C.A. 1, as amended, provided such transfer is without consideration and is in furtherance of the charitable or public purposes of such organization;

(s) Among the heirs at law or devisees, including a surviving spouse, of a common decedent, when no consideration in money is paid or to be paid for the real property or manufactured or mobile home;

(t) To a trustee of a trust, when the grantor of the trust has reserved an unlimited power to revoke the trust;

(u) To the grantor of a trust by a trustee of the trust, when the transfer is made to the grantor pursuant to the exercise of the grantor's power to revoke the trust or to withdraw trust assets;

(v) To the beneficiaries of a trust if the fee was paid on the transfer from the grantor of the trust to the trustee or if the transfer is made pursuant to trust provisions which became irrevocable at the death of the grantor;

(w) To a corporation for incorporation into a sports facility constructed pursuant to section 307.696 of the Revised Code;

(x) Between persons pursuant to section 5302.18 of the Revised Code;

(y) From a county land reutilization corporation organized under Chapter 1724. of the Revised Code to a third party.

(4) For the cost of publishing the delinquent manufactured home tax list, the delinquent tax list, and the delinquent vacant land tax list, a flat fee, as determined by the county auditor, to be charged to the owner of a home on the delinquent manufactured home tax list or the property owner of land on the delinquent tax list or the delinquent vacant land tax list.

The auditor shall compute and collect the fee. The auditor shall maintain a numbered receipt system, as prescribed by the tax commissioner, and use such receipt system to provide a receipt to each person paying a fee. The auditor shall deposit the receipts of the fees on conveyances in the county treasury daily to the credit of the general fund of the county, except that fees charged and received under division (G)(3) of this section for a transfer of real property to a county land reutilization corporation shall be credited to the county land reutilization corporation fund established under section 321.263 of the Revised Code.

The real property transfer fee provided for in division (G)(3) of this section shall be applicable to any conveyance of real property presented to the auditor on or after January 1, 1968, regardless of its time of execution or delivery.

The transfer fee for a used manufactured home or used mobile home shall be computed by and paid to the county auditor of the county in which the home is located immediately prior to the transfer.

Sec. 321.18. As soon as sufficient funds are in the county treasury to redeem the warrants drawn on the treasury, and on which interest is accruing, the county treasurer shall give notice in a newspaper ~~published in and circulating~~ of general circulation in ~~his~~ the county that ~~he~~ the treasurer is ready to redeem such warrants, and from the date of the notice the interest on such warrants shall cease.

Sec. 321.261. (A) ~~Five~~ In each county treasury there shall be created the treasurer's delinquent tax and assessment collection fund and the prosecuting attorney's delinquent tax and assessment collection fund. Except as otherwise provided in this division, two and one-half per cent of all delinquent real property, personal property, and manufactured and mobile home taxes and assessments collected by the county treasurer shall be deposited in the treasurer's delinquent tax and assessment collection fund, ~~which shall be created in the county treasury. Except as otherwise provided in division (D) of this section, the moneys in the fund, one-half of which shall be appropriated by the board of county commissioners to the treasurer and one-half of which shall be appropriated to the county prosecuting attorney,~~ and two and one-half per cent of such delinquent taxes and assessments shall be deposited in the prosecuting attorney's delinquent tax and assessment collection fund. The board of county commissioners shall appropriate to the county treasurer from the treasurer's delinquent tax and assessment collection fund, and shall appropriate to the prosecuting attorney from the prosecuting attorney's delinquent tax and assessment collection fund, money to the credit of the respective fund, and except as provided in division (D) of this section, the appropriation shall be used only for the following purposes:

(1) By the county treasurer ~~and~~ or the county prosecuting attorney in connection with the collection of delinquent real property, personal property, and manufactured and mobile home taxes and assessments, including proceedings related to foreclosure of the state's lien for such taxes against such property;

(2) With respect to any portion of the amount appropriated ~~to the county treasurer~~ from the treasurer's delinquent tax and assessment collection fund for the benefit of ~~the~~ a county land reutilization corporation organized under Chapter 1724. of the Revised Code, ~~whether by transfer to or other application on behalf of,~~ the county land reutilization corporation. Upon the deposit of amounts in the treasurer's delinquent tax and assessment collection fund ~~of the county~~, any amounts allocated at the direction of the treasurer to the support of the county land reutilization corporation shall be paid out of such fund to the corporation upon a warrant of the county

auditor.

If the balance in the treasurer's or prosecuting attorney's delinquent tax and assessment collection fund exceeds three times the amount deposited into the fund in the preceding year, the treasurer or prosecuting attorney, on or before the twentieth day of October of the current year, may direct the county auditor to forgo the allocation of delinquent taxes and assessments to that officer's respective fund in the ensuing year. If the county auditor receives such direction, the auditor shall cause the portion of taxes and assessments that otherwise would be credited to the fund under this section in that ensuing year to be allocated and distributed among taxing units' funds as otherwise provided in this chapter and other applicable law.

(B) During the period of time that a county land reutilization corporation is functioning as such on behalf of a county, the board of county commissioners, upon the request of the county treasurer, may designate by resolution that an additional amount, not exceeding five per cent of all collections of delinquent real property, personal property, and manufactured and mobile home taxes and assessments, shall be deposited in the treasurer's delinquent tax and assessment collection fund and be available for appropriation by the board for the use of the corporation. Any such amounts so deposited and appropriated under this division shall be paid out of the treasurer's delinquent tax and assessment collection fund to the corporation upon a warrant of the county auditor.

(C) Annually by the first day of December, the county treasurer and the prosecuting attorney each shall submit a report to the board of county commissioners regarding the use of the moneys appropriated ~~to~~ from their respective ~~offices from the~~ delinquent tax and assessment collection ~~fund~~ funds. Each report shall specify the amount appropriated ~~to the office~~ from the fund during the current calendar year, an estimate of the amount so appropriated that will be expended by the end of the year, a summary of how the amount appropriated has been expended in connection with delinquent tax collection activities or land reutilization, and an estimate of the amount that will be credited to the fund during the ensuing calendar year.

The annual report of a county land reutilization corporation required by section 1724.05 of the Revised Code shall include information regarding the amount and use of the moneys that the corporation received from the treasurer's delinquent tax and assessment collection fund ~~of the county~~.

(D)(1) In any county, if the county treasurer or prosecuting attorney determines that the ~~amount appropriated to the office from the county's~~ balance to the credit of that officer's corresponding delinquent tax and

assessment collection fund ~~under division (A) of this section~~ exceeds the amount required to be used as prescribed by ~~that~~ division (A) of this section, the county treasurer or prosecuting attorney may expend the excess to prevent residential mortgage foreclosures in the county and to address problems associated with other foreclosed real property. The amount used for that purpose in any year may not exceed the amount that would cause the fund to have a reserve of less than twenty per cent of the amount expended in the preceding year for the purposes of division (A) of this section. The county treasurer or prosecuting attorney may not expend any money from the officer's fund for the purpose of land reutilization unless the county treasurer or prosecuting attorney obtains the approval of the county investment advisory committee established under section 135.341 of the Revised Code.

Money authorized to be expended under division (D)(1) of this section shall be used to provide financial assistance in the form of loans to borrowers in default on their home mortgages, including for the payment of late fees, to clear arrearage balances, and to augment moneys used in the county's foreclosure prevention program. The money also may be used to assist municipal corporations or townships in the county, upon their application to the county treasurer, prosecuting attorney, or the county department of development, in the nuisance abatement of deteriorated residential buildings in foreclosure, or vacant, abandoned, tax-delinquent, or blighted real property, including paying the costs of boarding up such buildings, lot maintenance, and demolition.

(2) In a county having a population of more than one hundred thousand according to the department of development's 2006 census estimate, if the county treasurer or prosecuting attorney determines that the ~~amount appropriated to the office from the county's~~ balance to the credit of that officer's corresponding delinquent tax and assessment collection fund ~~under division (A) of this section~~ exceeds the amount required to be used as prescribed by ~~that~~ division (A) of this section, the county treasurer or prosecuting attorney may expend the excess to assist townships or municipal corporations located in the county as provided in division (D)(2) of this section, provided that the combined amount so expended each year in a county shall not exceed three million dollars. Upon application for the funds by a township or municipal corporation, the county treasurer ~~and~~ or prosecuting attorney may assist the township or municipal corporation in abating foreclosed residential nuisances, including paying the costs of securing such buildings, lot maintenance, and demolition. At the prosecuting attorney's discretion, the prosecuting attorney also may apply the funds to

costs of prosecuting alleged violations of criminal and civil laws governing real estate and related transactions, including fraud and abuse.

Sec. 322.02. (A) For the purpose of paying the costs of enforcing and administering the tax and providing additional general revenue for the county, any county may levy and collect a tax to be known as the real property transfer tax on each deed conveying real property or any interest in real property located wholly or partially within the boundaries of the county at a rate not to exceed thirty cents per hundred dollars for each one hundred dollars or fraction thereof of the value of the real property or interest in real property located within the boundaries of the county granted, assigned, transferred, or otherwise conveyed by the deed. The tax shall be levied pursuant to a resolution adopted by the board of county commissioners of the county and, except as provided in division (A) of section 322.07 of the Revised Code, shall be levied at a uniform rate upon all deeds as defined in division (D) of section 322.01 of the Revised Code. Prior to the adoption of any such resolution, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks~~, the~~ or as provided in section 7.16 of the Revised Code. The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing. The tax shall be levied upon the grantor named in the deed and shall be paid by the grantor for the use of the county to the county auditor at the time of the delivery of the deed as provided in section 319.202 of the Revised Code and prior to the presentation of the deed to the recorder of the county for recording.

(B) No resolution levying a real property transfer tax pursuant to this section or a manufactured home transfer tax pursuant to section 322.06 of the Revised Code shall be effective sooner than thirty days following its adoption. Such a resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. An emergency measure must receive an affirmative vote of all of the members of the board of commissioners, and shall state the reasons for the necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than ninety days after the resolution is certified to the board. No such resolution shall go

into effect unless approved by a majority of those voting upon it.

Sec. 322.021. The question of a repeal of a county permissive tax adopted as an emergency measure pursuant to division (B) of section 322.02 of the Revised Code may be initiated by filing with the board of elections of the county not less than ninety days before the general election in any year a petition requesting that an election be held on such question. Such petition shall be signed by qualified electors residing in the county equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the county at the next general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the district once a week for two consecutive weeks prior to the election ~~and, if~~ or as provided in section 7.16 of the Revised Code. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The notice shall state the purpose, time, and place of the election. The form of the ballot cast at such election shall be prescribed by the secretary of state. The question covered by such petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question of repeal approve the repeal, the result of the election shall be certified immediately after the canvass by the board of elections to the board of county commissioners, who shall thereupon, after the current year, cease to levy the tax.

Sec. 323.08. After certifying the tax list and duplicate pursuant to section 319.28 of the Revised Code, the county auditor shall deliver a list of the tax rates, tax reduction factors, and effective tax rates assessed and applied against each of the two classes of property of the county to the county treasurer, who shall immediately cause a schedule of such tax rates and effective rates to be published in a newspaper of ~~the type described in section 5721.01 of the Revised Code having~~ general circulation in the county or, in lieu of such publication, the county treasurer may insert a copy of such schedule with each tax bill mailed. Such schedule shall specify particularly the rates and effective rates of taxation levied for all purposes on the tax list and duplicate for the support of the various taxing units within the county, expressed in dollars and cents for each one thousand dollars of valuation. The effective tax rates shall be printed in boldface type.

The county treasurer shall publish notice of the date of the last date for payment of each installment of taxes once a week for two successive weeks prior to such date in ~~two newspapers~~ a newspaper of general circulation within the county or as provided in section 7.16 of the Revised Code. ~~If only one such newspaper exists, the notice shall be published in it.~~ The notice shall be inserted in a conspicuous place in ~~each~~ the newspaper and shall also contain notice that any taxes paid after such date will accrue a penalty and interest and that failure to receive a tax bill will not avoid such penalty and interest. The notice shall contain a telephone number that may be called by taxpayers who have not received tax bills.

As used in this section and section 323.131 of the Revised Code, "effective tax rate" means the effective rate after making the reduction required by section 319.301, but before making the reduction required by section 319.302 of the Revised Code.

Sec. 323.73. (A) Except as provided in division (G) of this section or section 323.78 of the Revised Code, a parcel of abandoned land that is to be disposed of under this section shall be disposed of at a public auction scheduled and conducted as described in this section. At least twenty-one days prior to the date of the public auction, the clerk of court or sheriff of the county shall advertise the public auction in a newspaper of general circulation that meets the requirements of section 7.12 of the Revised Code in the county in which the land is located. The advertisement shall include the date, time, and place of the auction, the permanent parcel number of the land if a permanent parcel number system is in effect in the county as provided in section 319.28 of the Revised Code or, if a permanent parcel number system is not in effect, any other means of identifying the parcel, and a notice stating that the abandoned land is to be sold subject to the terms of sections 323.65 to 323.79 of the Revised Code.

(B) The sheriff of the county or a designee of the sheriff shall conduct the public auction at which the abandoned land will be offered for sale. To qualify as a bidder, a person shall file with the sheriff on a form provided by the sheriff a written acknowledgment that the abandoned land being offered for sale is to be conveyed in fee simple to the successful bidder. At the auction, the sheriff of the county or a designee of the sheriff shall begin the bidding at an amount equal to the total of the impositions against the abandoned land, plus the costs apportioned to the land under section 323.75 of the Revised Code. The abandoned land shall be sold to the highest bidder. The county sheriff or designee may reject any and all bids not meeting the minimum bid requirements specified in this division.

(C) Except as otherwise permitted under section 323.74 of the Revised

Code, the successful bidder at a public auction conducted under this section shall pay the sheriff of the county or a designee of the sheriff a deposit of at least ten per cent of the purchase price in cash, or by bank draft or official bank check, at the time of the public auction, and shall pay the balance of the purchase price within thirty days after the day on which the auction was held. Notwithstanding section 321.261 of the Revised Code, with respect to any proceedings initiated pursuant to sections 323.65 to 323.79 of the Revised Code, from the total proceeds arising from the sale, transfer, or redemption of abandoned land, twenty per cent of such proceeds shall be deposited to the credit of the county treasurer's delinquent tax and assessment collection fund to reimburse the fund for costs paid from the fund for the transfer, redemption, or sale of abandoned land at public auction. Not more than one-half of the twenty per cent may be used by the treasurer for community development, nuisance abatement, foreclosure prevention, demolition, and related services or distributed by the treasurer to a land reutilization corporation. The balance of the proceeds, if any, shall be distributed to the appropriate political subdivisions and other taxing units in proportion to their respective claims for taxes, assessments, interest, and penalties on the land. Upon the sale of foreclosed lands, the clerk of court shall hold any surplus proceeds in excess of the impositions until the clerk receives an order of priority and amount of distribution of the surplus that are adjudicated by a court of competent jurisdiction or receives a certified copy of an agreement between the parties entitled to a share of the surplus providing for the priority and distribution of the surplus. Any party to the action claiming a right to distribution of surplus shall have a separate cause of action in the county or municipal court of the jurisdiction in which the land reposes, provided the board confirms the transfer or regularity of the sale. Any dispute over the distribution of the surplus shall not affect or revive the equity of redemption after the board confirms the transfer or sale.

(D) Upon the sale or transfer of abandoned land pursuant to this section, the owner's fee simple interest in the land shall be conveyed to the purchaser. A conveyance under this division is free and clear of any liens and encumbrances of the parties named in the complaint for foreclosure attaching before the sale or transfer, and free and clear of any liens for taxes, except for federal tax liens and covenants and easements of record attaching before the sale.

(E) The county board of revision shall reject the sale of abandoned land to any person if it is shown by a preponderance of the evidence that the person is delinquent in the payment of taxes levied by or pursuant to Chapter 307., 322., 324., 5737., 5739., 5741., or 5743. of the Revised Code

or any real property taxing provision of the Revised Code. The board also shall reject the sale of abandoned land to any person if it is shown by a preponderance of the evidence that the person is delinquent in the payment of property taxes on any parcel in the county, or to a member of any of the following classes of parties connected to that person:

(1) A member of that person's immediate family;

(2) Any other person with a power of attorney appointed by that person;

(3) A sole proprietorship owned by that person or a member of that person's immediate family;

(4) A partnership, trust, business trust, corporation, association, or other entity in which that person or a member of that person's immediate family owns or controls directly or indirectly any beneficial or legal interest.

(F) If the purchase of abandoned land sold pursuant to this section or section 323.74 of the Revised Code is for less than the sum of the impositions against the abandoned land and the costs apportioned to the land under division (A) of section 323.75 of the Revised Code, then, upon the sale or transfer, all liens for taxes due at the time the deed of the property is conveyed to the purchaser following the sale or transfer, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

(G) If the county board of revision finds that the total of the impositions against the abandoned land are greater than the fair market value of the abandoned land as determined by the auditor's then-current valuation of that land, the board, at any final hearing under section 323.70 of the Revised Code, may order the property foreclosed and, without an appraisal or public auction, order the sheriff to execute a deed to the certificate holder or county land reutilization corporation that filed a complaint under section 323.69 of the Revised Code, or to a community development organization, school district, municipal corporation, county, or township, whichever is applicable, as provided in section 323.74 of the Revised Code. Upon a transfer under this division, all liens for taxes due at the time the deed of the property is transferred to the certificate holder, community development organization, school district, municipal corporation, county, or township following the conveyance, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

Sec. 323.75. (A) The county treasurer or county prosecuting attorney shall apportion the costs of the proceedings with respect to abandoned lands offered for sale at a public auction held pursuant to section 323.73 or 323.74 of the Revised Code among those lands according to actual identified costs, equally, or in proportion to the fair market values of the lands. The costs of the proceedings include the costs of conducting the title search, notifying

record owners or other persons required to be notified of the pending sale, advertising the sale, and any other costs incurred by the county board of revision, county treasurer, county auditor, clerk of court, prosecuting attorney, or county sheriff in performing their duties under sections 323.65 to 323.79 of the Revised Code.

(B) All costs assessed in connection with proceedings under sections 323.65 to 323.79 of the Revised Code may be paid after they are incurred, as follows:

(1) If the abandoned land in question is purchased at public auction, from the purchaser of the abandoned land;

(2) In the case of abandoned land transferred to a community development organization, school district, municipal corporation, county, or township under section 323.74 of the Revised Code, from either of the following:

(a) At the discretion of the county treasurer, in whole or in part from the delinquent tax and assessment collection ~~fund~~ funds created under section 321.261 of the Revised Code, ~~in which case the amount shall be a prior charge to the fund before its equal allocation between~~ allocated equally among the respective funds of the county treasurer and of the prosecuting attorney;

(b) From the community development organization, school district, municipal corporation, county, or township, whichever is applicable.

(3) If the abandoned land in question is transferred to a certificate holder, from the certificate holder.

(C) If a parcel of abandoned land is sold or otherwise transferred pursuant to sections 323.65 to 323.79 of the Revised Code, the officer who conducted the sale or made the transfer, the prosecuting attorney, or the county treasurer may collect a recording fee from the purchaser or transferee of the parcel at the time of the sale or transfer and shall prepare the deed conveying title to the parcel or execute the deed prepared by the board for that purpose. That officer or the prosecuting attorney or treasurer is authorized to record on behalf of that purchaser or transferee the deed conveying title to the parcel, notwithstanding that the deed may not actually have been delivered to the purchaser or transferee prior to the recording of the deed. Receiving title to a parcel under sections 323.65 to 323.79 of the Revised Code constitutes the transferee's consent to an officer, prosecuting attorney, or county treasurer to file the deed to the parcel for recording. Nothing in this division shall be construed to require an officer, prosecuting attorney, or treasurer to file a deed or to relieve a transferee's obligation to file a deed. Upon confirmation of that sale or transfer, the deed shall be

deemed delivered to the purchaser or transferee of the parcel.

Sec. 324.02. For the purpose of providing additional general revenues for the county and paying the expense of administering such levy, any county may levy a county excise tax to be known as the utilities service tax on the charge for every utility service to customers within the county at a rate not to exceed two per cent of such charge. On utility service to customers engaged in business, the tax shall be imposed at a rate of one hundred fifty per cent of the rate imposed upon all other consumers within the county. The tax shall be levied pursuant to a resolution adopted by the board of county commissioners of the county and shall be levied at uniform rates required by this section upon all charges for utility service except as provided in section 324.03 of the Revised Code. The tax shall be levied upon the customer and shall be paid by the customer to the utility supplying the service at the time the customer pays the utility for the service. If the charge for utility service is billed to a person other than the customer at the request of such person, the tax commissioner of the state may, in accordance with section 324.04 of the Revised Code, provide for the levy of the tax against and the payment of the tax by such other person. Each utility furnishing a utility service the charge for which is subject to the tax shall set forth the tax as a separate item on each bill or statement rendered to the customer.

Prior to the adoption of any resolution levying a utilities service tax the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks~~, the~~ or as provided in section 7.16 of the Revised Code. The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing. No resolution levying a utilities service tax pursuant to this section of the Revised Code shall be effective sooner than thirty days following its adoption and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless such resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. Such emergency measure must receive an affirmative vote of all of the members of the board of commissioners, and shall state the reasons for such necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than ninety

days after such resolution is certified to the board. No such resolution shall go into effect unless approved by a majority of those voting upon it. The tax levied by such resolution shall apply to all bills rendered subsequent to the sixtieth day after the effective date of the resolution. No bills shall be rendered out of the ordinary course of business to avoid payment of the tax.

Sec. 324.021. The question of repeal of a county permissive tax adopted as an emergency measure pursuant to section 324.02 of the Revised Code may be initiated by filing with the board of elections of the county not less than ninety days before the general election in any year a petition requesting that an election be held on such question. Such petition shall be signed by qualified electors residing in the county equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the county at the next general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the district once a week for two consecutive weeks prior to the election ~~and, if~~ or as provided in section 7.16 of the Revised Code. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The notice shall state the purpose, time, and place of the election. The form of the ballot cast at such election shall be prescribed by the secretary of state. The question covered by such petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question of repeal approve the repeal, the result of the election shall be certified immediately after the canvass by the board of elections to the board of county commissioners, who shall thereupon, after the current year, cease to levy the tax.

Sec. 325.20. (A) Except as otherwise provided by law, no elected county officer and no deputy or employee of the county shall attend, at county expense, any association meeting, convention, or training sessions conducted pursuant to section 901.10 of the Revised Code, unless authorized by the board of county commissioners. Before such allowance may be made, the head of the county office desiring it shall apply to the board in writing showing the necessity of such attendance and the probable costs to the county. If a majority of the members of the board approves the application, such expenses shall be paid from the moneys appropriated to such office for traveling expenses.

(B) The board of county commissioners shall approve or disapprove any travel outside this state if the travel expenses will or may be in excess of one hundred dollars and will or may be paid for from funds in either of the delinquent tax and assessment collection ~~fund~~ funds created in section 321.261 of the Revised Code or the real estate assessment fund created in section 325.31 of the Revised Code. The head of the county office seeking approval shall apply to the board in writing showing the necessity of the travel and the probable costs to the county from either ~~the~~ delinquent tax and assessment collection fund or from the real estate assessment fund. If the travel is requested by a county auditor, and the board does not approve the travel, the auditor may not apply to the tax commissioner pursuant to section 5713.01 of the Revised Code for an additional allowance for such travel.

Sec. 340.02. As used in this section, "mental health professional" means a person who is qualified to work with mentally ill persons, pursuant to standards established by the director of mental health under section 5119.611 of the Revised Code.

For each alcohol, drug addiction, and mental health service district, there shall be appointed a board of alcohol, drug addiction, and mental health services of eighteen members. Nine members shall be interested in mental health programs and facilities and nine other members shall be interested in alcohol or drug addiction programs. All members shall be residents of the service district. The membership shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex.

The director of mental health shall appoint four members of the board, the director of alcohol and drug addiction services shall appoint four members, and the board of county commissioners shall appoint ten members. In a joint-county district, the county commissioners of each participating county shall appoint members in as nearly as possible the same proportion as that county's population bears to the total population of the district, except that at least one member shall be appointed from each participating county.

The director of mental health shall ensure that at least one member of the board is a psychiatrist and one member of the board is a mental health professional. If the appointment of a psychiatrist is not possible, as determined under rules adopted by the director, a licensed physician may be appointed in place of the psychiatrist. If the appointment of a licensed physician is not possible, the director of mental health may waive the requirement that the psychiatrist or licensed physician be a resident of the service district and appoint a psychiatrist or licensed physician from a

contiguous county. The director of mental health shall ensure that at least one member of the board is a person who has received or is receiving mental health services paid for by public funds and at least one member is a parent or other relative of such a person.

The director of alcohol and drug addiction services shall ensure that at least one member of the board is a professional in the field of alcohol or drug addiction services and one member of the board is an advocate for persons receiving treatment for alcohol or drug addiction. Of the members appointed by the director of alcohol and drug addiction services, at least one shall be a person who has received or is receiving services for alcohol or drug addiction, and at least one shall be a parent or other relative of such a person.

No member or employee of a board of alcohol, drug addiction, and mental health services shall serve as a member of the board of any agency with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No member of a board of alcohol, drug addiction, and mental health services shall be an employee of any agency with which the board has entered into a contract for the provision of services or facilities, unless the board member's employment duties with the agency consist of providing, only outside the district the board serves, services for which the medicaid program pays. No person shall be an employee of a board and such an agency unless the board and agency both agree in writing.

No person shall serve as a member of the board of alcohol, drug addiction, and mental health services whose spouse, child, parent, brother, sister, grandchild, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a member of the board of any agency with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No person shall serve as a member or employee of the board whose spouse, child, parent, brother, sister, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a county commissioner of a county or counties in the alcohol, drug addiction, and mental health service district.

Each year each board member shall attend at least one inservice training session provided or approved by the department of mental health or the department of alcohol and drug addiction services. Such training sessions shall not be considered to be regularly scheduled meetings of the board.

Each member shall be appointed for a term of four years, commencing

the first day of July, except that one-third of initial appointments to a newly established board, and to the extent possible to expanded boards, shall be for terms of two years, one-third of initial appointments shall be for terms of three years, and one-third of initial appointments shall be for terms of four years. No member shall serve more than two consecutive four-year terms. A member may serve for three consecutive terms only if one of the terms is for less than two years. A member who has served two consecutive four-year terms or three consecutive terms totaling less than ten years is eligible for reappointment one year following the end of the second or third term, respectively.

When a vacancy occurs, appointment for the expired or unexpired term shall be made in the same manner as an original appointment. The appointing authority shall be notified by certified mail of any vacancy and shall fill the vacancy within sixty days following that notice.

Any member of the board may be removed from office by the appointing authority for neglect of duty, misconduct, or malfeasance in office, and shall be removed by the appointing authority if the ~~member's spouse, child, parent, brother, sister, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a county commissioner of a county or counties in the service district or serves as a member or employee of the board of an agency with which the board of alcohol, drug addiction, and mental health services has entered a contract for the provision of services or facilities~~ member is barred by this section from serving as a board member. The member shall be informed in writing of the charges and afforded an opportunity for a hearing. Upon the absence of a member within one year from either four board meetings or from two board meetings without prior notice, the board shall notify the appointing authority, which may vacate the appointment and appoint another person to complete the member's term.

Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties, as defined by rules of the departments of mental health and alcohol and drug addiction services.

Sec. 340.03. (A) Subject to rules issued by the director of mental health after consultation with relevant constituencies as required by division ~~(A)(11)~~(L) of section 5119.06 of the Revised Code, with regard to mental health services, the board of alcohol, drug addiction, and mental health services shall:

(1) Serve as the community mental health planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facilities and community mental health services;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the community mental health needs, set priorities, and develop plans for the operation of facilities and community mental health services;

(c) In accordance with guidelines issued by the director of mental health after consultation with board representatives, annually develop and submit to the department of mental health~~, no later than six months prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire,~~ a community mental health plan listing community mental health needs, including the needs of all residents of the district now residing in state mental institutions and severely mentally disabled adults, children, and adolescents; all children subject to a determination made pursuant to section 121.38 of the Revised Code; and all the facilities and community mental health services that are or will be in operation or provided during the period for which the plan will be in operation in the service district to meet such needs.

The plan shall include, but not be limited to, a statement of which of the services listed in section 340.09 of the Revised Code the board intends to make available. The board must include crisis intervention services for individuals in an emergency situation in the plan and explain how the board intends to make such services available. The plan must also include ~~an explanation of how the board intends to make any payments that it may be required to pay under section 5119.62 of the Revised Code,~~ a statement of the inpatient and community-based services the board proposes that the department operate, an assessment of the number and types of residential facilities needed, such other information as the department requests, and a budget for moneys the board expects to receive. The ~~board shall also submit an allocation request for state and federal funds. Within sixty days after the department's determination that the plan and allocation request are complete, the~~ department shall approve or disapprove the plan ~~and request~~, in whole or in part, according to the criteria developed pursuant to section 5119.61 of the Revised Code. The department's statement of approval or disapproval shall specify the inpatient and the community-based services that the department will operate for the board. Eligibility for state and federal funding shall be contingent upon an approved plan or relevant part of a plan.

~~If the director disapproves all or part of any plan, the director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall provide the~~

~~board an opportunity to present its case on behalf of the plan. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.~~

~~If the approval of a plan remains in dispute thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.~~

If a board determines that it is necessary to amend a plan or an allocation request that has been approved under division (A)(1)(c) of this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. ~~If the director does not approve all or part of the amendment within thirty days after it is submitted, the amendment or part of it shall be considered to have been approved.~~ The director shall inform the board of the reasons for disapproval of all or part of an amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

The board shall implement the plan approved by the department.

(d) ~~Receive, compile, and transmit to the department of mental health applications for state reimbursement;~~

~~(e)~~ Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from a community mental health agency as defined in section 5122.01 of the Revised Code, or from a residential facility licensed under section 5119.22 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.611 of the Revised Code, cooperate

with the director of mental health in visiting and evaluating whether the services of a community mental health agency satisfy the certification standards established by rules adopted under that section;

(4) In accordance with criteria established under division ~~(G)~~(E) of section 5119.61 of the Revised Code, review and evaluate the quality, effectiveness, and efficiency of services provided through its community mental health plan and submit its findings and recommendations to the department of mental health;

(5) In accordance with section 5119.22 of the Revised Code, review applications for residential facility licenses and recommend to the department of mental health approval or disapproval of applications;

(6) Audit, in accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually all programs and services provided under contract with the board. In so doing, the board may contract for or employ the services of private auditors. A copy of the fiscal audit report shall be provided to the director of mental health, the auditor of state, and the county auditor of each county in the board's district.

(7) Recruit and promote local financial support for mental health programs from private and public sources;

(8)(a) Enter into contracts with public and private facilities for the operation of facility services included in the board's community mental health plan and enter into contracts with public and private community mental health agencies for the provision of community mental health services that are listed in section 340.09 of the Revised Code and included in the board's community mental health plan. The board may not contract with a community mental health agency to provide community mental health services included in the board's community mental health plan unless the services are certified by the director of mental health under section 5119.611 of the Revised Code. Section 307.86 of the Revised Code does not apply to contracts entered into under this division. In contracting with a community mental health agency, a board shall consider the cost effectiveness of services provided by that agency and the quality and continuity of care, and may review cost elements, including salary costs, of the services to be provided. A utilization review process shall be established as part of the contract for services entered into between a board and a community mental health agency. The board may establish this process in a way that is most effective and efficient in meeting local needs. ~~In the case of~~ Until July 1, 2012, a contract with a community mental health agency or facility, as defined in section 5111.023 of the Revised Code, to provide

services listed in division (B) of that section~~, the contract~~ shall provide for the agency or facility to be paid in accordance with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and any rules adopted under division (A) of section 5119.61 of the Revised Code.

If either the board or a facility or community mental health agency with which the board contracts under division (A)(8)(a) of this section proposes not to renew the contract or proposes substantial changes in contract terms, the other party shall be given written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this one hundred twenty-day period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order to continue to provide services to persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may ~~notify the department of mental health of the unresolved dispute. The director may require~~ request that both parties ~~to~~ submit the dispute to a third party with the cost to be shared by the board and the facility or community mental health agency. The third party shall issue to the board~~, the~~ and facility or agency~~, and the department~~ recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. ~~The director shall adopt rules establishing the procedures of this dispute resolution process.~~

(b) With the prior approval of the director of mental health, a board may operate a facility or provide a community mental health service as follows, if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year, except that such a board may operate a facility or provide a community mental health service for more than one year with the prior approval of the director and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(ii) or (iii) of this section unless the director determines that it is not feasible to have the department operate the facility or provide the service.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(iii) of this section unless the director determines that the board will provide greater administrative efficiency and more or better services than would be available if the board contracted with a private or public facility or community mental health agency.

The director shall not give a board approval to operate a facility previously operated by a person or other government entity unless the board has established to the director's satisfaction that the person or other government entity cannot effectively operate the facility or that the person or other government entity has requested the board to take over operation of the facility. The director shall not give a board approval to provide a community mental health service previously provided by a community mental health agency unless the board has established to the director's satisfaction that the agency cannot effectively provide the service or that the agency has requested the board take over providing the service.

The director shall review and evaluate a board's operation of a facility and provision of community mental health service under division (A)(8)(b) of this section.

Nothing in division (A)(8)(b) of this section authorizes a board to administer or direct the daily operation of any facility or community mental health agency, but a facility or agency may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the facility or agency.

(9) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community mental health agencies in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;

(10) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the programs under the jurisdiction of the board, including a fiscal accounting;

(11) Establish, to the extent resources are available, a community support system, which provides for treatment, support, and rehabilitation services and opportunities. The essential elements of the system include, but

are not limited to, the following components in accordance with section 5119.06 of the Revised Code:

(a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms;

(b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;

(c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care;

(d) Emergency services and crisis intervention;

(e) Assistance for clients to obtain vocational services and opportunities for jobs;

(f) The provision of services designed to develop social, community, and personal living skills;

(g) Access to a wide range of housing and the provision of residential treatment and support;

(h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;

(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;

(j) Grievance procedures and protection of the rights of consumers of mental health services;

(k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.

(12) Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health agency is available to provide the service.

(13) Establish a method for evaluating referrals for involuntary

commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and appropriate, if any;

(14) Ensure that apartments or rooms built, subsidized, renovated, rented, owned, or leased by the board or a community mental health agency have been approved as meeting minimum fire safety standards and that persons residing in the rooms or apartments are receiving appropriate and necessary services, including culturally relevant services, from a community mental health agency. This division does not apply to residential facilities licensed pursuant to section 5119.22 of the Revised Code.

(15) Establish a mechanism for involvement of consumer recommendation and advice on matters pertaining to mental health services in the alcohol, drug addiction, and mental health service district;

(16) Perform the duties under section ~~3722.18~~ 5119.88 of the Revised Code required by rules adopted under section 5119.61 of the Revised Code regarding referrals by the board or mental health agencies under contract with the board of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No board member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section, section 340.033, or

any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744. of the Revised Code applies to any action or inaction by a board member or employee of a board taken within the scope of the board member's official duties or employee's employment. For the purposes of this division, the conduct of a board member or employee shall not be considered willful or wanton misconduct if the board member or employee acted in good faith and in a manner that the board member or employee reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

Sec. 340.05. A community mental health agency that receives a complaint under section ~~3722.17~~ 5119.87 of the Revised Code alleging abuse or neglect of an individual with mental illness or severe mental disability who resides in an adult care facility shall report the complaint to the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the adult care facility is located. A board of alcohol, drug addiction, and mental health services that receives such a complaint or a report from a community mental health agency of such a complaint shall report the complaint to the director of mental health for the purpose of the director conducting an investigation under section ~~3722.17~~ 5119.87 of the Revised Code. The board may enter the adult care facility with or without the director and, if the health and safety of a resident is in immediate danger, take any necessary action to protect the resident. The board's action shall not violate any resident's rights under section ~~3722.12~~ 5119.81 of the Revised Code and rules adopted by the ~~public health council~~ department of mental health under ~~that chapter~~ sections 5119.70 to 5119.88 of the Revised Code. The board shall immediately report to the director regarding the board's actions under this section.

Sec. 340.091. Each board of alcohol, drug addiction, and mental health services shall contract with a community mental health agency under division (A)~~(8)~~(7)(a) of section 340.03 of the Revised Code for the agency to do all of the following in accordance with rules adopted under section 5119.61 of the Revised Code for an individual referred to the agency under division (C)(2) of section ~~173.35~~ 5119.69 of the Revised Code:

(A) Assess the individual to determine whether to recommend that a

~~PASSPORT~~ residential state supplement administrative agency designated under section 5119.69 of the Revised Code determine that the environment in which the individual will be living while receiving residential state supplement payments is appropriate for the individual's needs and, if it determines the environment is appropriate, issue the recommendation to the ~~PASSPORT~~ residential state supplement administrative agency;

(B) Provide ongoing monitoring to ensure that services provided under section 340.09 of the Revised Code are available to the individual;

(C) Provide discharge planning to ensure the individual's earliest possible transition to a less restrictive environment.

Sec. 340.11. ~~(A)~~ A board of alcohol, drug addiction, and mental health services may procure a policy or policies of insurance insuring board members or employees of the board or agencies with which the board contracts against liability arising from the performance of their official duties. If the liability insurance is unavailable or the amount a board has procured or is able to procure is insufficient to cover the amount of a claim, the board may indemnify a board member or employee as follows:

~~(1)~~(A) For any action or inaction in ~~his~~ the capacity ~~as a~~ of board member or employee or at the request of the board, whether or not the action or inaction is expressly authorized by this or any other section of the Revised Code, if:

~~(a)~~(1) The board member or employee acted in good faith and in a manner that ~~he~~ the board member or employee reasonably believed was in or was not opposed to the best interests of the board; and

~~(b)~~(2) With respect to any criminal action or proceeding, the board member or employee had no reason to believe ~~his~~ the board member's or employee's conduct was unlawful.

~~(2)~~(B) Against any expenses, including attorneys' fees, the board member or employee actually and reasonably incurs as a result of a suit or other proceeding involving the defense of any action or inaction in ~~his~~ the capacity ~~as a~~ of board member or employee or at the request of the board, or in defense of any claim, issue, or matter raised in connection with the defense of such an action or inaction, to the extent that the board member or employee is successful on the merits or otherwise.

~~(B) The board may utilize up to that per cent of its budget as approved by the department of mental health to purchase insurance and to pool with funds of other boards of alcohol, drug addiction, and mental health services, as provided in division (E) of section 5119.62 of the Revised Code, to pay expenditures for utilization of state hospital facilities that exceed the amount allocated to the board under the formula developed under that section.~~

Sec. 341.192. (A) As used in this section:

(1) "Jail" means a county jail, or a multicounty, municipal-county, or multicounty-municipal correctional center.

(2) "Medical assistance program" has the same meaning as in section 2913.40 of the Revised Code.

~~(2)~~(3) "Medical provider" means a physician, hospital, laboratory, pharmacy, or other health care provider that is not employed by or under contract to a county, municipal corporation, township, the department of youth services, or the department of rehabilitation and correction to provide medical services to persons confined in ~~the county~~ a jail or ~~a~~ state correctional institution, or is in the custody of a law enforcement officer.

~~(3)~~(4) "Necessary care" means medical care of a nonelective nature that cannot be postponed until after the period of confinement of a person who is confined in a ~~county~~ jail or ~~a~~ state correctional institution, or is in the custody of a law enforcement officer without endangering the life or health of the person.

(B) If a physician employed by or under contract to a county, municipal corporation, township, the department of youth services, or the department of rehabilitation and correction to provide medical services to persons confined in ~~the county~~ a jail or state correctional institution determines that a person who is confined in the ~~county~~ jail or ~~a~~ state correctional institution or who is in the custody of a law enforcement officer prior to the person's confinement in ~~the county~~ a jail or ~~a~~ state correctional institution requires necessary care that the physician cannot provide, the necessary care shall be provided by a medical provider. The county, municipal corporation, township, the department of youth services, or the department of rehabilitation and correction shall pay a medical provider for necessary care an amount not exceeding the authorized reimbursement rate for the same service established by the department of job and family services under the medical assistance program.

Sec. 343.08. (A) The board of county commissioners of a county solid waste management district and the board of directors of a joint solid waste management district may fix reasonable rates or charges to be paid by every person, municipal corporation, township, or other political subdivision that owns premises to which solid waste collection, storage, transfer, disposal, recycling, processing, or resource recovery service is provided by the district and may change the rates or charges whenever it considers it advisable. Charges for collection, storage, transfer, disposal, recycling, processing, or resource recovery service shall be made only against lots or parcels that are improved, or in the process of being improved, with at least

one permanent, portable, or temporary building. The rates or charges may be collected by either of the following means:

(1) Periodic billings made by the district directly or in conjunction with billings for public utility rates or charges by a county water district established under section 6103.02 of the Revised Code, a county sewer district established under section 6117.02 of the Revised Code, or a municipal corporation or other political subdivision authorized by law to provide public utility service. When any such charges that are so billed are not paid, the board shall certify them to the county auditor of the county where the lots or parcels are located, who shall place them upon the real property duplicate against the property served by the collection, storage, transfer, disposal, recycling, processing, or resource recovery service. The charges shall be a lien on the property from the date they are placed upon the real property duplicate by the auditor and shall be collected in the same manner as other taxes.

(2) Certifying the rates or charges to the county auditor of the county where the lots or parcels are located, who shall place them on the real property duplicate against the lots or parcels. The rates or charges are a lien on the property from the date they are placed upon the real property duplicate by the auditor and shall be collected in the same manner as other taxes.

The county or joint district need not fix a rate or charge against property if the district does not operate a collection system.

Where a county or joint district owns or operates a solid waste facility, either without a collection system or in conjunction therewith, the board of county commissioners or board of directors may fix reasonable rates or charges for the use of the facility by persons, municipal corporations, townships, and other political subdivisions, may contract with any public authority or person for the collection of solid wastes in any part of any district for collection, storage, disposal, transfer, recycling, processing, or resource recovery in any solid waste facility, or may lease the facility to any public authority or person. The cost of collection, storage, transfer, disposal, recycling, processing, or resource recovery under such contracts may be paid by rates or charges fixed and collected under this section or by rates and charges fixed under those contracts and collected by the contractors.

All moneys collected by or on behalf of a county or joint district as rates or charges for solid waste collection, storage, transfer, disposal, recycling, processing, or resource recovery service in any district shall be paid to the county treasurer in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a

separate and distinct fund to the credit of the district. The fund shall be used for the payment of the cost of the management, maintenance, and operation of the solid waste collection or other solid waste facilities of the district and, if applicable, the payment of the cost of collecting the rates or charges of the district pursuant to division (A)(1) or (2) of this section. Prior to the approval of the district's initial solid waste management plan under section 3734.55 of the Revised Code or the issuance of an order under that section requiring the district to implement an initial plan prepared by the director, as appropriate, the fund also may be used for the purposes of division (G)(1) or (3) of section 3734.57 of the Revised Code. On and after the approval of the district's initial plan under section 3734.521 or 3734.55 of the Revised Code or the issuance of an order under either of those sections, as appropriate, requiring the district to implement an initial plan prepared by the director, the fund also may be used for the purposes of divisions (G)(1) to (10) of section 3734.57 of the Revised Code. Those uses may include, in accordance with a cost allocation plan adopted under division (B) of this section, the payment of all allowable direct and indirect costs of the district, the sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for the purposes of this chapter and sections 3734.52 to 3734.572 of the Revised Code. Any surplus remaining after those uses of the fund may be used for the enlargement, modification, or replacement of such facilities and for the payment of the interest and principal on bonds and bond anticipation notes issued pursuant to section 343.07 of the Revised Code. In no case shall money so collected be expended otherwise than for the use and benefit of the district.

A board of county commissioners or directors, instead of operating and maintaining solid waste collection or other solid waste facilities of the district with county or joint district personnel, may enter into a contract with a municipal corporation having territory within the district pursuant to which the operation and maintenance of the facilities will be performed by the municipal corporation.

The products of any solid waste collection or other solid waste facility owned under this chapter shall be sold through competitive bidding in accordance with section 307.12 of the Revised Code, except when a board of county commissioners or directors determines by resolution that it is in the public interest to sell those products in a commercially reasonable manner without competitive bidding.

(B) A board of county commissioners or directors may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from the fund of the district created in

division (A) of this section and prescribes methods for allocating those costs. The plan shall authorize payment from the fund for only those costs incurred by the district, the sanitary engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter and sections 3734.52 to 3734.572 of the Revised Code. The plan shall not authorize payment from the fund of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87 "Cost Principles for State and Local Governments," published January 15, 1983.

(C) A board of county commissioners or directors shall fix rates or charges, or enter into contracts fixing the rates or charges to be collected by the contractor, for solid waste collection, storage, transfer, disposal, recycling, processing, or resource recovery services at a public meeting held in accordance with section 121.22 of the Revised Code. In addition to fulfilling the requirements of section 121.22 of the Revised Code, the board, before fixing or changing rates or charges for solid waste collection, storage, transfer, disposal, recycling, processing, or resource recovery services, or before entering into a contract that fixes rates or charges to be collected by the contractor providing the services, shall hold at least three public hearings on the proposed rates, charges, or contract. Prior to the first public hearing, the board shall publish notice of the public hearings as provided in section 7.16 of the Revised Code or once a week for three consecutive weeks in a newspaper of general circulation in the county or counties that would be affected by the proposed rates, charges, or contract. The notice shall include a listing of the proposed rates or charges to be fixed and collected by the board or fixed pursuant to the contract and collected by the contractor, and the dates, time, and place of each of the three hearings thereon. The board shall hear any person who wishes to testify on the proposed rates, charges, or contract.

Sec. 345.03. A copy of any resolution adopted under section 345.01 of the Revised Code shall be certified within five days by the taxing authority and not later than four p. m. of the ninetieth day before the day of the election, to the county board of elections, and such board shall submit the proposal to the electors of the subdivision at the succeeding general election. The board shall make the necessary arrangements for the submission of such question to the electors of the subdivision, and the election shall be conducted, canvassed, and certified in like manner as regular elections in

such subdivision.

Notice of the election shall be published once in a newspaper of general circulation in the subdivision, ~~at least once,~~ not less than two weeks prior to such election. The notice shall set out the purpose of the proposed increase in rate, the amount of the increase expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of property valuation, the number of years during which such increase will be in effect, and the time and place of holding such election.

Sec. 349.03. (A) Proceedings for the organization of a new community authority shall be initiated by a petition filed by the developer in the office of the clerk of the board of county commissioners of one of the counties in which all or part of the proposed new community district is located. Such petition shall be signed by the developer and may be signed by each proximate city. The legislative authorities of each such proximate city shall act in behalf of such city. Such petition shall contain:

(1) The name of the proposed new community authority;

(2) The address where the principal office of the authority will be located or the manner in which the location will be selected;

(3) A map and a full and accurate description of the boundaries of the new community district together with a description of the properties within such boundaries, if any, which will not be included in the new community district. Unless the district is wholly contained within municipalities, the total acreage included in such district shall not be less than one thousand acres, all of which acreage shall be owned by, or under the control through leases of at least seventy-five years' duration, options, or contracts to purchase, of the developer, if the developer is a private entity. Such acreage shall be developable as one functionally interrelated community. In the case of a new community authority established on or after the effective date of this amendment and before January 1, 2012, such leases may be of not less than forty years' duration, and the acreage may be developable so that the community is one functionally interrelated community.

(4) A statement setting forth the zoning regulations proposed for zoning the area within the boundaries of the new community district for comprehensive development as a new community, and if the area has been zoned for such development, a certified copy of the applicable zoning regulations therefor;

(5) A current plan indicating the proposed development program for the new community district, the land acquisition and land development activities, community facilities, services proposed to be undertaken by the new community authority under such program, the proposed method of

financing such activities and services, including a description of the bases, timing, and manner of collecting any proposed community development charges, and the projected total residential population of, and employment within, the new community;

(6) A suggested number of members, consistent with section 349.04 of the Revised Code, for the board of trustees;

(7) A preliminary economic feasibility analysis, including the area development pattern and demand, location and proposed new community district size, present and future socio-economic conditions, public services provision, financial plan, and the developer's management capability;

(8) A statement that the development will comply with all applicable environmental laws and regulations.

Upon the filing of such petition, the organizational board of commissioners shall determine whether such petition complies with the requirements of this section as to form and substance. The board in subsequent proceedings may at any time permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the proposed new community district or in any other particular.

Upon the determination of the organizational board of commissioners that a sufficient petition has been filed in accordance with this section, the board shall fix the time and place of a hearing on the petition for the establishment of the proposed new community authority. Such hearing shall be held not less than ninety-five nor more than one hundred fifteen days after the petition filing date, except that if the petition has been signed by all proximate cities, such hearing shall be held not less than thirty nor more than forty-five days after the petition filing date. The clerk of the board of county commissioners with which the petition was filed shall give notice thereof by publication once each week for three consecutive weeks, or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in any county of which a portion is within the proposed new community district. Such clerk shall also give written notice of the date, time, and place of the hearing and furnish a certified copy of the petition to the clerk of the legislative authority of each proximate city which has not signed such petition. In the event that the legislative authority of a proximate city which did not sign the petition does not approve by ordinance, resolution, or motion the establishment of the proposed new community authority and does not deliver such ordinance, resolution, or motion to the clerk of the board of county commissioners with which the petition was filed within ninety days following the date of the first publication of the

notice of the public hearing, the organizational board of commissioners shall cancel such public hearing and terminate the proceedings for the establishment of the new community authority.

Upon the hearing, if the organizational board of commissioners determines by resolution that the proposed new community district will be conducive to the public health, safety, convenience, and welfare, and is intended to result in the development of a new community, the board shall by its resolution, entered of record in its journal and the journal of the board of county commissioners with which the petition was filed, declare the new community authority to be organized and a body politic and corporate with the corporate name designated in the resolution, and define the boundary of the new community district. In addition, the resolution shall provide the method of selecting the board of trustees of the new community authority and fix the surety for their bonds in accordance with section 349.04 of the Revised Code.

If the organizational board of commissioners finds that the establishment of the district will not be conducive to the public health, safety, convenience, or welfare, or is not intended to result in the development of a new community, it shall reject the petition thereby terminating the proceedings for the establishment of the new community authority.

(B) At any time after the creation of a new community authority, the developer may file an application with the clerk of the board of county commissioners of the county in which the original petition was filed, setting forth a general description of territory it desires to add or to delete from such district, that such change will be conducive to the public health, safety, convenience, and welfare, and will be consistent with the development of a new community and will not jeopardize the plan of the new community. If the developer is not a municipal corporation, port authority, or county, all of such an addition to such a district shall be owned by, or under the control through leases of at least seventy-five years' duration, options, or contracts to purchase, of the developer. In the case of a new community authority established on or after the effective date of this amendment and before January 1, 2012, such leases may be of not less than forty years' duration. Upon the filing of the application, the organizational board of commissioners shall follow the same procedure as required by this section in relation to the petition for the establishment of the proposed new community.

(C) If all or any part of the new community district is annexed to one or more existing municipal corporations, their legislative authorities may

appoint persons to replace any appointed citizen member of the board of trustees. The number of such trustees to be replaced by the municipal corporation shall be the number, rounded to the lowest integer, bearing the proportionate relationship to the number of existing appointed citizen members as the acreage of the new community district within such municipal corporation bears to the total acreage of the new community district. If any such municipal corporation chooses to replace an appointed citizen member, it shall do so by ordinance, the term of the trustee being replaced shall terminate thirty days from the date of passage of such ordinance, and the trustee to be replaced shall be determined by lot. Each newly appointed member shall assume the term of the member's predecessor.

Sec. 501.07. Lands described in division (A) of section 501.06 of the Revised Code shall continue to be leased under the terms granted until such time as the lease may expire. At the time of expiration, subject to section 501.04 of the Revised Code, the land may be leased again by the board of education of the school district for whose benefit the land has been allocated or be offered for sale by public auction or by the receipt of sealed bids with the sale awarded by the school board to the highest bidder. Prior to the offering of these lands for sale, the school board shall have an appraisal made of these lands by at least two disinterested appraisers. Notification of the sale of these lands, including the minerals in or on these or other lands, shall be advertised ~~at least~~ once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in the county in which the land is located. No bids shall be accepted for less than the appraised value of the land.

Sec. 503.05. When a boundary line between townships is in dispute, the board of county commissioners, upon application of the board of township trustees of one of such townships, and upon notice in writing to the board of township trustees of such civil township, and on thirty days' public notice printed in a newspaper ~~published~~ of general circulation within the county, shall establish such boundary line and make a record thereof as provided by section 503.04 of the Revised Code.

Sec. 503.162. (A) After certification of a resolution as provided in section 503.161 of the Revised Code, the board of elections shall submit the question of whether the township's name shall be changed to the electors of the unincorporated area of the township in accordance with division (C) of that section, and the ballot language shall be substantially as follows:

"Shall the township of ..... (name) change its name to ..... (proposed name)?

..... For name change

..... Against name change"

(B)(1) At least forty-five days before the election on this question, the board of township trustees shall provide notice of the election and an explanation of the proposed name change in a newspaper of general circulation in the township once a week for two consecutive weeks ~~and~~ or as provided in section 7.16 of the Revised Code. The board of township trustees shall post the notice and explanation in five conspicuous places in the unincorporated area of the township.

(2) If the board of elections operates and maintains a web site, notice of the election and an explanation of the proposed name change shall be posted on that web site for at least thirty days before the election on this question.

(C) If a majority of the votes cast on the proposition of changing the township's name is in the affirmative, the name change is adopted and becomes effective ninety days after the board of elections certifies the election results to the fiscal officer of the township. Upon receipt of the certification of the election results from the board of elections, the fiscal officer of the township shall send a copy of that certification to the secretary of state.

(D) A change in the name of a township shall not alter the rights or liabilities of the township as previously named.

Sec. 503.41. (A) A board of township trustees, by resolution, may regulate and require the registration of massage establishments and their employees within the unincorporated territory of the township. In accordance with sections 503.40 to 503.49 of the Revised Code, for that purpose, the board, by a majority vote of all members, may adopt, amend, administer, and enforce regulations within the unincorporated territory of the township.

(B) A board may adopt regulations and amendments under this section only after public hearing at not fewer than two regular sessions of the board. The board shall cause to be published in ~~at least one~~ a newspaper of general circulation in the township, or as provided in section 7.16 of the Revised Code, notice of the public hearings, including the time, date, and place, once a week for two weeks immediately preceding the hearings. The board shall make available proposed regulations or amendments to the public at the office of the board.

(C) Regulations or amendments adopted by the board are effective thirty days after the date of adoption unless, within thirty days after the adoption of the regulations or amendments, the township fiscal officer receives a petition, signed by a number of qualified electors residing in the

unincorporated area of the township equal to not less than ten per cent of the total vote cast for all candidates for governor in the area at the most recent general election at which a governor was elected, requesting the board to submit the regulations or amendments to the electors of the area for approval or rejection at the next primary or general election occurring at least ninety days after the board receives the petition.

No regulation or amendment for which the referendum vote has been requested is effective unless a majority of the votes cast on the issue is in favor of the regulation or amendment. Upon certification by the board of elections that a majority of the votes cast on the issue was in favor of the regulation or amendment, the regulation or amendment takes immediate effect.

(D) The board shall make available regulations it adopts or amends to the public at the office of the board and shall cause to be published once a notice of the availability of the regulations in ~~at least one~~ a newspaper of general circulation in the township within ten days after their adoption or amendment.

(E) Nothing in sections 503.40 to 503.49 of the Revised Code shall be construed to allow a board of township trustees to regulate the practice of any limited branch of medicine specified in section 4731.15 of the Revised Code or the practice of providing therapeutic massage by a licensed physician, a licensed chiropractor, a licensed podiatrist, a licensed nurse, or any other licensed health professional. As used in this division, "licensed" means licensed, certified, or registered to practice in this state.

Sec. 504.02. (A) After certification of a resolution as provided in division (A) of section 504.01 of the Revised Code, the board of elections shall submit the question of whether to adopt a limited home rule government to the electors of the unincorporated area of the township, and the ballot language shall be substantially as follows:

"Shall the township of ..... (name) adopt a limited home rule government, under which government the board of township trustees, by resolution, may exercise limited powers of local self-government and limited police powers?

..... For adoption of a limited home rule government

..... Against adoption of a limited home rule government"

(B)(1) At least forty-five days before the election on this question, the board of township trustees shall have notice of the election and a description of the proposed limited home rule government published in a newspaper of general circulation in the township once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, and shall have the notice

and description posted in five conspicuous places in the unincorporated area of the township.

(2) If a board of elections operates and maintains a web site, notice of the election and a description of the proposed limited home rule government shall be posted on that web site for at least thirty days before the election on this question.

(C) If a majority of the votes cast on the proposition of adopting a limited home rule government is in the affirmative, that government is adopted and becomes the government of the township on the first day of January immediately following the election.

Sec. 504.03. (A)(1) If a limited home rule government is adopted pursuant to section 504.02 of the Revised Code, it shall remain in effect for at least three years except as otherwise provided in division (B) of this section. At the end of that period, if the board of township trustees determines that that government is not in the best interests of the township, it may adopt a resolution causing the board of elections to submit to the electors of the unincorporated area of the township the question of whether the township should continue the limited home rule government. The question shall be voted upon at the next general election occurring at least ninety days after the certification of the resolution to the board of elections. After certification of the resolution, the board of elections shall submit the question to the electors of the unincorporated area of the township, and the ballot language shall be substantially as follows:

"Shall the township of ..... (name) continue the limited home rule government under which it is operating?

..... For continuation of the limited home rule government

..... Against continuation of the limited home rule government"

(2)(a) At least forty-five days before the election on the question of continuing the limited home rule government, the board of township trustees shall have notice of the election published in a newspaper of general circulation in the township once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, and shall have the notice posted in five conspicuous places in the unincorporated area of the township.

(b) If a board of elections operates and maintains a web site, notice of the election shall be posted on that web site for at least thirty days before the election on the question of continuing the limited home rule government.

(B) The electors of a township that has adopted a limited home rule government may propose at any time by initiative petition, in accordance with section 504.14 of the Revised Code, a resolution submitting to the

electors in the unincorporated area of the township, in an election, the question set forth in division (A)(1) of this section.

(C) If a majority of the votes cast under division (A) or (B) of this section on the proposition of continuing the limited home rule government is in the negative, that government is terminated effective on the first day of January immediately following the election, and a limited home rule government shall not be adopted in the unincorporated area of the township pursuant to section 504.02 of the Revised Code for at least three years after that date.

(D) If a limited home rule government is terminated under this section, the board of township trustees immediately shall adopt a resolution repealing all resolutions adopted pursuant to this chapter that are not authorized by any other section of the Revised Code outside this chapter, effective on the first day of January immediately following the election described in division (A) or (B) of this section. However, no resolution adopted under this division shall affect or impair the obligations of the township under any security issued or contracts entered into by the township in connection with the financing of any water supply facility or sewer improvement under sections 504.18 to 504.20 of the Revised Code or the authority of the township to collect or enforce any assessments or other revenues constituting security for or source of payments of debt service charges of those securities.

(E) Upon the termination of a limited home rule government under this section, if the township had converted its board of township trustees to a five-member board before September 26, 2003, the current board member who received the lowest number of votes of the current board members who were elected at the most recent election for township trustees, and the current board member who received the lowest number of votes of the current board members who were elected at the second most recent election for township trustees, shall cease to be township trustees on the date that the limited home rule government terminates. Their offices likewise shall cease to exist at that time, and the board shall continue as a three-member board as provided in section 505.01 of the Revised Code.

Sec. 504.12. No resolution and no section or numbered or lettered division of a section shall be revised or amended unless the new resolution contains the entire resolution, section, or division as revised or amended, and the resolution, section, or division so amended shall be repealed. This requirement does not prevent the amendment of a resolution by the addition of a new section, or division, and in this case the full text of the former resolution need not be set forth, nor does this section prevent repeals by

implication. Except in the case of a codification or recodification of resolutions, a separate vote shall be taken on each resolution proposed to be amended. Resolutions that have been introduced and have received their first reading or their first and second readings, but have not been voted on for passage, may be amended or revised by a majority vote of the members of the board of township trustees, and the amended or revised resolution need not receive additional readings.

The board of township trustees of a limited home rule township may revise, codify, and publish in book form the resolutions of the township in the same manner as provided in section 731.23 of the Revised Code for municipal corporations. Resolutions adopted by the board shall be published in the same manner as provided by sections 731.21, 731.22, 731.24, 731.25, and 731.26 of the Revised Code for municipal corporations, except that they shall be published in ~~newspapers circulating~~ a newspaper of general circulation within the township. The fiscal officer of the township shall perform the duties that the clerk of the legislative authority of a municipal corporation is required to perform under those sections.

The procedures provided in this section apply only to resolutions adopted pursuant to a township's limited home rule powers as authorized by this chapter.

Sec. 504.16. (A) Each township that adopts a limited home rule government shall promptly do one of the following:

(1) Establish a police district pursuant to section 505.48 of the Revised Code, except that the district shall include all of the unincorporated area of the township and no other territory;

(2) Establish a joint ~~township~~ police district pursuant to section ~~505.481~~ 505.482 of the Revised Code;

(3) Contract pursuant to section 311.29, 505.43, or 505.50 of the Revised Code to obtain police protection services, including the enforcement of township resolutions adopted under this chapter, on a regular basis;

(4) Designate one or more police constables under Chapter 509. of the Revised Code.

(B) A township that has taken an action described in division (A) of this section before adopting a limited home rule government need not take any other such action upon adopting that government.

(C) The requirement that a township take one of the actions described in divisions (A)(1), (2), and (3) of this section does not prevent a township that acts under division (A)(1) or (2) of this section from contracting under division (A)(3) of this section to obtain additional police protection services

on a regular basis.

Sec. 504.21. (A) The board of township trustees of a township that has adopted a limited home rule government may, for the unincorporated territory in the township, adopt, amend, and rescind rules establishing technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed in the township for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of those management and conservation practices. The rules shall be designed to implement the applicable areawide waste treatment management plan prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. Part 122. The rules to implement phase II of the storm water program of the national pollutant discharge elimination system shall not be inconsistent with, more stringent than, or broader in scope than the rules or regulations adopted by the environmental protection agency under 40 C.F.R. Part 122. The rules adopted under this section shall not apply inside the limits of municipal corporations, to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, or to land being used in a surface mine operation as defined in section 1514.01 of the Revised Code.

The rules adopted under this section may require persons to file plans governing erosion control, sediment control, and water management before clearing, grading, excavating, filling, or otherwise wholly or partially disturbing one or more contiguous acres of land owned by one person or operated as one development unit for the construction of nonfarm buildings, structures, utilities, recreational areas, or other similar nonfarm uses. If the rules require plans to be filed, the rules shall do all of the following:

(1) Designate the board itself, its employees, or another agency or official to review and approve or disapprove the plans;

(2) Establish procedures and criteria for the review and approval or disapproval of the plans;

(3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved;

(4) Establish procedures for the issuance of the permits;

(5) Establish procedures under which a person may appeal the denial of a permit.

Areas of less than one contiguous acre shall not be exempt from compliance with other provisions of this section or rules adopted under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections.

No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water resources in the department of natural resources.

(B) Rules or amendments may be adopted under this section only after public hearings at not fewer than two regular sessions of the board of township trustees. The board shall cause to be published, in a newspaper of general circulation in the township, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings, or as provided in section 7.16 of the Revised Code. The proposed rules or amendments shall be made available by the board to the public at the board office or other location indicated in the notice. The rules or amendments shall take effect on the thirty-first day following the date of their adoption.

(C) The board of township trustees may employ personnel to assist in the administration of this section and the rules adopted under it. The board also, if the action does not conflict with the rules, may delegate duties to review sediment control and water management plans to its employees, and may enter into agreements with one or more political subdivisions, other township officials, or other government agencies, in any combination, in order to obtain reviews and comments on plans governing erosion control, sediment control, and water management or to obtain other services for the administration of the rules adopted under this section.

(D) The board of township trustees or any duly authorized representative of the board may, upon identification to the owner or person in charge, enter any land upon obtaining agreement with the owner, tenant, or manager of the land in order to determine whether there is compliance with the rules adopted under this section. If the board or its duly authorized representative is unable to obtain such an agreement, the board or representative may apply for, and a judge of the court of common pleas for the county where the land is located may issue, an appropriate inspection

warrant as necessary to achieve the purposes of this section.

(E)(1) If the board of township trustees or its duly authorized representative determines that a violation of the rules adopted under this section exists, the board or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. In addition, if the board or representative determines such a rule violation exists, regardless of whether or not the violator has obtained the proper permits, the board or representative may authorize the issuance of a notice of violation. If, after a period of not less than thirty days has elapsed following the issuance of the notice of violation, the violation continues, the board or its duly authorized representative shall issue a second notice of violation. Except as provided in division (E)(3) of this section, if, after a period of not less than fifteen days has elapsed following the issuance of the second notice of violation, the violation continues, the board or its duly authorized representative may issue a stop work order after first obtaining the written approval of the prosecuting attorney of the county in which the township is located if, in the opinion of the prosecuting attorney, the violation is egregious.

Once a stop work order is issued, the board or its duly authorized representative shall request, in writing, the prosecuting attorney to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this section. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule or stop work order issued under this section shall be considered a separate violation subject to a civil fine.

(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order.

(3) No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water resources in the department of natural resources.

(F) No person shall violate any rule adopted or order issued under this

section. Notwithstanding division (E) of this section, if the board of township trustees determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county in which the township is located, to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine.

Sec. 505.101. The board of township trustees of any township may, by resolution, enter into a contract, without advertising or bidding, for the purchase or sale of materials, equipment, or supplies from or to any department, agency, or political subdivision of the state, for the purchase of services with a soil and water conservation district established under Chapter 1515. of the Revised Code, ~~or~~ for the purchase of supplies, services, materials, and equipment with a regional planning commission pursuant to division (D) of section 713.23 of the Revised Code, or for the purchase of services from an educational service center under section 3313.846 of the Revised Code. The resolution shall:

(A) Set forth the maximum amount to be paid as the purchase price for the materials, equipment, supplies, or services;

(B) Describe the type of materials, equipment, supplies, or services that are to be purchased;

(C) Appropriate sufficient funds to pay the purchase price for the materials, equipment, supplies, or services, except that no such appropriation is necessary if funds have been previously appropriated for the purpose and remain unencumbered at the time the resolution is adopted.

Sec. 505.105. Stolen or other property recovered by members of an organized police department of a township, a township police district, a joint ~~township~~ police district, or the office of a township constable shall be deposited and kept in a place designated by the head of the department, district, or office. Each article of property shall be entered in a book kept for that purpose, with the name of its owner, if ascertained, the person from whom it was taken, the place where it was found with general circumstances, the date of its receipt, and the name of the officer receiving it.

An inventory of all money or other property shall be given to the party

from whom it was taken, and, if it is not claimed by some person within thirty days after arrest and seizure, it shall be delivered to the person from whom it was taken, and to no other person, either attorney, agent, factor, or clerk, except by special order of the head of the department, district, or office.

Sec. 505.106. No officer, or other member of an organized police department of a township, a township police district, a joint ~~township~~ police district, or the office of a township constable shall neglect or refuse to deposit property taken or found by the officer or other member in possession of a person arrested. Any conviction for a violation of this section shall vacate the office of the person so convicted.

Sec. 505.107. If, within thirty days, the money or property recovered under section 505.105 of the Revised Code is claimed by any other person, it shall be retained by its custodian until after the discharge or conviction of the person from whom it was taken and as long as it is required as evidence in any case in court. If that claimant establishes to the satisfaction of the court that the claimant is the rightful owner, the money or property shall be restored to the claimant; otherwise, it shall be returned to the accused person, personally, and not to any attorney, agent, factor, or clerk of the accused person, except upon special order of the head of the organized police department of the township, township police district, joint ~~township~~ police district, or office of a township constable, as the case may be, after all liens and claims in favor of the township have first been discharged and satisfied.

Sec. 505.108. Except as otherwise provided in this section and unless the property involved is required to be disposed of pursuant to another section of the Revised Code, property that is unclaimed for ninety days or more shall be sold by the chief of police or other head of the organized police department of the township, township police district, joint ~~township~~ police district, or office of a township constable at public auction, after notice of the sale has been provided by publication once a week for three successive weeks in a newspaper of general circulation, or as provided in section 7.16 of the Revised Code, in the county, or counties, if appropriate, in the case of a joint ~~township~~ police district. The proceeds of the sale shall be paid to the fiscal officer of the township and credited to the township general fund, except that, in the case of a joint ~~township~~ police district, the proceeds of a sale shall be paid to the ~~fiscal officer~~ treasurer of the ~~most populous participating township~~ joint police district board and credited to the appropriate ~~township general~~ fund ~~or funds~~ according to agreement of the participating townships and municipal corporations.

If authorized to do so by a resolution adopted by the board of township trustees or, in the case of a joint ~~township~~ police district, ~~each participating~~ the joint police district board ~~of township trustees~~, and if the property involved is not required to be disposed of pursuant to another section of the Revised Code, the head of the department, district, or office may contribute property that is unclaimed for ninety days or more to one or more public agencies, to one or more nonprofit organizations no part of the net income of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation, or to one or more organizations satisfying section 501(c)(3) or (c)(19) of the Internal Revenue Code of 1986.

Sec. 505.109. Upon the sale of any unclaimed property as provided in section 505.108 of the Revised Code, if any of the unclaimed property was ordered removed to a place of storage or stored, or both, by or under the direction of the head of the organized police department of the township, township police district, joint ~~township~~ police district, or office of a township constable, any expenses or charges for the removal or storage, or both, and costs of sale, provided they are approved by the head of the department, district, or office, shall first be paid from the proceeds of the sale. Notice shall be given by certified mail, thirty days before the date of the sale, to the owner and mortgagee, or other lienholder, at their last known addresses.

Sec. 505.17. (A) Except in a township or portion of a township that is within the limits of a municipal corporation, the board of township trustees may make regulations and orders as are necessary to control passenger car, motorcycle, and internal combustion engine noise, as permitted under section 4513.221 of the Revised Code, and all vehicle parking in the township. This authorization includes, among other powers, the power to regulate parking on established roadways proximate to buildings on private property as necessary to provide access to the property by public safety vehicles and equipment, if the property is used for commercial purposes, the public is permitted to use the parking area, and accommodation for more than ten motor vehicles is provided, and the power to authorize the issuance of orders limiting or prohibiting parking on any township street or highway during a snow emergency declared pursuant to a snow-emergency authorization adopted under this division. All such regulations and orders shall be subject to the limitations, restrictions, and exceptions in sections 4511.01 to 4511.76 and 4513.02 to 4513.37 of the Revised Code.

A board of township trustees may adopt a general snow-emergency

authorization, which becomes effective under division (B)(1) of this section, allowing the president of the board or some other person specified in the authorization to issue an order declaring a snow emergency and limiting or prohibiting parking on any township street or highway during the snow emergency. Any such order becomes effective under division (B)(2) of this section. Each general snow-emergency authorization adopted under this division shall specify the weather conditions under which a snow emergency may be declared in that township.

(B)(1) All regulations and orders, including any snow-emergency authorization established by the board under this section, except for an order declaring a snow emergency as provided in division (B)(2) of this section, shall be posted by the township fiscal officer in five conspicuous public places in the township for thirty days before becoming effective, and shall be published in a newspaper of general circulation in the township for three consecutive weeks or as provided in section 7.16 of the Revised Code. In addition to these requirements, no general snow-emergency authorization shall become effective until permanent signs giving notice that parking is limited or prohibited during a snow emergency are properly posted, in accordance with any applicable standards adopted by the department of transportation, along streets or highways specified in the authorization.

(2) Pursuant to the adoption of a snow-emergency authorization under this section, an order declaring a snow emergency becomes effective two hours after the president of the board or the other person specified in the general snow-emergency authorization makes an announcement of a snow emergency to the local news media. The president or other specified person shall request the local news media to announce that a snow emergency has been declared, the time the declaration will go into effect, and whether the snow emergency will remain in effect for a specified period of time or indefinitely until canceled by a subsequent announcement to the local news media by the president or other specified person.

(C) Such regulations and orders may be enforced where traffic control devices conforming to section 4511.09 of the Revised Code are prominently displayed. Parking regulations authorized by this section do not apply to any state highway unless the parking regulations are approved by the director of transportation.

(D) A board of township trustees or its designated agent may order into storage any vehicle parked in violation of a township parking regulation or order, if the violation is not one that is required to be handled pursuant to Chapter 4521. of the Revised Code. The owner or any lienholder of a vehicle ordered into storage may claim the vehicle upon presentation of

proof of ownership, which may be evidenced by a certificate of title to the vehicle, and payment of all expenses, charges, and fines incurred as a result of the parking violation and removal and storage of the vehicle.

(E) Whoever violates any regulation or order adopted pursuant to this section is guilty of a minor misdemeanor, unless the township has enacted a regulation pursuant to division (A) of section 4521.02 of the Revised Code, that specifies that the violation shall not be considered a criminal offense and shall be handled pursuant to Chapter 4521. of the Revised Code. Fines levied and collected under this section shall be paid into the township general revenue fund.

Sec. 505.172. (A) As used in this section, "law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint ~~township~~ police district, marshal, deputy marshal, or municipal police officer.

(B) Except as otherwise provided in this section and section 505.17 of the Revised Code, a board of township trustees may adopt regulations and orders that are necessary to control noise within the unincorporated territory of the township that is generated at any premises to which a D permit has been issued by the division of liquor control or that is generated within any areas zoned for residential use.

(C) Any person who engages in any of the activities described in section 1.61 of the Revised Code is exempt from any regulation or order adopted under division (B) of this section if the noise is attributed to an activity described in section 1.61 of the Revised Code. Any person who engages in coal mining and reclamation operations, as defined in division (B) of section 1513.01 of the Revised Code, or surface mining, as defined in division (A) of section 1514.01 of the Revised Code, is exempt from any regulation or order adopted under division (B) of this section if the noise is attributed to coal mining and reclamation or surface mining activities. Noise resulting from the drilling, completion, operation, maintenance, or construction of any crude oil or natural gas wells or pipelines or any appurtenances to those wells or pipelines or from the distribution, transportation, gathering, or storage of crude oil or natural gas is exempt from any regulation or order adopted under division (B) of this section.

(D)(1) Except as otherwise provided in division (C) ~~or (D)(2)~~ of this section, any regulation or order adopted under division (B) of this section shall apply to any business or industry ~~in existence and operating on October 20, 1999, and a regulation or order so adopted shall apply to any new operation or expansion of that business or industry that results in substantially increased noise levels from those generated by that business or~~

~~industry on that date.~~

~~(2) Any regulation or order adopted under division (B) of this section applies~~ or to any premises to which a D permit has been issued by the division of liquor control regardless of ~~whether the premises was in existence and operating on October 20, 1999, or whether~~ when it came into existence ~~and operation after that date~~.

(E) Whoever violates any regulation or order adopted under division (B) of this section is guilty of a misdemeanor of the second degree. Fines levied and collected under this section shall be paid into the township general revenue fund.

(F) Any person allegedly aggrieved by another person's violation of a regulation or order adopted under division (B) of this section may seek in a civil action a declaratory judgment, an injunction, or other appropriate relief against the other person committing the act or practice that violates that regulation or order. A board of township trustees that adopts a regulation or order under division (B) of this section ~~shall~~ may seek in a civil action an injunction against ~~each~~ any person that commits an act or practice that violates that regulation or order. The court involved in a civil action referred to in this division may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed.

(G) If any law enforcement officer with jurisdiction in a township that has adopted a regulation or order under division (B) of this section has reasonable cause to believe that any premises to which a D permit has been issued by the division of liquor control has violated the regulation or order and, as a result of the violation, has caused, is causing, or is about to cause substantial and material harm, the law enforcement officer may issue an order that the premises cease and desist from the activity violating the regulation or order. The cease-and-desist order shall be served personally upon the owner, operator, manager, or other person in charge of the premises immediately after its issuance by the officer. The township thereafter may publicize or otherwise make known to all interested persons that the cease-and-desist order has been issued.

The cease-and-desist order shall specify the particular conduct that is subject to the order and shall inform the person upon whom it is served that the premises will be granted a hearing in the municipal court or county court with jurisdiction over the premises regarding the operation of the order and the possible issuance of an injunction or other appropriate relief. The premises shall comply with the cease-and-desist order immediately upon receipt of the order. Upon service of the cease-and-desist order upon the owner, operator, manager, or other person in charge of the premises, the

township law director or, if the township does not have a law director, the prosecuting attorney of the county in which the township is located shall file in the municipal court or county court with jurisdiction over the premises a civil action seeking to confirm the cease-and-desist order and seeking an injunction or other appropriate relief against the premises. The owner, operator, manager, or other person in charge of the premises may file a motion in that civil action for a stay of the cease-and-desist order for good cause shown, pending the court's rendering its decision in the action. The court shall set a date for a hearing, hold the hearing, and render a decision in the action not more than ten days after the date of the cease-and-desist order, or the cease-and-desist order is terminated. Division (F) of this section applies regarding an action filed as described in this division.

(H) Nothing in this section authorizes a township to enforce any regulation or order adopted under division (B) of this section against a premises to which a D permit has been issued by the division of liquor control if that premises is not located in the unincorporated territory of that township.

Sec. 505.24. Each township trustee is entitled to compensation as follows:

(A) Except as otherwise provided in division (B) of this section, an amount for each day of service in the business of the township, to be paid from the township treasury as follows:

(1) In townships having a budget of fifty thousand dollars or less, twenty dollars per day for not more than two hundred days;

(2) In townships having a budget of more than fifty thousand but not more than one hundred thousand dollars, twenty-four dollars per day for not more than two hundred days;

(3) In townships having a budget of more than one hundred thousand but not more than two hundred fifty thousand dollars, twenty-eight dollars and fifty cents per day for not more than two hundred days;

(4) In townships having a budget of more than two hundred fifty thousand but not more than five hundred thousand dollars, thirty-three dollars per day for not more than two hundred days;

(5) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars, thirty-five dollars per day for not more than two hundred days;

(6) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars, forty dollars per day for not more than two hundred days;

(7) In townships having a budget of more than one million five hundred

thousand but not more than three million five hundred thousand dollars, forty-four dollars per day for not more than two hundred days;

(8) In townships having a budget of more than three million five hundred thousand dollars but not more than six million dollars, forty-eight dollars per day for not more than two hundred days;

(9) In townships having a budget of more than six million dollars, fifty-two dollars per day for not more than two hundred days.

(B) Beginning in calendar year 1999, the amounts paid as specified in division (A) of this section shall be replaced by the following amounts:

(1) In calendar year 1999, the amounts specified in division (A) of this section increased by three per cent;

(2) In calendar year 2000, the amounts determined under division (B)(1) of this section increased by three per cent;

(3) In calendar year 2001, the amounts determined under division (B)(2) of this section increased by three per cent;

(4) In calendar year 2002, except in townships having a budget of more than six million dollars, the amounts determined under division (B)(3) of this section increased by three per cent; in townships having a budget of more than six million but not more than ten million dollars, seventy dollars per day for not more than two hundred days; and in townships having a budget of more than ten million dollars, ninety dollars per day for not more than two hundred days;

(5) In calendar years 2003 through 2008, the amounts determined under division (B) of this section for the immediately preceding calendar year increased by the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding calendar year, rounded to the nearest one-tenth of one per cent;

(6) In calendar year 2009 and thereafter, the amount determined under division (B) of this section for calendar year 2008.

As used in division (B) of this section, "consumer price index" has the same meaning as in section 325.18 of the Revised Code.

(C) Whenever members of a board of township trustees are compensated per diem and not by annual salary, the board shall establish, by resolution, a method by which each member of the board shall periodically notify the township fiscal officer of the number of days spent in the service of the township and the kinds of services rendered on those days. The per diem compensation shall be paid from the township general fund or from

other township funds in such proportions as the kinds of services performed may require. The notice shall be filed with the township fiscal officer and preserved for inspection by any persons interested.

By unanimous vote, a board of township trustees may adopt a method of compensation consisting of an annual salary to be paid in equal monthly payments. If the office of trustee is held by more than one person during any calendar year, each person holding the office shall receive payments for only those months, and any fractions of those months, during which the person holds the office. The amount of the annual salary approved by the board shall be no more than the maximum amount that could be received annually by a trustee if the trustee were paid on a per diem basis as specified in this division, and shall be paid from the township general fund or from other township funds in such proportions as the board may specify by resolution. Each trustee shall certify the percentage of time spent working on matters to be paid from the township general fund and from other township funds in such proportions as the kinds of services performed. A board of township trustees that has adopted a salary method of compensation may return to a method of compensation on a per diem basis as specified in this division by a majority vote. Any change in the method of compensation shall be effective on the first day of January of the year following the year during which the board has voted to change the method of compensation.

Sec. 505.264. (A) As used in this section, "energy conservation measure" means an installation or modification of an installation in, or remodeling of, an existing building, to reduce energy consumption. It includes the following:

(1) Insulation of the building structure and of systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(3) Automatic energy control systems;

(4) Heating, ventilating, or air conditioning system modifications or replacements;

(5) Caulking and weatherstripping;

(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;

(7) Energy recovery systems;

(8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(9) Any other modification, installation, or remodeling approved by the board of township trustees as an energy conservation measure.

(B) For the purpose of evaluating township buildings for energy conservation measures, a township may contract with an architect, professional engineer, energy services company, contractor, or other person experienced in the design and implementation of energy conservation measures for a report that analyzes the buildings' energy needs and presents recommendations for building installations, modifications of existing installations, or building remodeling that would significantly reduce energy consumption in the buildings owned by that township. The report shall include estimates of all costs of the installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, and repairs, and estimates of the amounts by which energy consumption could be reduced.

(C) A township desiring to implement energy conservation measures may proceed under either of the following methods:

(1) Using a report or any part of a report prepared under division (B) of this section, advertise for bids and comply with the bidding procedures set forth in sections 307.86 to 307.92 of the Revised Code;

(2) Request proposals from at least three vendors for the implementation of energy conservation measures. Prior to sending any installer of energy conservation measures a copy of any such request, the township shall advertise its intent to request proposals for the installation of energy conservation measures in a newspaper of general circulation in the township once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall state that the township intends to request proposals for the installation of energy conservation measures; indicate the date, which shall be at least ten days after the second publication, on which the request for proposals will be mailed to installers of energy conservation measures; and state that any installer of energy conservation measures interested in receiving the request for proposal shall submit written notice to the township not later than noon of the day on which the request for proposal will be mailed.

Upon receiving the proposals, the township shall analyze them and select the proposal or proposals most likely to result in the greatest energy savings considering the cost of the project and the township's ability to pay

for the improvements with current revenues or by financing the improvements. The awarding of a contract to install energy conservation measures under division (C)(2) of this section shall be conditioned upon a finding by the township that the amount of money spent on energy savings measures is not likely to exceed the amount of money the township would save in energy and operating costs over ten years or a lesser period as determined by the township or, in the case of contracts for cogeneration systems, over five years or a lesser period as determined by the township. Nothing in this section prohibits a township from rejecting all proposals or from selecting more than one proposal.

(D) A board of township trustees may enter into an installment payment contract for the purchase and installation of energy conservation measures. Any provisions of those installment payment contracts that deal with interest charges and financing terms shall not be subject to the competitive bidding procedures of section 307.86 of the Revised Code. Unless otherwise approved by a resolution of the board, an installment payment contract entered into by a board of township trustees under this section shall require the board to contract in accordance with the procedures set forth in section 307.86 of the Revised Code for the installation, modification, or remodeling of energy conservation measures pursuant to this section.

(E) The board may issue securities of the township specifying the terms of the purchase and securing the deferred payments, payable at the times provided and bearing interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The maximum maturity of the securities shall be as provided in division (B)(7)(g) of section 133.20 of the Revised Code. The securities may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. Revenues derived from local taxes or otherwise, for the purpose of conserving energy or for defraying the current operating expenses of the township, may be applied to the payment of interest and the retirement of the securities. The securities may be sold at private sale or given to the contractor under the installment payment contract authorized by division (D) of this section.

(F) Debt incurred under this section shall not be included in the calculation of the net indebtedness of a township under section 133.09 of the Revised Code.

Sec. 505.267. (A) As used in this section:

(1) "Lease-purchase agreement" has the same meaning as a lease with an option to purchase.

(2) "Public obligation" has the same meaning as in section 133.01 of the Revised Code.

(B) For any purpose for which a board of township trustees, ~~or a board of trustees of~~ a joint ~~township~~ police district board, a township fire district, a joint fire district, or a fire and ambulance district is authorized to acquire real or personal property, that board may enter into a lease-purchase agreement in accordance with this section to acquire the property. The board's resolution authorizing the lease-purchase agreement may provide for the issuance of certificates of participation or other evidences of fractionalized interests in the lease-purchase agreement, for the purpose of financing, or refinancing or refunding, any public obligation that financed or refinanced the acquisition of the property. Sections 9.94, 133.03, and 133.30 of the Revised Code shall apply to any such fractionalized interests.

The lease-purchase agreement shall provide for a series of terms in which no term extends beyond the end of the fiscal year of the township or district in which that term commences. In total, the terms provided for in the agreement shall be for not more than the useful life of the real or personal property that is the subject of the agreement. A property's useful life shall be determined either by the maximum number of installment payments permitted under the statute that authorizes the board to acquire the property or, if there is no such provision, by the maximum number of years to maturity provided for the issuance of bonds in division (B) of section 133.20 of the Revised Code for that property. If the useful life cannot be determined under either of those statutes, it shall be estimated as provided in division (C) of section 133.20 of the Revised Code.

The lease-purchase agreement shall provide that, at the end of the final term in the agreement, if all obligations of the township or district have been satisfied, the title to the leased property shall vest in the township or district executing the lease-purchase agreement, if that title has not vested in the township or district before or during the lease terms; except that the lease-purchase agreement may require the township or district to pay an additional lump sum payment as a condition of obtaining that title.

(C) A board of trustees that enters into a lease-purchase agreement under this section may do any of the following with the property that is the subject of the agreement:

(1) If the property is personal property, assign the board's rights to that property;

(2) Grant the lessor a security interest in the property;

(3) If the property is real property, grant leases, easements, or licenses for underlying land or facilities under the board's control for terms not exceeding five years beyond the final term of the lease-purchase agreement.

(D) The authority granted in this section is in addition to, and not in

derogation of, any other financing authority provided by law.

Sec. 505.28. The board of township trustees may create a waste disposal district under sections 505.27 to 505.33 of the Revised Code, by a unanimous vote of the board and give notice thereof by a publication in ~~two newspapers~~ a newspaper of general circulation in the township. If, within thirty days after such publication, a protest petition is filed with the board, signed by at least fifty per cent of the electors residing in the district, the act of the board in creating such district shall be void. If a petition is filed with the board asking for the creation of such a district in the township, accompanied by a map clearly showing the boundaries of such district, and signed by at least sixty-five per cent of the electors residing therein, with addresses of such signers, the board shall, within sixty days, create such a district.

Each district shall be given a name, and the entire cost of any necessary equipment and labor shall be apportioned against each district by the respective boards.

Sec. 505.373. The board of township trustees may, by resolution, adopt by incorporation by reference a standard code pertaining to fire, fire hazards, and fire prevention prepared and promulgated by the state or any department, board, or other agency of the state, or any such code prepared and promulgated by a public or private organization that publishes a model or standard code.

After the adoption of the code by the board, a notice clearly identifying the code, stating the purpose of the code, and stating that a complete copy of the code is on file with the township fiscal officer for inspection by the public and also on file in the law library of the county in which the township is located and that the fiscal officer has copies available for distribution to the public at cost, shall be posted by the fiscal officer in five conspicuous places in the township for thirty days before becoming effective. The notice required by this section shall also be published in a newspaper of general circulation in the township once a week for three consecutive weeks or as provided in section 7.16 of the Revised Code. If the adopting township amends or deletes any provision of the code, the notice shall contain a brief summary of the deletion or amendment.

If the agency that originally promulgated or published the code thereafter amends the code, any township that has adopted the code pursuant to this section may adopt the amendment or change by incorporation by reference in the same manner as provided for adoption of the original code.

Sec. 505.43. In order to obtain police protection, or to obtain additional police protection, any township may enter into a contract with one or more

townships, municipal corporations, park districts created pursuant to section 511.18 or 1545.01 of the Revised Code, ~~or~~ county sheriffs, joint police districts, or with a governmental entity of an adjoining state upon any terms that are agreed to by them, for services of police departments or use of police equipment, or the interchange of the service of police departments or use of police equipment within the several territories of the contracting subdivisions, if the contract is first authorized by respective boards of township trustees or other legislative bodies. The cost of the contract may be paid for from the township general fund or from funds received pursuant to the passage of a levy authorized pursuant to division (J) of section 5705.19 and section 5705.25 of the Revised Code.

Chapter 2744. of the Revised Code, insofar as it is applicable to the operation of police departments, applies to the contracting political subdivisions and police department members when the members are rendering service outside their own subdivision pursuant to the contract.

Police department members acting outside the subdivision in which they are employed may participate in any pension or indemnity fund established by their employer to the same extent as while acting within the employing subdivision, and are entitled to all the rights and benefits of Chapter 4123. of the Revised Code, to the same extent as while performing service within the subdivision.

The contract may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract.

Sec. 505.48. (A) The board of township trustees of any township may, by resolution adopted by two-thirds of the members of the board, create a township police district comprised of all or a portion of the unincorporated territory of the township as the resolution may specify. If the township police district does not include all of the unincorporated territory of the township, the resolution creating the district shall contain a complete and accurate description of the territory of the district and a separate and distinct name for the district.

At any time not less than one hundred twenty days after a township police district is created and operative, the territorial limits of the district may be altered in the manner provided in division (B) of this section or, if applicable, as provided in section 505.482 of the Revised Code.

(B) Except as otherwise provided in section ~~505.482~~ 505.481 of the Revised Code, the territorial limits of a township police district may be altered by a resolution adopted by a two-thirds vote of the board of township trustees. If the township police district imposes a tax, any territory proposed for addition to the district shall become part of the district only after all of

the following have occurred:

(1) Adoption by two-thirds vote of the board of township trustees of a resolution approving the expansion of the territorial limits of the district;

(2) Adoption by a two-thirds vote of the board of township trustees of a resolution recommending the extension of the tax to the additional territory;

(3) Approval of the tax by the electors of the territory proposed for addition to the district.

Each resolution of the board adopted under division (B)(2) of this section shall state the name of the township police district, a description of the territory to be added, and the rate and termination date of the tax, which shall be the rate and termination date of the tax currently in effect in the district.

The board of trustees shall certify each resolution adopted under division (B)(2) of this section to the board of elections in accordance with section 5705.19 of the Revised Code. The election required under division (B)(3) of this section shall be held, canvassed, and certified in the manner provided for the submission of tax levies under section 5705.25 of the Revised Code, except that the question appearing on the ballot shall read:

"Shall the territory within ..... (description of the proposed territory to be added) be added to ..... (name) township police district, and a property tax at a rate of taxation not exceeding ..... (here insert tax rate) be in effect for ..... (here insert the number of years the tax is to be in effect or "a continuing period of time," as applicable)?"

If the question is approved by at least a majority of the electors voting on it, the joinder shall be effective as of the first day of January of the year following approval, and, on that date, the township police district tax shall be extended to the taxable property within the territory that has been added.

Sec. ~~505.482~~ 505.481. (A) If a township police district does not include all the unincorporated territory of the township, the remaining unincorporated territory of the township may be added to the district by a resolution adopted by a unanimous vote of the board of township trustees to place the issue of expansion of the district on the ballot for the electors of the entire unincorporated territory of the township. The resolution shall state whether the proposed township police district initially will hire personnel as provided in section 505.49 of the Revised Code or contract for the provision of police protection services or additional police protection services as provided in section 505.43 or 505.50 of the Revised Code.

The ballot measure shall provide for the addition into a new district of all the unincorporated territory of the township not already included in the township police district and for the levy of any tax then imposed by the

district throughout the unincorporated territory of the township. The measure shall state the rate of the tax, if any, to be imposed in the district resulting from approval of the measure, which need not be the same rate of any tax imposed by the existing district, and the last year in which the tax will be levied or that it will be levied for a continuous period of time.

(B) The election on the measure shall be held, canvassed, and certified in the manner provided for the submission of tax levies under section 5705.25 of the Revised Code, except that the question appearing on the ballot shall read substantially as follows:

"Shall the unincorporated territory within ..... (name of the township) not already included within the ..... (name of township police district) be added to the township police district to create the ..... (name of new township police district) township police district?"

The name of the proposed township police district shall be separate and distinct from the name of the existing township police district.

If a tax is imposed in the existing township police district, the question shall be modified by adding, at the end of the question, the following: ", and shall a property tax be levied in the new township police district, replacing the tax in the existing township police district, at a rate not exceeding ..... mills per dollar of taxable valuation, which amounts to ..... (rate expressed in dollars and cents per one thousand dollars in taxable valuation), for ..... (number of years the tax will be levied, or "a continuing period of time")."

If the measure is not approved by a majority of the electors voting on it, the township police district shall continue to occupy its existing territory until altered as provided in this section or section 505.48 of the Revised Code, and any existing tax imposed under section 505.51 of the Revised Code shall remain in effect in the existing district at the existing rate and for as long as provided in the resolution under the authority of which the tax is levied.

Sec. ~~505.481~~ 505.482. (A) The boards of township trustees of any two or more contiguous townships, or the boards of township trustees of one or more contiguous townships and the legislative authorities of one or more contiguous municipal corporations, whether or not within the same county, ~~may,~~ by adoption of a joint resolution by a ~~two-thirds~~ majority favorable vote of each such board and of the members of the legislative authority of each such municipal corporation, may form themselves into a joint ~~township~~ police district ~~board, and such townships shall be a part of a joint township police district~~ comprising all or any part of the townships or municipal corporations as are mutually agreed upon. The governing body of the joint police district shall be a joint police district board, which shall include either

all of the township trustees of each township and all of the members of the legislative authority of each municipal corporation in the district, as agreed to and established in the joint resolution creating the joint police district; or an odd number of members as agreed to and established in the joint resolution, as long as the members are representatives from each board of township trustees of each township and from the legislative authority of each municipal corporation in the joint police district.

~~Such~~ (B) The joint ~~township~~ police district board shall organize within thirty days after the favorable vote by the last board of township trustees or the members of the legislative authority of the last municipal corporation joining itself into the joint ~~township~~ police district board. The president of the board of township trustees of the most populous participating township or the legislative authority of the most populous participating municipal corporation shall give notice of the time and place of organization to each pending member of the joint police district board ~~of township trustees of each participating township~~, as established in the joint resolution. Such notice shall be signed ~~by the president of the board of township trustees of the most populous participating township,~~ and shall be sent by certified mail to each such pending member of the board ~~of township trustees of each participating township,~~ at least five days prior to the organization meeting, which meeting shall be held in one of the participating townships or municipal corporations. ~~All members of the boards of township trustees of the participating townships constitute the joint township police district board.~~ Two-thirds of ~~all~~ the ~~township trustees of the participating townships~~ joint police district board members constitutes a quorum. ~~Such~~ The members of the ~~boards of township trustees~~ joint police district board shall, at the organization meeting ~~of the joint township police district board~~, proceed with the election of a president, a secretary, and a treasurer, and such other officers as they consider necessary and proper, and shall transact such other business as properly comes before the board.

(C) In the formation of ~~such~~ a joint police district, such action may be taken by or on behalf of part of a township, by excluding that portion of the township lying within a municipal corporation. The joint ~~township~~ police district board may exercise the same powers as are granted to a board of township trustees in the operation of a township police district under sections 505.49 to 505.55 of the Revised Code, including, but not limited to, the power to employ, train, and discipline personnel, to acquire equipment and buildings, to levy a tax, to issue bonds and notes, and to dissolve the district.

Sec. 505.483. A township or municipal corporation, or parts thereof,

may join an existing joint police district by the adoption of a resolution by the township or of an ordinance by the municipal corporation requesting participation in the district and upon approval of the existing joint police district board.

Sec. 505.484. The treasurer of the joint police district board, before entering upon the duties of that office, shall execute a bond payable to the state, in the amount and with surety to be approved by the joint police district board, conditioned for the faithful performance of all the official duties required by the treasurer. The bond shall be deposited with the president of the joint police district board, and a copy thereof, certified by the president, shall be filed with the county auditor.

Sec. 505.49. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) The township trustees of a township police district, by a two-thirds vote of the board, or a joint police district board, by majority vote of its members, may adopt rules necessary for the operation of the township or joint police district, including a determination of the qualifications of the chief of police, patrol officers, and others to serve as members of the district police force.

(2) Except as otherwise provided in division (E) of this section and subject to division (D) of this section, the township trustees of a township police district, by a two-thirds vote of the board or the joint police district board, by majority vote of its members, shall appoint a chief of police for the district, determine the number of patrol officers and other personnel required by the district, and establish salary schedules and other conditions of employment for the employees of the township or joint police district. The chief of police of the district shall serve at the pleasure of the township trustees or the joint police district board and shall appoint patrol officers and other personnel that the district may require, subject to division (D) of this section and to the rules and limits as to qualifications, salary ranges, and numbers of personnel established by the board of township trustees or the joint police district board. The township trustees may include in the township police district and under the direction and control of the chief of police any constable appointed pursuant to section 509.01 of the Revised Code, or may designate the chief of police or any patrol officer appointed by the chief of police as a constable, as provided for in section 509.01 of the Revised Code, for the township police district.

(3) Except as provided in division (D) of this section, a patrol officer, other police district employee, or police constable, who has been awarded a certificate attesting to the satisfactory completion of an approved state,

county, or municipal police basic training program, as required by section 109.77 of the Revised Code, may be removed or suspended only under the conditions and by the procedures in sections 505.491 to 505.495 of the Revised Code. Any other patrol officer, police district employee, or police constable shall serve at the pleasure of the township trustees or joint police district board. In case of removal or suspension of an appointee by the board of township trustees of a township police district or the joint police district board, that appointee may appeal the decision of ~~the~~ either board to the court of common pleas of the county in which the district is situated to determine the sufficiency of the cause of removal or suspension. The appointee shall take the appeal within ten days of written notice to the appointee of the decision of the board.

(C)(1) Division (B) of this section does not apply to a township that has a population of ten thousand or more persons residing within the township and outside of any municipal corporation, that has its own police department employing ten or more full-time paid employees, and that has a civil service commission established under division (B) of section 124.40 of the Revised Code. The township shall comply with the procedures for the employment, promotion, and discharge of police personnel provided by Chapter 124. of the Revised Code, except as otherwise provided in divisions (C)(2) and (3) of this section.

(2) The board of township trustees of the township may appoint the chief of police, and a person so appointed shall be in the unclassified service under section 124.11 of the Revised Code and shall serve at the pleasure of the board. A person appointed chief of police under these conditions who is removed by the board or who resigns from the position shall be entitled to return to the classified service in the township police department, in the position that person held previous to the person's appointment as chief of police.

(3) The appointing authority of an urban township, as defined in section 504.01 of the Revised Code, may appoint to a vacant position any one of the three highest scorers on the eligible list for a promotional examination.

(4) The board of township trustees of a township described in this division shall determine the number of personnel required and establish salary schedules and conditions of employment not in conflict with Chapter 124. of the Revised Code.

(5) Persons employed as police personnel in a township described in this division on the date a civil service commission is appointed pursuant to division (B) of section 124.40 of the Revised Code, without being required to pass a competitive examination or a police training program, shall retain

their employment and any rank previously granted them by action of the township trustees or otherwise, but those persons are eligible for promotion only by compliance with Chapter 124. of the Revised Code.

(6) This division does not apply to constables appointed pursuant to section 509.01 of the Revised Code. This division is subject to division (D) of this section.

(D)(1) The board of township trustees or a joint police district board shall not appoint or employ a person as a chief of police, and the chief of police shall not appoint or employ a person as a patrol officer or other peace officer of a township police district ~~or a~~, township police department, or joint police district on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The board of township trustees or joint police district board shall terminate the appointment or employment of a chief of police, patrol officer, or other peace officer of a township police district ~~or~~, township police department, or joint police district who does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the chief of police, patrol officer, or other peace officer of a township police district ~~or~~, township police department, or joint police district agrees to surrender the certificate awarded to that chief of police, patrol officer, or other peace officer under section 109.77 of the Revised Code.

(b) The board shall suspend the appointment or employment of a chief of police, patrol officer, or other peace officer of a township police district ~~or~~, township police department, or joint police district who is convicted, after trial, of a felony. If ~~the~~ such chief of police, patrol officer, or other peace officer ~~of a township police district or township police department~~ files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken, or, if no timely appeal is filed, the board shall terminate the appointment or employment of that chief of police, patrol officer, or other peace officer. If the chief of police, patrol officer, or other peace officer of a township police district ~~or~~, township police department, or joint police district files an appeal that results in that chief of police's, patrol officer's, or other peace officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the chief of police, patrol officer, or other peace officer, the board shall reinstate that chief of police, patrol officer, or other peace officer. A

chief of police, patrol officer, or other peace officer ~~of a township police district or township police department~~ who is reinstated under division (D)(2)(b) of this section shall not receive any back pay unless the conviction of that chief of police, patrol officer, or other peace officer of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the chief of police, patrol officer, or other peace officer of the felony.

(3) Division (D) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or termination of the appointment or employment of a chief of police, patrol officer, or other peace officer under division (D)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

(E) The board of township trustees or the joint police district board may enter into a contract under section 505.43 or 505.50 of the Revised Code to obtain all police protection for the township police district or joint police district from one or more municipal corporations, county sheriffs, or other townships. If the board enters into such a contract, subject to division (D) of this section, it may, but is not required to, appoint a police chief for the district.

(F) The members of the police force of a township police district of a township, or of a joint police district board comprised of a township, that adopts the limited self-government form of township government shall serve as peace officers for the township territory included in the district.

(G) A chief of police or patrol officer of a township police district, ~~or of~~ a township police department, or joint police district may participate, as the director of an organized crime task force established under section 177.02 of the Revised Code or as a member of the investigatory staff of that task force, in an investigation of organized criminal activity in any county or counties in this state under sections 177.01 to 177.03 of the Revised Code.

Sec. 505.491. Except as provided in division (D) of section 505.49 or in division (C) of section 509.01 of the Revised Code for a board of township trustees, and except as provided in division (D) of section 505.49 of the Revised Code for a joint police district board, if the board ~~of trustees of a township~~ has reason to believe that a chief of police, patrol officer, or other township or joint police district employee appointed under division (B) of section 505.49 of the Revised Code or a police constable appointed under division (B) of section 509.01 of the Revised Code has been guilty, in the performance of the official duty of that chief of police, patrol officer, other township or joint police district employee, or police constable, of bribery,

misfeasance, malfeasance, nonfeasance, misconduct in office, neglect of duty, gross immorality, habitual drunkenness, incompetence, or failure to obey orders given that person by the proper authority, the board immediately shall file written charges against that person~~, setting~~. The written charges shall set forth in detail a statement of the alleged guilt and, at the same time, or as soon thereafter as possible, serve a true copy of those charges upon the person against whom they are made. The service may be made on the person or by leaving a copy of the charges at the office or residence of that person. Return of the service shall be made to the board in the same manner that is provided for the return of the service of summons in a civil action.

Sec. 505.492. Charges filed by the board of township trustees or joint police district board under section 505.491 of the Revised Code shall be heard at the next regular meeting thereof, unless the board extends the time for the hearing, which shall be done only on the application of the accused. The accused may appear in person and by counsel, examine all witnesses, and answer all charges against ~~him~~ the accused.

Sec. 505.493. Pending any proceedings under sections 505.491 and 505.492 of the Revised Code, an accused person may be suspended by the board of township trustees or joint police district board, but such suspension shall be for a period not longer than fifteen days, unless the hearing of such charges is extended upon the application of the accused, in which event the suspension shall not exceed thirty days.

Sec. 505.494. For the purpose of investigating charges filed pursuant to section 505.491 of the Revised Code, the board of township trustees or joint police district board may issue subpoenas or compulsory process to compel the attendance of persons and the production of books and papers before it and provide by resolution for exercising and enforcing this section.

Sec. 505.495. In all cases in which the attendance of witnesses may be compelled for an investigation, under section 505.494 of the Revised Code, any member of the board of township trustees or of the joint police district board may administer the requisite oaths. The board has the same power to compel the giving of testimony by attending witnesses as is conferred upon courts. In all such cases, witnesses shall be entitled to the same privileges and immunities as are allowed witnesses in civil cases. Witnesses shall be paid the fees and mileage provided for under section 1901.26 of the Revised Code, and the costs of all such proceedings shall be payable from the general fund of the township or joint police district.

Sec. 505.50. The board of township trustees of a township or of a township police district, or a joint police district board, may purchase, lease,

lease with an option to purchase, or otherwise acquire any police apparatus, equipment, including a public communications system, or materials that the township ~~or,~~ township police district, or joint police district requires and may build, purchase, lease, or lease with an option to purchase any building or buildings and site of the building or buildings that are necessary for the police operations of the township or either district.

The boards of trustees of any two or more contiguous townships, ~~may~~ or the boards of township trustees of one or more contiguous townships and the legislative authorities of one or more contiguous municipal corporations, by joint agreement, may unite in the joint purchase, lease, lease with an option to purchase, maintenance, use, and operation of police equipment for any other police purpose designated in sections 505.48 to 505.55 of the Revised Code, and to prorate the expense of that joint action on terms mutually agreed upon by the trustees in each affected township and the legislative authorities of each affected municipal corporation.

The board of trustees of a township or of a township police district, or a joint police district board, may enter into a contract with one or more townships, a municipal corporation, a park district created pursuant to section 511.18 or 1545.01 of the Revised Code, or the county sheriff upon any terms that are mutually agreed upon for the provision of police protection services or additional police protection services either on a regular basis or for additional protection in times of emergency. The contract shall be agreed to in each instance by the respective board or boards of township trustees, the board of county commissioners, the board of park commissioners, the joint police district board, or the legislative authority of the municipal corporation involved. The contract may provide for a fixed annual charge to be paid at the time agreed upon in the contract.

Chapter 2744. of the Revised Code, insofar as it is applicable to the operation of police departments, applies to the contracting political subdivisions and police department members when the members are serving outside their own political subdivision pursuant to such a contract. Police department members acting outside the political subdivision in which they are employed may participate in any pension or indemnity fund established by their employer and are entitled to all the rights and benefits of Chapter 4123. of the Revised Code, to the same extent as while performing services within the political subdivision.

Sec. 505.51. ~~The~~ (A) In the case of a township police district, the board of trustees of ~~a~~ the township police district may levy a tax upon all of the taxable property in the township police district pursuant to sections 5705.19 and 5705.25 of the Revised Code to defray all or a portion of expenses of

the township police district in providing police protection.

(B) In the case of a joint police district, the joint police district board may levy a tax upon all of the taxable property in the joint police district pursuant to sections 5705.19 and 5705.25 of the Revised Code to defray all or a portion of expenses of the joint police district in providing police protection.

Sec. 505.511. (A) A board of township trustees that operates a township police department ~~or,~~ the board of township trustees of a township police district, or a joint police district board may, after police constables, the township police, a law enforcement agency with which the township contracts for police services, the joint police district police, and the county sheriff or the sheriff's deputy have answered a combined total of three false alarms from the same commercial or residential security alarm system within the township in the same calendar year, cause the township fiscal officer to mail the manager of the commercial establishment or the occupant, lessee, agent, or tenant of the residence a bill for each subsequent false alarm from the same alarm system during that year, to defray the costs incurred. The bill's amount shall be as follows:

(1) For the fourth false alarm of that year $50.00;

(2) For the fifth false alarm of that year $100.00;

(3) For all false alarms in that year occurring after the fifth false alarm ..... $150.00.

If payment of the bill is not received within thirty days, the township fiscal officer or joint police district treasurer shall send a notice by certified mail to the manager and to the owner, if different, of the real estate of which the commercial establishment is a part, or to the occupant, lessee, agent, or tenant and to the owner, if different, of the real estate of which the residence is a part, indicating that failure to pay the bill within thirty days, or to show just cause why the bill should not be paid, will result in the assessment of a lien upon the real estate in the amount of the bill. If payment is not received within those thirty days or if just cause is not shown, the amount of the bill shall be entered upon the tax duplicate, shall be a lien upon the real estate from the date of the entry, and shall be collected as other taxes and returned to the township treasury to be earmarked for use for police services.

The board of township trustees shall not cause the township fiscal officer, or the joint police district board shall not cause the joint police district treasurer, to send a bill pursuant to this division if a bill has already been sent pursuant to division (B) of this section for the same false alarm.

(B) The county sheriff may, after the county sheriff or the sheriff's deputy, police constables, the township police, the joint police district

police, and a law enforcement agency with which the township contracts for police services have answered a combined total of three false alarms from the same commercial or residential security alarm system within the unincorporated area of the county in the same calendar year, mail the manager of the commercial establishment or the occupant, lessee, agent, or tenant of the residence a bill for each subsequent false alarm from the same alarm system during that year, to defray the costs incurred. The bill's amount shall be as follows:

(1) For the fourth false alarm of that year $50.00;

(2) For the fifth false alarm of that year $100.00;

(3) For all false alarms in that year occurring after the fifth false alarm ..... $150.00.

If payment of the bill is not received within thirty days, the sheriff shall send a notice by certified mail to the manager and to the owner, if different, of the real estate of which the commercial establishment is a part, or to the occupant, lessee, agent, or tenant and to the owner, if different, of the real estate of which the residence is a part, indicating that failure to pay the bill within thirty days, or to show just cause why the bill should not be paid, will result in the assessment of a lien upon the real estate in the amount of the bill. If payment is not received within those thirty days or if just cause is not shown, the amount of the bill shall be entered upon the tax duplicate, shall be a lien upon the real estate from the date of the entry, and shall be collected as other taxes and returned to the county treasury.

The sheriff shall not send a bill pursuant to this division if a bill has already been sent pursuant to division (A) of this section for the same false alarm.

(C) As used in this section, "commercial establishment" has the same meaning as in section 505.391 of the Revised Code.

Sec. 505.52. The board of trustees of a township police district or a joint police district board may issue bonds for the purpose of buying police equipment in the manner provided for in section 133.18 and pursuant to Chapter 133. of the Revised Code. The proceeds of the bonds issued under this section, other than any premium and accrued interest which is credited to the sinking fund, shall be placed in the township treasury or joint police district board treasury to the credit of a fund to be known as the "police equipment fund." Money from the police equipment fund shall be paid out only upon order of the township board of trustees of the township police district or of the joint police district board.

Sec. 505.53. The board of trustees of a township police district or a joint police district board may issue notes for a period not to exceed three years

for the purpose of buying police equipment or a building or site to house police equipment. One-third of the purchase price of the equipment, building, or site shall be paid at the time of purchase, and the remainder of the purchase price shall be covered by notes maturing in two and three years respectively. Notes may bear interest not to exceed the rate determined as provided in section 9.95 of the Revised Code, and shall not be subject to Chapter 133. of the Revised Code. Such notes shall be offered for sale on the open market or given to a vendor if no sale is made.

Sec. 505.54. The board of trustees of the township or the joint police district board may, upon nomination by the chief of police, send one or more of the officers, ~~patrolmen~~ patrol officers, or other employees of the township police district or the joint police district to a school of instruction designed to provide additional training or skills related to the employees work assignment in the district. The trustees may make advance tuition payments for any employee so nominated and may defray all or a portion of the employee's expenses while receiving this instruction.

Sec. 505.541. (A) The board of township trustees or a joint police district board, respectively, may establish, by resolution, a parking enforcement unit within a township police district or within a joint police district, and provide for the regulation of parking enforcement officers. The chief of police of the district shall be the executive head of the parking enforcement unit, shall make all appointments and removals of parking enforcement officers, subject to any general rules prescribed by the board of township trustees by resolution or joint police district board, as appropriate, and shall prescribe rules for the organization, training, administration, control, and conduct of the parking enforcement unit. The chief of police may appoint parking enforcement officers who agree to serve for nominal compensation, and persons with physical disabilities may receive appointments as parking enforcement officers.

(B) The authority of the parking enforcement officers shall be limited to the enforcement of section 4511.69 of the Revised Code and any other parking laws specified in the resolution creating the parking enforcement unit. Parking enforcement officers shall have no other powers.

(C) The training the parking enforcement officers shall receive shall include instruction in general administrative rules and procedures governing the parking enforcement unit, the role of the judicial system as it relates to parking regulation and enforcement, proper techniques and methods relating to the enforcement of parking laws, human interaction skills, and first aid.

Sec. 505.55. In the event that need for a township police district ceases to exist, the township trustees by a two-thirds vote of the board shall adopt a

resolution specifying the date that the township police district shall cease to exist and provide for the disposal of all property belonging to the district by public sale. Such sale must be by public auction and upon notice thereof being published once a week for three weeks in a newspaper ~~published, or~~ of general circulation in such township~~, the~~ or as provided in section 7.16 of the Revised Code. The last of such publications ~~to~~ shall be made at least five days before the date of the sale. Any moneys remaining after the dissolution of the district or received from the public sale of property shall be paid into the treasury of the township and may be expended for any public purpose when duly authorized by the township board of trustees.

Sec. 505.551. (A) Any township or municipal corporation may withdraw from a joint police district created under section 505.482 of the Revised Code by adopting a resolution or an ordinance, respectively, ordering withdrawal. On or after the first day of January of the year following the adoption of the resolution or ordinance of withdrawal, the township or municipal corporation withdrawing ceases to be a part of the district, and the power of the district to levy a tax upon the taxable property in the withdrawing township or municipal corporation terminates, except that the district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the district as it was comprised at the time the indebtedness was incurred.

(B) Upon the withdrawal of any township or municipal corporation from a joint police district, the county auditor shall ascertain, apportion, and order a division of the funds on hand and moneys and taxes in the process of collection, except for taxes levied for the payment of indebtedness, credits, and real and personal property, either in money or in kind, on the basis of the valuation of the respective tax duplicates of the withdrawing township or municipal corporation and the remaining territory of the joint police district.

(C) When the number of townships or municipal corporations comprising a joint police district is reduced to one, the joint police district ceases to exist by operation of law, and the funds, credits, and property remaining after apportionments to withdrawing townships or municipal corporations shall be assumed by the one remaining township or municipal corporation. When a joint police district ceases to exist and an indebtedness remains unpaid, the board of county commissioners shall continue to levy and collect taxes for the payment of that indebtedness within the territory of the joint police district as it was comprised at the time the indebtedness was incurred.

Sec. 505.60. The following applies until the department of administrative services implements for townships the health care plans

under section 9.901 of the Revised Code. If those plans do not include or address any benefits listed in division (A) of this section, the following provisions continue in effect for those benefits.

(A) As provided in this section and section 505.601 of the Revised Code, the board of township trustees of any township may procure and pay all or any part of the cost of insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, prescription drugs, or sickness and accident insurance, or a combination of any of the foregoing types of insurance for township officers and employees. The board of township trustees of any township may negotiate and contract for the purchase of a policy of long-term care insurance for township officers and employees pursuant to section 124.841 of the Revised Code.

If the board procures any insurance policies under this section, the board shall provide uniform coverage under these policies for township officers and full-time township employees and their immediate dependents, and may provide coverage under these policies for part-time township employees and their immediate dependents, from the funds or budgets from which the officers or employees are compensated for services, such policies to be issued by an insurance company duly authorized to do business in this state.

(B) The board may also provide coverage for any or all of the benefits described in division (A) of this section by entering into a contract for group health care services with health insuring corporations holding certificates of authority under Chapter 1751. of the Revised Code for township officers and employees and their immediate dependents. If the board so contracts, it shall provide uniform coverage under any such contracts for township officers and full-time township employees and their immediate dependents, from the funds or budgets from which the officers or employees are compensated for services, and may provide coverage under such contracts for part-time township employees and their immediate dependents, from the funds or budgets from which the officers or employees are compensated for services, provided that each officer and employee so covered is permitted to:

(1) Choose between a plan offered by an insurance company and a plan offered by a health insuring corporation, and provided further that the officer or employee pays any amount by which the cost of the plan chosen exceeds the cost of the plan offered by the board under this section;

(2) Change the choice made under this division at a time each year as determined in advance by the board.

An addition of a class or change of definition of coverage to the plan offered under this division by the board may be made at any time that it is

determined by the board to be in the best interest of the township. If the total cost to the township of the revised plan for any trustee's coverage does not exceed that cost under the plan in effect during the prior policy year, the revision of the plan does not cause an increase in that trustee's compensation.

(C) Any township officer or employee may refuse to accept any coverage authorized by this section without affecting the availability of such coverage to other township officers and employees.

(D) If any township officer or employee is denied coverage under a health care plan procured under this section or if any township officer or employee elects not to participate in the township's health care plan, the township may reimburse the officer or employee for each out-of-pocket premium attributable to the coverage provided for the officer or employee for insurance benefits described in division (A) of this section that the officer or employee otherwise obtains, but not to exceed an amount equal to the average premium paid by the township for its officers and employees under any health care plan it procures under this section.

(E) The board may provide the benefits authorized under this section, without competitive bidding, by contributing to a health and welfare trust fund administered through or in conjunction with a collective bargaining representative of the township employees.

The board may also provide the benefits described in this section through an individual self-insurance program or a joint self-insurance program as provided in section 9.833 of the Revised Code.

(F) If a board of township trustees fails to pay one or more premiums for a policy, contract, or plan of insurance or health care services authorized under this section and the failure causes a lapse, cancellation, or other termination of coverage under the policy, contract, or plan, it may reimburse a township officer or employee for, or pay on behalf of the officer or employee, any expenses incurred that would have been covered under the policy, contract, or plan.

(G) As used in this section and section 505.601 of the Revised Code:

(1) "Part-time township employee" means a township employee who is hired with the expectation that the employee will work not more than one thousand five hundred hours in any year.

(2) "Premium" does not include any deductible or health care costs paid directly by a township officer or employee.

Sec. 505.601. <u>The following applies until the department of administrative services implements for townships the health care plans under section 9.901 of the Revised Code.</u>

If a board of township trustees does not procure an insurance policy or group health care services as provided in section 505.60 of the Revised Code, the board of township trustees may reimburse any township officer or employee for each out-of-pocket premium attributable to the coverage provided for that officer or employee for insurance benefits described in division (A) of section 505.60 of the Revised Code that the officer or employee otherwise obtains, if all of the following conditions are met:

(A) The board of township trustees adopts a resolution that states that the township has chosen not to procure a health care plan under section 505.60 of the Revised Code and has chosen instead to reimburse its officers and employees for each out-of-pocket premium attributable to the coverage provided for them for insurance benefits described in division (A) of section 505.60 of the Revised Code that they otherwise obtain.

(B) That resolution provides for a uniform maximum monthly or yearly payment amount for each officer or employee to cover themselves and their immediate dependents, beyond which the township will not reimburse the officer or employee.

(C) That resolution states the specific benefits listed in division (A) of section 505.60 of the Revised Code for which the township will reimburse all officers and employees of the township. The township may not reimburse officers and employees for benefits other than those listed in division (A) of section 505.60 of the Revised Code.

Sec. 505.603. The following applies until the department of administrative services implements for townships the health care plans under section 9.901 of the Revised Code. If those plans do not include or address any benefits incorporated in this section, the following provisions continue in effect for those benefits.

In addition to or in lieu of providing benefits to township officers and employees under section 505.60, 505.601, or 505.602 of the Revised Code, a board of township trustees may offer benefits to officers and employees through a cafeteria plan that meets the requirements of section 125 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, as amended, after first adopting a policy authorizing an officer or employee to receive a cash payment in lieu of a benefit otherwise offered to township officers or employees under any of those sections, but only if the cash payment does not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the officer or employee under an offered policy, contract, or plan. No cash payment in lieu of a benefit shall be made pursuant to this section unless the officer or employee signs a statement affirming that the officer or employee

is covered under another health insurance or health care policy, contract, or plan in the case of a health benefit, or a life insurance policy in the case of a life insurance benefit, and setting forth the name of the employer, if any, that sponsors the coverage, the name of the carrier that provides the coverage, and an identifying number of the applicable policy, contract, or plan.

Sec. 505.61. A board of township trustees may purchase a policy or policies of insurance to indemnify township constables appointed under Chapter 509. of the Revised Code or the chief of police, ~~patrolmen~~ patrol officers, and other employees of a township police district established under sections 505.48 to 505.55 of the Revised Code against liability arising from the performance of their official duties.

A joint police district board may purchase a policy or policies of insurance to indemnify the chief of police, patrol officers, and other employees of a joint police district established under section 505.482 of the Revised Code against liability arising from the performance of their duties.

Sec. 505.67. (A) If the board of county commissioners of the county in which a township is located has not established a motor vehicle decal registration program under section 311.31 of the Revised Code, the board of township trustees may establish, by resolution, a voluntary motor vehicle decal registration program to be controlled and conducted by the chief law enforcement officer of the township within the unincorporated areas of the township. The board may establish a fee for participation in the program in an amount sufficient to cover the cost of administering the program and the cost of the decals.

(B) Any resident of the township may enroll a motor vehicle that ~~he~~ the resident owns in the program by signing a consent form, displaying the decal issued under this section, and paying the prescribed fee. The motor vehicle owner shall remove the decal to withdraw from the program and also prior to the sale or transfer of ownership of the vehicle. Any law enforcement officer may conduct, at any place within this state at which the officer would be permitted to arrest the person operating the vehicle, an investigatory stop of any motor vehicle displaying a decal issued under this section when the vehicle is being driven between the hours of one a.m. and five a.m. A law enforcement officer may conduct an investigatory stop under this division regardless of whether the officer observes a violation of law involving the vehicle or whether ~~he~~ the officer has probable cause to believe that any violation of law involving the vehicle has occurred.

(C) The consent form required under division (B) of this section shall:

(1) Describe the conditions for participation in the program, including a

description of an investigatory stop and a statement that any law enforcement officer may conduct, at any place within this state at which the officer would be permitted to arrest the person operating the vehicle, an investigatory stop of the motor vehicle when it is being driven between the hours of one a.m. and five a.m.

(2) Contain other information identifying the vehicle and owner as the chief law enforcement officer of the township considers necessary.

(D) The state director of public safety, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the color, size, and design of decals issued under this section and the location where the decals shall be displayed on vehicles that are enrolled in the program.

(E) Divisions (A) to (D) of this section do not require a law enforcement officer to conduct an investigatory stop of a vehicle displaying a decal issued under this section.

(F) As used in this section:

(1) "Investigatory stop" means a temporary stop of a motor vehicle and its operator and occupants for purposes of determining the identity of the person who is operating the vehicle and, if the person who is operating it is not its owner, whether any violation of law has occurred or is occurring. An "investigatory stop" is not an arrest, but, if an officer who conducts an investigatory stop determines that illegal conduct has occurred or is ~~occuring~~ occurring, an "investigatory stop" may be the basis for an arrest.

(2) "Law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint ~~township~~ police district, marshal, deputy marshal, municipal police officer, or state highway patrol trooper.

Sec. 505.73. (A) The board of township trustees may, by resolution, adopt by incorporation by reference, administer, and enforce within the unincorporated area of the township an existing structures code pertaining to the repair and continued maintenance of structures and the premises of those structures. For that purpose, the board shall adopt any model or standard code prepared and promulgated by this state, any department, board, or agency of this state, or any public or private organization that publishes a recognized model or standard code on the subject. The board shall ensure that the code adopted governs subject matter not addressed by the state residential building code and that it is fully compatible with the state residential and nonresidential building codes the board of building standards adopts pursuant to section 3781.10 of the Revised Code.

(B) The board shall assign the duties of administering and enforcing the existing structures code to a township officer or employee who is trained

and qualified for those duties and shall establish by resolution the minimum qualifications necessary to perform those duties.

(C)(1) After the board adopts an existing structures code, the township fiscal officer shall post a notice that clearly identifies the code, states the code's purpose, and states that a complete copy of the code is on file for inspection by the public with the fiscal officer and in the county law library and that the fiscal officer has copies available for distribution to the public at cost.

(2) The township fiscal officer shall post the notice in five conspicuous places in the township for thirty days before the code becomes effective and shall publish the notice in a newspaper of general circulation in the township for three consecutive weeks or as provided in section 7.16 of the Revised Code. If the adopting township amends or deletes any provision of the code, the notice shall contain a brief summary of the deletion or amendment.

(D) If the agency that originally promulgated or published the existing structures code amends the code, the board may adopt the amendment or change by incorporation by reference in the manner provided for the adoption of the original code.

Sec. 507.09. (A) Except as otherwise provided in division (D) of this section, the township fiscal officer shall be entitled to compensation as follows:

(1) In townships having a budget of fifty thousand dollars or less, three thousand five hundred dollars;

(2) In townships having a budget of more than fifty thousand but not more than one hundred thousand dollars, five thousand five hundred dollars;

(3) In townships having a budget of more than one hundred thousand but not more than two hundred fifty thousand dollars, seven thousand seven hundred dollars;

(4) In townships having a budget of more than two hundred fifty thousand but not more than five hundred thousand dollars, nine thousand nine hundred dollars;

(5) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars, eleven thousand dollars;

(6) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars, thirteen thousand two hundred dollars;

(7) In townships having a budget of more than one million five hundred thousand but not more than three million five hundred thousand dollars, fifteen thousand four hundred dollars;

(8) In townships having a budget of more than three million five hundred thousand dollars but not more than six million dollars, sixteen thousand five hundred dollars;

(9) In townships having a budget of more than six million dollars, seventeen thousand six hundred dollars.

(B) Any township fiscal officer may elect to receive less than the compensation the fiscal officer is entitled to under division (A) of this section. Any township fiscal officer electing to do this shall so notify the board of township trustees in writing, and the board shall include this notice in the minutes of its next board meeting.

(C) The compensation of the township fiscal officer shall be paid in equal monthly payments. If the office of township fiscal officer is held by more than one person during any calendar year, each person holding the office shall receive payments for only those months, and any fractions of those months, during which the person holds the office.

A township fiscal officer may be compensated from the township general fund or from other township funds based on the proportion of time the township fiscal officer spends providing services related to each fund. A township fiscal officer must document the amount of time the township fiscal officer spends providing services related to each fund by certification specifying the percentage of time spent working on matters to be paid from the township general fund or from other township funds in such proportions as the kinds of services performed.

(D) Beginning in calendar year 1999, the township fiscal officer shall be entitled to compensation as follows:

(1) In calendar year 1999, the compensation specified in division (A) of this section increased by three per cent;

(2) In calendar year 2000, the compensation determined under division (D)(1) of this section increased by three per cent;

(3) In calendar year 2001, the compensation determined under division (D)(2) of this section increased by three per cent;

(4) In calendar year 2002, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(3) of this section increased by three per cent; in townships having a budget of more than six million but not more than ten million dollars, nineteen thousand eight hundred ten dollars; and in townships having a budget of more than ten million dollars, twenty thousand nine hundred dollars;

(5) In calendar year 2003, the compensation determined under division (D)(4) of this section increased by three per cent or the percentage increase in the consumer price index as described in division (D)(7)(b) of this

section, whichever percentage is lower;

(6) In calendar year 2004, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(5) of this section for the calendar year 2003 increased by three per cent or the percentage increase in the consumer price index as described in division (D)(7)(b) of this section, whichever percentage is lower; in townships having a budget of more than six million but not more than ten million dollars, twenty-two thousand eighty-seven dollars; and in townships having a budget of more than ten million dollars, twenty-five thousand five hundred fifty-three dollars;

(7) In calendar years 2005 through 2008, the compensation determined under division (D) of this section for the immediately preceding calendar year increased by the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding calendar year, rounded to the nearest one-tenth of one per cent;

(8) In calendar year 2009 and thereafter, the amount determined under division (D) of this section for calendar year 2008.

As used in this division, "consumer price index" has the same meaning as in section 325.18 of the Revised Code.

Sec. 509.15. The following fees and expenses shall be taxed as costs, collected from the judgment debtor, and paid to the general fund of the appropriate township or district as compensation due for services rendered by township constables or members of the police force of a township police district or joint police district:

(A) Serving and making return of each of the following:

(1) Order to commit to jail, order on jailer for prisoner, or order of ejectment, including copies to complete service, one dollar for each defendant named therein;

(2) Search warrant or warrant of arrest, for each person named in the writ, five dollars;

(3) Writ of attachment of property, except for purpose of garnishment, twenty dollars;

(4) Writ of attachment for the purpose of garnishment, five dollars;

(5) Writ of possession or restitution, twenty dollars;

(6) Attachment for contempt, for each person named in the writ, three dollars;

(7) Writ of replevin, twenty dollars;

(8) Summons and writs, subpoena, venire, and notice to garnishee, including copies to complete service, three dollars for each person named therein;

(9) Execution against property or person, eighty cents, and six per cent of all money thus collected;

(10) Any other writ, order, or notice required by law, for each person named therein, including copies to complete service, three dollars for the first name and fifty cents for each additional name.

(B) Mileage for the distance actually and necessarily traveled in serving and returning any of the preceding writs, orders, and notices, fifty cents for the first mile and for each additional mile, twenty cents;

(C) For attending a criminal case during the trial or hearing and having charge of prisoners, each case, two dollars and fifty cents, but, when so acting, such constable shall not be entitled to a witness fee if called upon to testify;

(D) For attending civil court during a jury trial, each case, two dollars;

(E) For attending civil court during a trial without jury, each case, one dollar and fifty cents;

(F) The actual amount paid solely for the transportation, meals, and lodging of prisoners, and for the moving and storage of goods and the care of animals taken on any legal process, such expense shall be specifically itemized on the back of the writs and sworn to;

(G) For summoning and swearing appraisers, each case, two dollars;

(H) For advertising property for sale, by posting, taken on any legal process, one dollar;

(I) For taking and making return of any bond required by law, eighty cents.

Notwithstanding anything to the contrary in this section, if any comparable fee or expense specified under section 311.17 of the Revised Code is increased to an amount greater than that set forth in this section, the board of township trustees, board of trustees of the township police district, or joint ~~township~~ police district board, as appropriate, may require that the amount taxed as costs under this section equal the amount specified under section 311.17 of the Revised Code.

Sec. 511.01. If, in a township, a town hall is to be built, improved, enlarged, or removed at a cost greater than ~~ten~~ fifty thousand dollars, the board of township trustees shall submit the question to the electors of such township and shall certify their resolution to the board of elections not later than four p.m. of the ninetieth day before the day of the election.

Sec. 511.12. The board of township trustees may prepare plans and

specifications and make contracts for the construction and erection of a memorial building, monument, statue, or memorial, for the purposes specified and within the amount authorized by section 511.08 of the Revised Code. If the total estimated cost of the construction and erection exceeds ~~twenty-five~~ fifty thousand dollars, the contract shall be let by competitive bidding. If the estimated cost is ~~twenty-five~~ fifty thousand dollars or less, competitive bidding may be required at the board's discretion. In making contracts under this section, the board shall be governed as follows:

(A) Contracts for construction when competitive bidding is required shall be based upon detailed plans, specifications, forms of bids, and estimates of cost, adopted by the board.

(B) Contracts shall be made in writing upon concurrence of a majority of the members of the board, and shall be signed by at least two of the members and by the contractor. If competitive bidding is required, no contract shall be made or signed until an advertisement has been placed in a newspaper, published or of general circulation in the township, at least twice. The board may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the board's internet web site. If the board posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper published or of general circulation in the township, provided that the first notice published in such newspaper meets all of the following requirements:

(1) It is published at least two weeks before the opening of bids.

(2) It includes a statement that the notice is posted on the board's internet web site.

(3) It includes the internet address of the board's internet web site.

(4) It includes instructions describing how the notice may be accessed on the board's internet web site.

(C) No contract shall be let by competitive bidding except to the lowest and best bidder, who shall meet the requirements of section 153.54 of the Revised Code.

(D) When, in the opinion of the board, it becomes necessary in the prosecution of such work to make alterations or modifications in any contract, the alterations or modifications shall be made only by order of the board, and that order shall be of no effect until the price to be paid for the work or materials under the altered or modified contract has been agreed upon in writing and signed by the contractor and at least two members of the board.

(E) No contract or alteration or modification of it shall be valid unless

made in the manner provided in this section.

Sec. 511.23. (A) When the vote under section 511.22 of the Revised Code is in favor of establishing one or more public parks, the board of park commissioners shall constitute a board, to be called the board of park commissioners of that township park district, and they shall be a body politic and corporate. Their office is not a township office within the meaning of section 703.22 of the Revised Code but is an office of the township park district. The members of the board shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

(B) The board may locate, establish, improve, maintain, and operate a public park or parks in accordance with division (B) of section 511.18 of the Revised Code, with or without recreational facilities. Any township park district that contains only unincorporated territory and that operated a public park or parks outside the township immediately prior to July 18, 1990, may continue to improve, maintain, and operate these parks outside the township, but further acquisitions of land shall not affect the boundaries of the park district itself or the appointing authority for the board of park commissioners.

The board may lease, accept a conveyance of, or purchase suitable lands for cash, by purchase by installment payments with or without a mortgage, by lease or lease-purchase agreements, or by lease with option to purchase, may acquire suitable lands through an exchange under section 511.241 of the Revised Code, or may appropriate suitable lands and materials for park district purposes. The board also may lease facilities from other political subdivisions or private sources. The board shall have careful surveys and plats made of the lands acquired for park district purposes and shall establish permanent monuments on the boundaries of the lands. Those plats, when executed according to sections 711.01 to 711.38 of the Revised Code, shall be recorded in the office of the county recorder, and those records shall be admissible in evidence for the purpose of locating and ascertaining the true boundaries of the park or parks.

(C) In furtherance of the use and enjoyment of the lands controlled by it, the board may accept donations of money or other property or act as trustees of land, money, or other property, and may use and administer the land, money, or other property as stipulated by the donor or as provided in the trust agreement.

The board may receive and expend grants for park purposes from agencies and instrumentalities of the United States and this state and may enter into contracts or agreements with those agencies and instrumentalities

to carry out the purposes for which the grants were furnished.

(D) In exercising any powers conferred upon the board under divisions (B) and (C) of this section and for other types of assistance that the board finds necessary in carrying out its duties, the board may hire and contract for professional, technical, consulting, and other special services and may purchase goods and award contracts. The procuring of goods and awarding of contracts shall be done in accordance with the procedures established for the board of county commissioners by sections 307.86 to 307.91 of the Revised Code.

(E) The board may appoint an executive for the park or parks and may designate the executive or another person as the clerk of the board. It may appoint all other necessary officers and employees, fix their compensation, and prescribe their duties, or it may require the executive to appoint all other necessary officers and employees, and to fix their compensation and prescribe their duties, in accordance with guidelines and policies adopted by the board.

(F) The board may adopt bylaws and rules that it considers advisable for the following purposes:

(1) To prohibit selling, giving away, or using any intoxicating liquors in the park or parks;

(2) For the government and control of the park or parks and the operation of motor vehicles in the park or parks;

(3) To provide for the protection and preservation of all property and natural life within its jurisdiction.

Before the bylaws and rules take effect, the board shall provide for a notice of their adoption to be published once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in the county within which the park district is located.

No person shall violate any of the bylaws or rules. Fines levied and collected for violations shall be paid into the treasury of the township park district. The board may use moneys collected from those fines for any purpose that is not inconsistent with sections 511.18 to 511.37 of the Revised Code.

(G) The board may do either of the following:

(1) Establish and charge fees for the use of any facilities and services of the park or parks regardless of whether the park or parks were acquired before, on, or after ~~the effective date of this amendment~~ September 21, 2000;

(2) Enter into a lease agreement with an individual or organization that provides for the exclusive use of a specified portion of the park or parks

within the township park district by that individual or organization for the duration of an event produced by the individual or organization. The board, for the specific portion of the park or parks covered by the lease agreement, may charge a fee to, or permit the individual or organization to charge a fee to, participants in and spectators at the event covered by the agreement.

(H) If the board finds that real or personal property owned by the township park district is not currently needed for park purposes, the board may lease that property to other persons or organizations during any period of time the board determines the property will not be needed. If the board finds that competitive bidding on a lease is not feasible, it may lease the property without taking bids.

(I) The board may exchange property owned by the township park district for property owned by the state, another political subdivision, or the federal government on terms that it considers desirable, without the necessity of competitive bidding.

(J) Any rights or duties established under this section may be modified, shared, or assigned by an agreement pursuant to section 755.16 of the Revised Code.

Sec. 511.235. The board of park commissioners of a township park district may enter into contracts with one or more townships, township police districts, joint police districts, municipal corporations, or county sheriffs of this state, with one or more park districts created pursuant to section 1545.01 of the Revised Code or other township park districts, or with a contiguous political subdivision of an adjoining state, and a township, township police district, joint police district board, municipal corporation, county sheriff, park district, or other township park district of this state may enter into a contract with a township park district upon any terms that are agreed to by them, to allow the use of the township park district law enforcement officers designated under section 511.232 of the Revised Code to perform any police function, exercise any police power, or render any police service in behalf of the contracting political subdivision that the subdivision may perform, exercise, or render.

Chapter 2744. of the Revised Code, insofar as it applies to the operation of police departments, shall apply to the contracting political subdivisions and to the members of their police force or law enforcement department when they are rendering service outside their own subdivisions pursuant to that contract.

Any members of the police force or law enforcement department acting pursuant to that contract outside the political subdivision in which they are employed shall be entitled to participate in any indemnity fund established

by their employer to the same extent as while acting within the employing subdivision. Those members shall be entitled to all the rights and benefits of Chapter 4123. of the Revised Code, to the same extent as while performing service within the subdivision.

The contracts entered into pursuant to this section may provide for the following:

(A) A fixed annual charge to be paid at the times agreed upon and stipulated in the contract;

(B) Compensation based upon the following:

(1) A stipulated price for each call or emergency;

(2) The number of members or pieces of equipment employed;

(3) The elapsed time of service required in each call or emergency.

(C) Compensation for loss or damage to equipment while engaged in rendering police services outside the limits of the subdivision that owns and furnishes the equipment;

(D) Reimbursement of the subdivision in which the police force or law enforcement department members are employed, for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death to members of its police force or law enforcement department occurring while engaged in rendering service pursuant to the contract.

Sec. 511.236. The police force or law enforcement department of any township park district may provide police protection to any county, municipal corporation, township, ~~or~~ township police district, or joint police district of this state, to any other township park district or any park district created pursuant to section 1545.01 of the Revised Code, or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the board of park commissioners of the township park district in which the police force or law enforcement department is located and upon authorization by an officer or employee of the police force or department providing the police protection who is designated by title of office or position, pursuant to the resolution of the board of park commissioners, to give the authorization.

Chapter 2744. of the Revised Code, insofar as it applies to the operation of police departments, shall apply to any township park district and to members of its police force or law enforcement department when those members are rendering police services pursuant to this section outside the township park district by which they are employed.

Police force or law enforcement department members acting, as provided in this section, outside the township park district by which they are

employed shall be entitled to participate in any pension or indemnity fund established by their employer to the same extent as while acting within the township park district by which they are employed. Those members shall be entitled to all rights and benefits of Chapter 4123. of the Revised Code to the same extent as while performing services within the township park district by which they are employed.

Sec. 511.25. If the board of park commissioners of a township park district finds that any lands that the board has acquired are not necessary for the purposes for which they were acquired, it may sell and dispose of those lands upon terms that the board considers advisable and may reject any purchase bid received under this section that the board determines does not meet its terms for sale.

Except as otherwise provided in this section, no lands shall be sold without first giving notice of the board's intention to sell the lands by publication once a week for four consecutive weeks in a newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code. The notice shall contain an accurate description of the lands being offered for sale and shall state the time and place at which sealed bids for the lands will be received. If the board rejects all of the purchase bids, it may reoffer the lands for sale in accordance with this section.

The board also may sell park lands not necessary for district purposes to another political subdivision, the state, or the federal government without giving the notices or taking bids as otherwise required by this section.

No lands acquired by a township park district may be sold without the approval of the court of common pleas of the county in which the park district is located, if the court appointed the board under section 511.18 of the Revised Code, or the approval of the board of township trustees, if the board of township trustees appointed the board of park commissioners under section 511.18 of the Revised Code.

Sec. 511.28. A copy of any resolution for a tax levy adopted by the township board of park commissioners as provided in section 511.27 of the Revised Code shall be certified by the clerk of the board of park commissioners to the board of elections of the proper county, together with a certified copy of the resolution approving the levy, passed by the board of township trustees if such a resolution is required by division (C) of section 511.27 of the Revised Code, not less than ninety days before a general or primary election in any year. The board of elections shall submit the proposal to the electors as provided in section 511.27 of the Revised Code at the succeeding general or primary election. A resolution to renew an existing levy may not be placed on the ballot unless the question is

submitted at the general election held during the last year the tax to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year. The board of park commissioners shall cause notice that the vote will be taken to be published once a week for two consecutive weeks prior to the election in a newspaper of general circulation, or as provided in section 7.16 of the Revised Code, in the county within which the park district is located. Additionally, if the board of elections operates and maintains a web site, the board of elections shall post that notice on its web site for thirty days prior to the election. The notice shall state the purpose of the proposed levy, the annual rate proposed expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, the number of consecutive years during which the levy shall be in effect, and the time and place of the election.

The form of the ballots cast at the election shall be: "An additional tax for the benefit of (name of township park district) ..... for the purpose of (purpose stated in the order of the board) ..... at a rate not exceeding ..... mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) ..... for each one hundred dollars of valuation, for (number of years the levy is to run) .....

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

If the levy submitted is a proposal to renew, increase, or decrease an existing levy, the form of the ballot specified in this section may be changed by substituting for the words "An additional" at the beginning of the form, the words "A renewal of a" in the case of a proposal to renew an existing levy in the same amount; the words "A renewal of ..... mills and an increase of ..... mills to constitute a" in the case of an increase; or the words "A renewal of part of an existing levy, being a reduction of ..... mills, to constitute a" in the case of a decrease in the rate of the existing levy.

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to run, the phrase ", commencing in ..... (first year the tax is to be levied), first due in calendar year ..... (first calendar year in which the tax shall be due)."

The question covered by the order shall be submitted as a separate

proposition, but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. More than one such question may be submitted at the same election.

Sec. 511.34. In townships composed of islands, and on one of which islands lands have been conveyed in trust for the benefit of the inhabitants of the island for use as a park, and a board of park trustees has been provided for the control of the park, the board of township trustees may create a tax district of the island to raise funds by taxation as provided under divisions (A) and (B) of this section.

(A) For the care and maintenance of parks on the island, the board of township trustees annually may levy a tax, not to exceed one mill, upon all the taxable property in the district. The tax shall be in addition to all other levies authorized by law, and subject to no limitation on tax rates except as provided in this division.

The proceeds of the tax levy shall be expended by the board of township trustees for the purpose of the care and maintenance of the parks, and shall be paid out of the township treasury upon the orders of the board of park trustees.

(B) For the purpose of acquiring additional land for use as a park, the board of township trustees may levy a tax in excess of the ten-mill limitation on all taxable property in the district. The tax shall be proposed by resolution adopted by two-thirds of the members of the board of township trustees. The resolution shall specify the purpose and rate of the tax and the number of years the tax will be levied, which shall not exceed five years, and which may include a levy on the current tax list and duplicate. The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election. The board of township trustees shall certify a copy of the resolution to the proper board of elections not later than ninety days before the primary or general election in the township, and the board of elections shall submit the question of the tax to the voters of the district at the succeeding primary or general election. The board of elections shall make the necessary arrangements for the submission of the question to the electors of the district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the township for the election of officers. Notice of the election shall be published in a newspaper of general circulation in the township once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code prior to the election ~~and, if~~. If the board of elections operates and maintains a web site, notice of the

election also shall be posted on that web site for thirty days prior to the election. The notice shall state the purpose of the tax, the proposed rate of the tax expressed in dollars and cents for each one hundred dollars of valuation and mills for each one dollar of valuation, the number of years the tax will be in effect, the first year the tax will be levied, and the time and place of the election.

The form of the ballots cast at an election held under this division shall be as follows:

"An additional tax for the benefit of ..... (name of the township) for the purpose of acquiring additional park land at a rate of ..... mills for each one dollar of valuation, which amounts to ..... (rate expressed in dollars and cents) for each one hundred dollars of valuation, for ..... (number of years the levy is to run) beginning in ..... (first year the tax will be levied).

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

The question shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. More than one such question may be submitted at the same election.

If the levy is approved by a majority of electors voting on the question, the board of elections shall certify the result of the election to the tax commissioner. In the first year of the levy, the tax shall be extended on the tax lists after the February settlement following the election. If the tax is to be placed on the tax lists of the current year as specified in the resolution, the board of elections shall certify the result of the election immediately after the canvass to the board of township trustees, which shall forthwith make the necessary levy and certify the levy to the county auditor, who shall extend the levy on the tax lists for collection. After the first year of the levy, the levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 513.14. The board of elections shall advertise the proposed tax levy question mentioned in section 513.13 of the Revised Code in ~~two newspapers of opposite political faith, if two such newspapers are published in the joint township hospital district, or otherwise in one~~ a newspaper~~, published or~~ of general circulation in the proposed township hospital district, once a week for two consecutive weeks, or as provided in section

7.16 of the Revised Code, prior to the election ~~and, if.~~ If the board operates and maintains a web site, the board also shall advertise that proposed tax levy question on its web site for thirty days prior to the election.

Sec. 515.01. The board of township trustees may provide artificial lights for any road, highway, public place, or building under its supervision or control, or for any territory within the township and outside the boundaries of any municipal corporation, when the board determines that the public safety or welfare requires that the road, highway, public place, building, or territory shall be lighted. The lighting may be procured either by the township installing a lighting system or by contracting with any person or corporation to furnish lights.

If lights are furnished under contract, the contract may provide that the equipment employed may be owned by the township or by the person or corporation supplying the lights.

If the board determines to procure lighting by contract and the total estimated cost of the contract exceeds ~~twenty-five~~ fifty thousand dollars, the board shall prepare plans and specifications for the lighting equipment and shall, for two weeks, advertise for bids for furnishing the lighting equipment, either by posting the advertisement in three conspicuous places in the township or by publication of the advertisement once a week, for two consecutive weeks, in a newspaper of general circulation in the township. Any such contract for lighting shall be made with the lowest and best bidder.

The board may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the board's internet web site. If the board posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation in the township, provided that the first notice published in such newspaper meets all of the following requirements:

(A) It is published at least two weeks before the opening of bids.

(B) It includes a statement that the notice is posted on the board's internet web site.

(C) It includes the internet address of the board's internet web site.

(D) It includes instructions describing how the notice may be accessed on the board's internet web site.

No lighting contract awarded by the board shall be made to cover a period of more than twenty years. The cost of installing and operating any lighting system or any light furnished under contract shall be paid from the general fund of the township treasury.

Sec. 515.04. The township fiscal officer shall fix a day, not more than thirty days from the date of notice to the board of township trustees, for the hearing of the petition authorized by section 515.02 or 515.16 of the Revised Code. The township fiscal officer or the fiscal officer's designee shall prepare and deliver to any of the petitioners a notice in writing directed to the lot and land owners and to the corporations, either public or private, affected by the improvement. The notice shall set forth the substance, pendency, and prayer of the petition and the time and place of the hearing on it.

A copy of the notice shall be served upon each lot or land owner or left at the lot or land owner's usual place of residence, and upon an officer or agent of each corporation having its place of business in the district or area, at least fifteen days before the date set for the hearing. On or before the day of the hearing, the person serving the notice shall make return on it, under oath, of the time and manner of service and shall file the return with the township fiscal officer.

The township fiscal officer or the fiscal officer's designee shall give the notice to each nonresident lot or land owner, by publication once, in a newspaper ~~published in and~~ of general circulation in the county in which the district or area is situated, at least two weeks before the day set for hearing. The notice shall be verified by affidavit of the printer or other person knowing the fact and shall be filed with the township fiscal officer or the fiscal officer's designee on or before the day of hearing. No further notice of the petition or the proceedings under it shall thereafter be required.

Sec. 515.07. If the total estimated cost of any lighting improvement provided for in section 515.06 of the Revised Code is ~~twenty-five~~ fifty thousand dollars or less, the contract may be let without competitive bidding. When competitive bidding is required, the board of township trustees shall post, in three of the most conspicuous public places in the district, a notice specifying the number, candle power, and location of lights and the kind of supports for the lights as provided by section 515.06 of the Revised Code, as well as the time, which shall not be less than thirty days from the posting of the notices, and the place the board will receive bids to furnish the lights. The board shall accept the lowest and best bid, if the successful bidder meets the requirements of section 153.54 of the Revised Code. The board may reject all bids.

Sec. 517.06. The board of township trustees shall have the cemetery laid out in lots, avenues, and paths, shall number the lots, and shall have a suitable plat of the lots made, which plat shall be carefully kept by the township fiscal officer. The board shall make and enforce all needful rules

and regulations for the division of the cemetery into lots, for the allotment of lots to families or individuals, and for the care, supervision, and improvement of the lots. The board also may make and enforce all needful rules and regulations for burial, interment, reinterment, or disinterment. The board shall require the grass and weeds in the cemetery to be cut and destroyed at least twice each year. Suitable provision shall be made in the cemetery for persons whose burial is at the expense of the township.

Sec. 517.12. The board of township trustees may make rules specifying the times when cemeteries under its control shall be closed to the public. The board shall cause the rules to be published once a week for two consecutive weeks in a newspaper of general circulation within the township or as provided in section 7.16 of the Revised Code, and may post appropriate notice in the township as considered necessary.

The purposes of such rules shall be to assure a reasonable time of access to the cemeteries in view of the differences in attendance anticipated from past experience as to each, to exclude attendance at times when no proper purposes could normally be expected, to permit exceptions to the normal hours of access on reasonable request with adequate reason provided, and to facilitate the task of protecting the premises from vandalism, desecration, and other improper usage.

Whoever violates these rules is guilty of a minor misdemeanor.

Sec. 517.22. The board of township trustees or the trustees or directors of a cemetery association, after notice has first been given in ~~two newspapers~~ a newspaper of general circulation in the county, may dispose of, at public sale, and convey any cemetery under their control that they have determined to discontinue as burial grounds, but possession of the cemetery shall not be given to a grantee until after the remains buried in that cemetery, together with stones and monuments, have been removed as provided by section 517.21 of the Revised Code.

Sec. 521.03. On receiving a petition filed under section 521.02 of the Revised Code, or at the request of the board of township trustees, the township fiscal officer shall fix a time, not more than thirty days after the date of giving notice of the filing to the board or the date of receiving the request from the board, and place for a hearing on the issue of repair or maintenance of the tiles. The township fiscal officer shall prepare a notice in writing directed to the lot and land owners and to the corporations, either public or private, affected by the improvement. The notice shall set forth the substance of the petition or board request, and the time and place of the hearing on it.

If the hearing is to be held in response to a petition, the township fiscal

officer shall deliver a copy of the notice to any of the petitioners, who shall see that the notice is served on each lot or land owner or left at the lot or land owner's usual place of residence, and served on an officer or agent of each corporation affected by the improvement, at least fifteen days before the date set for the hearing. If the hearing is to be held at the request of the board, the board shall see that the notice is so served. On or before the day of the hearing, the person serving the notice shall certify, under oath, the time and manner of service, and shall file this certification with the township fiscal officer.

The township fiscal officer shall give notice of the hearing to each nonresident lot or land owner, by publication once, in a newspaper ~~published in and~~ of general circulation in the county in which the township is situated, at least two weeks before the day set for the hearing. This notice shall be verified by affidavit of the printer or other person knowing the fact, and shall be filed with the township fiscal officer on or before the day of the hearing. No further notice of the petition or the proceedings under it shall thereafter be required.

Sec. 521.05. (A) If the total estimated cost of any improvement provided for in section 521.04 of the Revised Code is ~~twenty-five~~ fifty thousand dollars or less, the contract may be let without competitive bidding. When competitive bidding is required, the board of township trustees shall post, in three of the most conspicuous public places in the township, a notice specifying the improvement to be made and the time, which shall be at least thirty days after the posting of the notices, and the place the board will receive bids to make the improvement. The board shall accept the lowest and best bid, if the successful bidder meets the requirements of section 153.54 of the Revised Code. The board may reject all bids.

(B) On accepting a bid, the board shall enter into a contract with the successful bidder for making the improvement according to specifications. The contract shall not be for a term longer than ten years.

Sec. 523.01. The territory of one or more townships may be merged with that of a contiguous township to create a new township, in the manner provided under this chapter. The new township shall have all of, and only, the rights, powers, and responsibilities afforded by law to townships.

Sec. 523.02. (A) A resolution for a merger under this chapter may be proposed by initiative petition by the electors of each township being proposed for merger, and adopted by election by these electors under the same circumstances, in the same manner, and subject to the same penalties as provided by sections 731.28 to 731.40 and 731.99 of the Revised Code

for municipal corporations, except that all of the following apply:

(1) Each board of township trustees shall perform the duties imposed on the legislative authority of the municipal corporation under those sections;

(2) Initiative petitions shall be filed with the township fiscal officer of each township proposed for merger, who shall perform the duties imposed under those sections upon the city auditor or village clerk;

(3) Initiative petitions shall contain the signatures of not less than ten per cent of the total number of electors in a township proposed for merger who voted for the office of governor at the most recent general election in the township for that office;

(4) Each signer of an initiative petition shall be an elector of the township in which the election on the proposed resolution is to be held.

(B) The merger shall take effect one hundred twenty days after certification by the board or boards of elections that the merger has been approved by the electors of each township proposed for merger.

Sec. 523.03. (A) The boards of township trustees of two or more townships, by adopting resolutions by a majority vote of the board of township trustees of each township, may cause the appropriate board of elections for each township to submit to the electors of each township the question of merger under section 523.01 of the Revised Code. The question shall be voted upon at the next general election occurring not less than ninety days after the certification of the resolutions to the appropriate board of elections.

(B) In submitting to the electors of each township the question of merger, the board of elections shall submit the question in language substantially as follows:

"Shall the townships of ..... (Names of all of the townships to be merged) be merged to create the new township of ..... (Name of the new township)?"

(C) The merger shall take effect one hundred twenty days after certification by the board or boards of elections that the merger has been approved by the electors of each township proposed for merger.

Sec. 523.04. (A) Within one hundred twenty days after approval of the merger by the electors under section 523.02 or 523.03 of the Revised Code, each board of township trustees of the townships merged, by adopting a joint resolution approved by a majority of the members of each board, shall enter into a merger agreement that contains the specific terms and conditions of the merger. At a minimum, the merger agreement shall set forth all of the following:

(1) The names of the former townships that were merged;

(2) The name of the new township;

(3) The place in which the principal office of the new township will be located or the manner in which it may be selected;

(4) The territorial boundaries of the new township;

(5) The date on which the merger took effect;

(6) The governmental operations and organization for the new township, including a plan for electing officers at the next general election that is held not later than ninety days after the merger agreement is finalized;

(7) A procedure for the efficient and timely transition of specific services, functions, and responsibilities from each township and its respective offices to the new township;

(8) Terms for the disposition of the assets and property of each township, if necessary;

(9) The liquidation of existing indebtedness for each township, if necessary;

(10) A plan for the common administration and enforcement of resolutions of the townships merged, to be enforced uniformly within the new township;

(11) A provision that specifies whether there will be any zoning changes as a result of the merger, if applicable;

(12) A plan to conform the boundaries of an existing special purpose district with the new township, to dissolve the special purpose district, or to absorb the special purpose district into the new township. As used in this division, "special purpose district" has the meaning in division (F) of section 523.06 of the Revised Code.

(B) A copy of the joint resolution and the merger agreement adopted under this section shall be filed with the township fiscal officer of the new township. The merger agreement shall take effect on the day on which such filing is made.

(C) If no merger agreement, or if only a partial merger agreement, is entered into within the time period prescribed by division (A) of this section, the new township shall comply with and operate under a merger agreement that contains the terms and conditions required by section 523.06 of the Revised Code.

Sec. 523.05. (A) A new township created under this chapter shall succeed to the following interests of each township merged:

(1) All money, taxes, and special assessments, whether in the township treasury or in the process of collection;

(2) All property and interests in property, whether real or personal;

(3) All rights and interests in contracts, or in securities, bonds, notes, or

other instruments;

(4) All accounts receivable and rights of action;

(5) All other matters not included in this section that are not addressed in the merger agreement.

(B) A new township created under this chapter is legally obligated for all outstanding franchises, contracts, debts, and other legally binding obligations for each township merged into the new township. A new township created under this chapter is legally responsible for maintaining, defending, or otherwise resolving any and all legal claims or actions of each township merged into the new township.

Sec. 523.06. If a merger agreement is entered into as required by section 523.04 of the Revised Code, this section does not apply. If a merger agreement is not entered into under section 523.04 of the Revised Code, the merger agreement shall contain all of the terms and conditions specified in this section. If a partial merger agreement is entered into under section 523.04 of the Revised Code, this section applies only to the extent any term or condition that is required by section 523.04 of the Revised Code to be addressed in the merger agreement is not addressed therein.

The terms and conditions of a merger agreement to which this section applies shall be as follows:

(A) All members of each board of township trustees shall serve as board members of the new township. At the first general election for township officers occurring not less than ninety days after a merger is approved, the electors of the new township shall elect three township trustees with staggered terms of office. The first terms of office following the election shall be modified to an even number of years not to exceed four to allow subsequent elections for the office to be held in the same year as other township officers.

(B) The township fiscal officer of the largest township, by population, shall be the township fiscal officer for the new township. At the first general election for township officers occurring not less than ninety days after the merger, the electors shall elect a township fiscal officer, whose first term of office shall be modified to an even number of years not to exceed four to allow subsequent elections for that office to be held in the same year as other township fiscal officers.

(C) Voted property tax levies shall remain in effect for the parcels of real property to which they applied prior to the merger, and the merger shall not affect the proceeds of a tax levy pledged for the retirement of any debt obligation. Upon expiration of a property tax levy, the levy may only be replaced or renewed by vote of the electors in the manner provided by law,

to apply to real property within the boundaries of the new township. If the millage levied inside the ten-mill limitation of each township merged is different, the board of township trustees of the new township shall immediately equalize the millage for the entire new township.

(D) For purposes of the retirement of all debt obligations of each township merged, the township fiscal officer shall continue to track parcels of real property and the tax revenue generated on those parcels by the tax districts that were in place prior to the merger, and shall provide that information on an annual basis to the board of township trustees of the new township. Debt obligations that existed at the time of the merger shall be retired from the revenue generated from the parcels of real property that made up the township that incurred the debt before the merger.

(E)(1) With respect to any agreement entered into under Chapter 4117. of the Revised Code that covers any of the employees of the townships merged under this chapter, the state employment relations board, within one hundred twenty days after the date the merger is approved, shall designate the appropriate bargaining units for the employees of the new township in accordance with section 4117.06 of the Revised Code. Notwithstanding the recognition procedures prescribed in section 4117.05 and division (A) of section 4117.07 of the Revised Code, the board shall conduct a representation election with respect to each bargaining unit designated under this division in accordance with divisions (B) and (C) of section 4117.07 of the Revised Code. If an exclusive representative is selected through this election, the exclusive representative shall negotiate and enter into an agreement with the new township in accordance with Chapter 4117. of the Revised Code. Until the parties reach an agreement, any agreement in effect on the date of the merger shall apply to the employees that were in the bargaining unit that is covered by the agreement. An agreement in existence on the date of the merger is terminated on the effective date of an agreement negotiated under this division.

(2) If an exclusive representative is not selected, any agreement in effect on the date of the merger shall apply to the employees that were in the bargaining unit that is covered by the agreement and shall expire on its terms.

(3) Each agreement entered into under Chapter 4117. of the Revised Code on or after the effective date of this section involving a new township shall contain a provision regarding the designation of an exclusive representative and bargaining units for the new township as described in division (E) of this section.

(4) In addition to the laws listed in division (A) of section 4117.10 of

the Revised Code that prevail over conflicting agreements between employee organizations and public employers, division (E) of this section prevails over any conflicting provisions of agreements between employee organizations and public employers that are entered into on or after the effective date of this section pursuant to Chapter 4117. of the Revised Code.

(5) As used in division (E) of this section, "employee organization" and "exclusive representative" have the same meanings as in section 4117.01 of the Revised Code.

(F)(1) If the boundaries of the new township are not coextensive with a special purpose district, the new township shall remain in the existing special purpose district as a successor to the original township, unless the special purpose district is dissolved. The board of township trustees of the new township may place a question on the ballot at the next general election held after the merger to conform the boundaries, dissolve the special purpose district, or absorb the special purpose district into the new township on the terms specified in the resolution that places the question on the ballot for approval of the electors of the new township.

(2) As used in division (F) of this section, "special purpose district" means any geographic or political jurisdiction that is created under law by a township merged.

(G) Zoning codes that existed at the time of the merger shall remain in effect after the merger, and the townships that existed before the merger shall be treated as administrative districts within the new township for the purposes of zoning.

Sec. 523.07. If a merger is disapproved by a majority of those voting on it in the townships proposed to be merged, an identical merger shall not be considered for at least three years after the date of the disapproval.

Sec. 705.16. (A) All ordinances or resolutions shall be in effect after thirty days from the date of their passage, except as provided in section 705.75 of the Revised Code.

(B) ~~Notwithstanding any conflicting provision of section 7.12 of the Revised Code,~~ A succinct summary of each ordinance and resolution of a general nature, or providing for public improvements, or assessing property~~, or a succinct summary of each such ordinance or resolution,~~ shall, upon passage of the ordinance or resolution, be promptly published one time in ~~not more than two newspapers~~ a newspaper of general circulation in the municipal corporation. Such publication shall be made in the body type of the paper under headlines in eighteen point type, which headlines shall specify the nature of such legislation. ~~If a summary of an ordinance or resolution is published, the~~ The publication shall contain notice that the

complete text of each such ordinance or resolution may be obtained or viewed at the office of the clerk of the legislative authority of the municipal corporation and may be viewed at any other location designated by the legislative authority of the municipal corporation. The city director of law, village solicitor, or other chief legal officer of the municipal corporation shall review ~~any~~ the summary of an ordinance or resolution published under this section prior to forwarding it to the clerk for publication, to ensure that the summary is legally accurate and sufficient.

(C) Upon publication of a summary of an ordinance or resolution in accordance with this section, the clerk of the legislative authority shall supply a copy of the complete text of each such ordinance or resolution to any person, upon request, and may charge a reasonable fee, set by the legislative authority, for each copy supplied. The clerk shall post a copy of the text at ~~his~~ the clerk's office and at every other location designated by the legislative authority.

(D) No newspaper shall be paid a higher price for the publication of summaries of ordinances than its ~~maximum bona fide commercial~~ government rate established under section 7.10 of the Revised Code.

Sec. 709.43. As used in sections 709.43 to 709.48 of the Revised Code, "merger" means the annexation, one to another, of existing municipal corporations or of the unincorporated area of a township with one or more municipal corporations, or the merger of one or more municipal corporations with the unincorporated area of a township.

Sec. 709.44. The territory of one or more municipal corporations, whether or not adjacent to one another, may be merged with that of an adjacent municipal corporation, and the unincorporated area of a township may be merged with one or more municipal corporations, or one or more municipal corporations, whether or not adjacent to one another, may be merged with that of an adjacent unincorporated area of a township, in the manner provided in sections 709.43 to 709.48 of the Revised Code.

Sec. 709.451. (A) In lieu of filing a petition under section 709.45 of the Revised Code, if the legislative authorities of each political subdivision that may be merged as provided in section 709.44 of the Revised Code agree to a merger and adopt, by a two-thirds vote of each legislative authority, an ordinance or resolution proposing a merger, no election of a commission to draw up a statement of conditions for merger of the political subdivisions shall be held. Instead, the legislative authorities of those political subdivisions shall have one hundred twenty days to enter into a merger agreement that specifies the conditions of the proposed merger, in identical ordinances or a resolution adopted by a simple majority vote of each

legislative authority. At a minimum, the proposed merger agreement shall include all of the following:

(1) The names of the municipal corporations and township, if any, proposing the merger;

(2) The territorial boundaries of the resulting municipal corporation or township;

(3) The date that the proposed merger will take effect;

(4) A procedure for the efficient and timely transition to the resulting municipal corporation or township of specified services, functions, and responsibilities from each municipal corporation or township and its respective departments and agencies;

(5) A transition plan and schedule.

(B) The merger shall take effect as provided in division (C) of section 709.452 of the Revised Code. On the effective date of the merger, a municipal corporation merging into a township only has the rights, powers, and responsibilities afforded by law to townships, and all other authority ceases to exist.

Sec. 709.452. (A) The legislative authority of each municipal corporation or township proposed for merger as provided in section 709.44 of the Revised Code that adopts a merger agreement under section 709.451 of the Revised Code shall submit the question of merger to the electors of the municipal corporations and township proposed for merger. The legislative authorities shall certify the ordinances or resolution that adopted the merger agreement to the board or boards of elections, if the territory proposed for merger is located in more than one county, directing the submission of the question of merger to the electors of the municipal corporations and township proposed for merger at a special election to be held on the day of the next primary or general election in the county or counties that occurs not less than ninety days after the ordinances or resolution are certified to the board or boards of elections. The question shall be put on the ballot and voted upon, separately, in each municipal corporation or township proposed for merger.

(B) The ordinances or resolution specifying the merger conditions agreed to by the municipal corporations and township proposed for merger shall be posted on the web sites of those municipal corporations and township, and shall be published in a newspaper of general circulation in the municipal corporations and township once a week for two consecutive weeks prior to the election.

(C) If the merger is approved by a majority of those voting on it in each municipal corporation or township proposed to be merged, the merger and

the merger agreement shall take immediate effect.

(D) If an existing charter of a municipal corporation proposed for merger under this section conflicts with the processes and procedures specified in this section, the processes and procedures for merger addressed in the municipal corporation's charter apply.

Sec. 711.35. Upon the filing of the application provided for in section 711.34 of the Revised Code, the county auditor shall give notice of the filing, by publication, for two consecutive weeks in a newspaper ~~published and~~ of general circulation in the county~~, of the filing thereof, and~~ or as provided in section 7.16 of the Revised Code. The county auditor shall also notify the board of county commissioners of such filing.

Sec. 715.011. Each municipal corporation may lease for a period not to exceed forty years, pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any authorized municipal purpose, and in conjunction therewith, may grant leases, easements, or licenses for lands under the control of the municipal corporation for a period not to exceed forty years. The lease shall provide that at the end of the lease period the buildings, structures, and related improvements together with the land on which they are situate shall become the property of the municipal corporation without cost.

Whenever any building, structure, or other improvement is to be so leased by a municipal corporation, the appropriate contracting officer of the municipal corporation shall file with the clerk of the council such basic plans, specifications, bills of materials, and estimates of cost with sufficient detail to afford bidders all needed information, or alternatively, shall file the following plans, details, bills of materials, and specifications:

(A) Full and accurate plans, suitable for the use of mechanics and other builders in such construction, improvement, addition, alteration, or installation;

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

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

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

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

The council of the municipal corporation shall give public notice~~,~~ in ~~the~~

a newspaper of general circulation in the municipal corporation, and in the form and with the phraseology as the council orders, published once each week for four consecutive weeks or as provided in section 7.16 of the Revised Code, of the time and place, when and where bids will be received for entering into an agreement to lease to the municipal corporation a building, structure, or other improvement, the last publication to be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the municipal corporation. The form of the bid approved by the council of the municipal corporation shall be used and a bid shall be invalid and not considered unless such form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall have complied with sections 153.50 to 153.52 of the Revised Code.

On the day and at the place named for receiving bids for entering into lease agreements with the municipal corporation, the appropriate contracting officer of the municipal corporation shall open the bids, and shall publicly proceed immediately to tabulate the bids upon triplicate sheets, one of each of which sheets shall be filed with the clerk of the council. No lease agreement shall be entered into until the bureau of workers' compensation has certified that the corporation, partnership, or person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, and until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, and until, if the builder submitting the lowest and best bid is a person or partnership nonresident of this state, the person or partnership has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the village solicitor or city director of law of the municipal corporation and ~~his~~ the solicitor's or director's approval is certified thereon. Within thirty days after the day on which the bids are received, the council shall investigate the bids received and shall determine that the bureau and the secretary of state have made the certifications required by this section of the builder who has submitted the lowest and best bid. Within ten days of the completion of the investigation of the bids the council may award the lease agreement to the builder who has submitted the lowest and best bid and who has been certified by the bureau and secretary of state as required by this section. If bidding for the lease agreement has been conducted upon the basis of basic plans,

specifications, bills of materials, and estimates of costs, upon the award to the builder, the council, or the builder with the approval of the council, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building, structure, or improvement.

The council may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

Sec. 715.47. A municipal corporation may fill or drain any lot or land within its limits on which water at any time becomes stagnant, remove all putrid substances from any lot, and remove all obstructions from culverts, covered drains, or private property, laid in any natural watercourse, creek, brook, or branch, which obstruct the water naturally flowing therein, causing it to flow back or become stagnant, in a way prejudicial to the health, comfort, or convenience of any of the citizens of the neighborhood. If such culverts or drains are of insufficient capacity, the municipal corporation may make them of such capacity as reasonably to accommodate the flow of such water at all times. The legislative authority of such municipal corporation may, by resolution, direct the owner to fill or drain such lot, remove such putrid substance or such obstructions, and if necessary, enlarge such culverts or covered drains to meet the requirements thereof.

After service of a copy of such resolution, or after a publication thereof, in a newspaper of general circulation in such municipal corporation or as provided in section 7.16 of the Revised Code, for two consecutive weeks, such owner, or ~~his~~ such owner's agent or attorney, shall comply with the directions of the resolution within the time therein specified.

In case of the failure or refusal of such owner to comply with the resolution, the work required thereby may be done at the expense of the municipal corporation, and the amount of money so expended shall be recovered from the owner before any court of competent jurisdiction. Such expense from the time of the adoption of the resolution shall be a lien on such lot, which may be enforced by suit in the court of common pleas, and like proceedings may be had as directed in relation to the improvement of streets.

The officers connected with the health department of every such municipal corporation shall see that this section is strictly and promptly enforced.

Sec. 718.01. (A) As used in this chapter:

(1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as

determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five per cent of intangible income deducted under division (A)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(d)(i) Except as provided in division (A)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (A)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(f) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(g) ~~If~~ Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from providing public services under a contract through a project owned by the state, as described in section 126.604 of the Revised Code or derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except~~:~~ guaranteed

~~(i) Guaranteed~~ payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; ~~and~~ amounts

~~(ii) Amounts~~ paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts

paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (A)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(3) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(4) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(5) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

(6) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(7) For taxable years beginning on or after January 1, 2004, "net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit required to be reported on schedule C, schedule E, or schedule F, other than any amount allowed as a deduction under division (E)(2) or (3) of this section or amounts described in division (H) of this section.

(8) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. Except as provided in division (L) of this section, "taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but

"taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(9) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(10) "Tax administrator" means the individual charged with direct responsibility for administration of a tax on income levied by a municipal corporation and includes:

(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency;

(b) A municipal corporation acting as the agent of another municipal corporation; and

(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis.

(11) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

(12) "Schedule E" means internal revenue service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(13) "Schedule F" means internal revenue service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(B) No municipal corporation shall tax income at other than a uniform rate.

(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least ninety days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the Ordinance providing for a ... per cent levy on income for (Brief description of the purpose of the proposed levy) be passed?

	FOR THE INCOME TAX
	AGAINST THE INCOME TAX

"

In the event of an affirmative vote, the proceeds of the levy may be used only for the specified purpose.

(D)(1) Except as otherwise provided in this section, no municipal corporation shall exempt from a tax on income compensation for personal services of individuals over eighteen years of age or the net profit from a business or profession.

(2)(a) For taxable years beginning on or after January 1, 2004, no municipal corporation shall tax the net profit from a business or profession using any base other than the taxpayer's adjusted federal taxable income.

(b) Division (D)(2)(a) of this section does not apply to any taxpayer required to file a return under section 5745.03 of the Revised Code or to the net profit from a sole proprietorship.

(E)(1) The legislative authority of a municipal corporation may, by ordinance or resolution, exempt from withholding and from a tax on income the following:

(a) Compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option; or

(b) Compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code.

(2) The legislative authority of a municipal corporation may adopt an ordinance or resolution that allows a taxpayer who is an individual to deduct, in computing the taxpayer's municipal income tax liability, an amount equal to the aggregate amount the taxpayer paid in cash during the taxable year to a health savings account of the taxpayer, to the extent the taxpayer is entitled to deduct that amount on internal revenue service form 1040.

(3) The legislative authority of a municipal corporation may adopt an ordinance or resolution that allows a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship to deduct from that net profit the amount that the taxpayer paid during the taxable year for medical care insurance premiums for the taxpayer, the taxpayer's spouse, and dependents as defined in section 5747.01 of the Revised Code. The deduction shall be allowed to the same extent the taxpayer is entitled to deduct the premiums on internal revenue service form 1040. The deduction allowed under this division shall be net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received by the taxpayer during the taxable year.

(F) If an individual's taxable income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, and against which a like deduction has not been allowed by the municipal corporation, the municipal corporation shall deduct from the taxpayer's taxable income an amount equal to the deduction shown on such form allowable against such income, to the extent not otherwise so allowed as a deduction by the municipal corporation.

(G)(1) In the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, an amount other than the net profit required to be reported by the taxpayer on schedule C or F from such sole proprietorship for the taxable year.

(2) In the case of a taxpayer who has a net profit from rental activity required to be reported on schedule E, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, an amount other than the net profit from rental activities required to be reported by the taxpayer on schedule E for the taxable year.

(H) A municipal corporation shall not tax any of the following:

(1) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio national guard;

(2) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities;

(3) Except as otherwise provided in division (I) of this section, intangible income;

(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is

subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation;

(6) The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745. of the Revised Code:

(a) Beginning January 1, 2002, the income of an electric company or combined company;

(b) Beginning January 1, 2004, the income of a telephone company.

As used in division (H)(6) of this section, "combined company," "electric company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;

(8) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under section 718.011 of the Revised Code;

(9)(a) Except as provided in division (H)(9)(b) and (c) of this section, an S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

(b) If, pursuant to division (H) of former section 718.01 of the Revised Code as it existed before March 11, 2004, a majority of the electors of a municipal corporation voted in favor of the question at an election held on November 4, 2003, the municipal corporation may continue after 2002 to tax an S corporation shareholder's distributive share of net profits of an S corporation.

(c) If, on December 6, 2002, a municipal corporation was imposing, assessing, and collecting a tax on an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733. of the Revised Code, the municipal corporation may continue to impose the tax on such distributive shares to the extent such shares would be so allocated or apportioned to this state only until December 31, 2004, unless a majority of the electors of the municipal corporation voting on the question of

continuing to tax such shares after that date vote in favor of that question at an election held November 2, 2004. If a majority of those electors vote in favor of the question, the municipal corporation may continue after December 31, 2004, to impose the tax on such distributive shares only to the extent such shares would be so allocated or apportioned to this state.

(d) For the purposes of division (D) of section 718.14 of the Revised Code, a municipal corporation shall be deemed to have elected to tax S corporation shareholders' distributive shares of net profits of the S corporation in the hands of the shareholders if a majority of the electors of a municipal corporation vote in favor of a question at an election held under division (H)(9)(b) or (c) of this section. The municipal corporation shall specify by ordinance or rule that the tax applies to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

(10) Employee compensation that is not "qualifying wages" as defined in section 718.03 of the Revised Code;

(11) Beginning August 1, 2007, compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, municipal income tax shall be payable only to the municipal corporation of residence or domicile.

(I) Any municipal corporation that taxes any type of intangible income on March 29, 1988, pursuant to Section 3 of Amended Substitute Senate Bill No. 238 of the 116th general assembly, may continue to tax that type of income after 1988 if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 vote in favor thereof at an election held on November 8, 1988.

(J) Nothing in this section or section 718.02 of the Revised Code shall authorize the levy of any tax on income that a municipal corporation is not authorized to levy under existing laws or shall require a municipal corporation to allow a deduction from taxable income for losses incurred from a sole proprietorship or partnership.

(K)(1) Nothing in this chapter prohibits a municipal corporation from allowing, by resolution or ordinance, a net operating loss carryforward.

(2) Nothing in this chapter requires a municipal corporation to allow a net operating loss carryforward.

(L)(1) A single member limited liability company that is a disregarded entity for federal tax purposes may elect to be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company;

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004;

(c) Not later than December 31, 2004, the limited liability company and its single member each make an election to be treated as a separate taxpayer under division (L) of this section;

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member;

(e) The Ohio municipal corporation that is the primary place of business of the sole member of the limited liability company consents to the election.

(2) For purposes of division (L)(1)(e) of this section, a municipal corporation is the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability is greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 is at least four hundred thousand dollars.

Sec. 718.09. (A) This section applies to either of the following:

(1) A municipal corporation that shares the same territory as a city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporation is located outside the school district and not more than five per cent of the territory of the school district is located outside the municipal corporation;

(2) A municipal corporation that shares the same territory as a city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporation is located outside the school district, more than five per cent but not more than ten per cent of the territory of the school district is located outside the municipal corporation, and that portion of the territory of the school district that is located outside the municipal corporation is located entirely within another municipal corporation having a population of four hundred thousand or more according to the federal decennial census most recently completed

before the agreement is entered into under division (B) of this section.

(B) The legislative authority of a municipal corporation to which this section applies may propose to the electors an income tax, one of the purposes of which shall be to provide financial assistance to the school district through payment to the district of not less than twenty-five per cent of the revenue generated by the tax, except that the legislative authority may not propose to levy the income tax on the incomes of nonresident individuals. Prior to proposing the tax, the legislative authority shall negotiate and enter into a written agreement with the board of education of the school district specifying the tax rate, the percentage of tax revenue to be paid to the school district, the purpose for which the school district will use the money, the first year the tax will be levied, the date of the special election on the question of the tax, and the method and schedule by which the municipal corporation will make payments to the school district. The special election shall be held on a day specified in division (D) of section 3501.01 of the Revised Code, except that the special election may not be held on the day for holding a primary election as authorized by the municipal corporation's charter unless the municipal corporation is to have a primary election on that day.

After the legislative authority and board of education have entered into the agreement, the legislative authority shall provide for levying the tax by ordinance. The ordinance shall state the tax rate, the percentage of tax revenue to be paid to the school district, the purpose for which the municipal corporation will use its share of the tax revenue, the first year the tax will be levied, and that the question of the income tax will be submitted to the electors of the municipal corporation. The legislative authority also shall adopt a resolution specifying the regular or special election date the election will be held and directing the board of elections to conduct the election. At least ninety days before the date of the election, the legislative authority shall file certified copies of the ordinance and resolution with the board of elections.

(C) The board of elections shall make the necessary arrangements for the submission of the question to the electors of the municipal corporation, and shall conduct the election in the same manner as any other municipal income tax election. Notice of the election shall be published in a newspaper of general circulation in the municipal corporation once a week for four consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election, and shall include statements of the rate and municipal corporation and school district purposes of the income tax, the percentage of tax revenue that will be paid to the school district, and the first year the tax

will be levied. The ballot shall be in the following form:

"Shall the ordinance providing for a ..... per cent levy on income for (brief description of the municipal corporation and school district purposes of the levy, including a statement of the percentage of tax revenue that will be paid to the school district) be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in (the name of the municipal corporation).

	For the income tax
	Against the income tax

"

(D) If the question is approved by a majority of the electors, the municipal corporation shall impose the income tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 718.10. (A) This section applies to a group of two or more municipal corporations that, taken together, share the same territory as a single city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporations as a group is located outside the school district and not more than five per cent of the territory of the school district is located outside the municipal corporations as a group.

(B) The legislative authorities of the municipal corporations in a group of municipal corporations to which this section applies each may propose to the electors an income tax, to be levied in concert with income taxes in the other municipal corporations of the group, except that a legislative authority may not propose to levy the income tax on the incomes of individuals who do not reside in the municipal corporation. One of the purposes of such a tax shall be to provide financial assistance to the school district through payment to the district of not less than twenty-five per cent of the revenue generated by the tax. Prior to proposing the taxes, the legislative authorities shall negotiate and enter into a written agreement with each other and with the board of education of the school district specifying the tax rate, the percentage of the tax revenue to be paid to the school district, the first year the tax will be levied, and the date of the election on the question of the tax, all of which shall be the same for each municipal corporation. The agreement also shall state the purpose for which the school district will use the money, and specify the method and schedule by which each municipal corporation will make payments to the school district. The special election

shall be held on a day specified in division (D) of section 3501.01 of the Revised Code, including a day on which all of the municipal corporations are to have a primary election.

After the legislative authorities and board of education have entered into the agreement, each legislative authority shall provide for levying its tax by ordinance. Each ordinance shall state the rate of the tax, the percentage of tax revenue to be paid to the school district, the purpose for which the municipal corporation will use its share of the tax revenue, and the first year the tax will be levied. Each ordinance also shall state that the question of the income tax will be submitted to the electors of the municipal corporation on the same date as the submission of questions of an identical tax to the electors of each of the other municipal corporations in the group, and that unless the electors of all of the municipal corporations in the group approve the tax in their respective municipal corporations, none of the municipal corporations in the group shall levy the tax. Each legislative authority also shall adopt a resolution specifying the regular or special election date the election will be held and directing the board of elections to conduct the election. At least ninety days before the date of the election, each legislative authority shall file certified copies of the ordinance and resolution with the board of elections.

(C) For each of the municipal corporations, the board of elections shall make the necessary arrangements for the submission of the question to the electors, and shall conduct the election in the same manner as any other municipal income tax election. For each of the municipal corporations, notice of the election shall be published in a newspaper of general circulation in the municipal corporation once a week for four consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. The notice shall include a statement of the rate and municipal corporation and school district purposes of the income tax, the percentage of tax revenue that will be paid to the school district, and the first year the tax will be levied, and an explanation that the tax will not be levied unless an identical tax is approved by the electors of each of the other municipal corporations in the group. The ballot shall be in the following form:

"Shall the ordinance providing for a ... per cent levy on income for (brief description of the municipal corporation and school district purposes of the levy, including a statement of the percentage of income tax revenue that will be paid to the school district) be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in (the name of the municipal corporation). In order for the income tax to be levied, the voters of (the other municipal corporations in the group), which

are also in the (name of the school district) school district, must approve an identical income tax and agree to pay the same percentage of the tax revenue to the school district.

	For the income tax
	Against the income tax

"

(D) If the question is approved by a majority of the electors and identical taxes are approved by a majority of the electors in each of the other municipal corporations in the group, the municipal corporation shall impose the tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 719.012. In order to rehabilitate a building or structure that a municipal corporation determines to be a blighted property as defined in section 1.08 of the Revised Code, a municipal corporation may appropriate, in the manner provided in sections 163.01 to 163.22 of the Revised Code, any such building or structure and the real property of which it is a part. The municipal corporation shall rehabilitate the building or structure or cause it to be rehabilitated within two years after the appropriation, so that the building or structure is no longer a public nuisance, insecure, unsafe, structurally defective, unhealthful, or unsanitary, or a threat to the public health, safety, or welfare, or in violation of a building code or ordinance adopted under section 731.231 of the Revised Code. Any building or structure appropriated pursuant to this section which is not rehabilitated within two years shall be demolished.

If during the rehabilitation process the municipal corporation retains title to the building or structure and the real property of which it is a part, then within one hundred eighty days after the rehabilitation is complete, the municipal corporation shall appraise the rehabilitated building or structure and the real property of which it is a part, and shall sell the building or structure and property at public auction. The municipal corporation shall advertise the public auction in a newspaper of general circulation in the municipal corporation once a week for three consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the date of sale. The municipal corporation shall sell the building or structure and real property to the highest and best bidder. No property that a municipal corporation acquires pursuant to this section shall be leased.

Sec. 719.05. The mayor of a municipal corporation shall, immediately upon the passage of a resolution under section 719.04 of the Revised Code,

declaring an intent to appropriate property, for which but one reading is necessary, cause written notice to be given to the owner of, person in possession of, or person having an interest of record in, every piece of property sought to be appropriated, or to ~~his~~ the authorized agent of the owner or other such person. Such notice shall be served by a person designated for the purpose and return made in the manner provided for the service and return of summons in civil actions. If such owner, person, or agent cannot be found, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, and the legislative authority may thereupon pass an ordinance by a two-thirds vote of all members elected thereto, directing such appropriation to proceed.

Sec. 721.03. No contract, except as provided in section 721.28 of the Revised Code, for the sale or lease of real estate belonging to a municipal corporation shall be made unless authorized by an ordinance, approved by a two-thirds vote of the members of the legislative authority of such municipal corporation, and by the board or officer having supervision or management of such real estate. When the contract is so authorized, it shall be made in writing by such board or officer, and, except as provided in section 721.27 of the Revised Code, only with the highest bidder, after advertisement once a week for five consecutive weeks in a newspaper of general circulation within the municipal corporation or as provided in section 7.16 of the Revised Code. Such board or officer may reject any bids and readvertise until all such real estate is sold or leased.

Sec. 721.15. (A) Personal property not needed for municipal purposes, the estimated value of which is less than one thousand dollars, may be sold by the board or officer having supervision or management of that property. If the estimated value of that property is one thousand dollars or more, it shall be sold only when authorized by an ordinance of the legislative authority of the municipal corporation and approved by the board, officer, or director having supervision or management of that property. When so authorized, the board, officer, or director shall make a written contract with the highest and best bidder after advertisement for not less than two ~~or~~ nor more than four consecutive weeks in a newspaper of general circulation within the municipal corporation or as provided in section 7.16 of the Revised Code, or with a board of county commissioners upon such lawful terms as are agreed upon, as provided by division (B)(1) of section 721.27 of the Revised Code.

(B) When the legislative authority finds, by resolution, that the

municipal corporation has vehicles, equipment, or machinery which is obsolete, or is not needed or is unfit for public use, that the municipal corporation has need of other vehicles, equipment, or machinery of the same type, and that it will be in the best interest of the municipal corporation that the sale of obsolete, unneeded, or unfit vehicles, equipment, or machinery be made simultaneously with the purchase of the new vehicles, equipment, or machinery of the same type, the legislative authority may offer to sell, or authorize a board, officer, or director of the municipal corporation having supervision or management of the property to offer to sell, those vehicles, equipment, or machinery and to have the selling price credited against the purchase price of other vehicles, equipment, or machinery and to consummate the sale and purchase by a single contract with the lowest and best bidder to be determined by subtracting from the selling price of the vehicles, equipment, or machinery to be purchased by the municipal corporation the purchase price offered for the municipally-owned vehicles, equipment, or machinery. When the legislative authority or the authorized board, officer, or director of a municipal corporation advertises for bids for the sale of new vehicles, equipment, or machinery to the municipal corporation, they may include in the same advertisement a notice of willingness to accept bids for the purchase of municipally-owned vehicles, equipment, or machinery which is obsolete, or is not needed or is unfit for public use, and to have the amount of those bids subtracted from the selling price as a means of determining the lowest and best bidder.

(C) If the legislative authority of the municipal corporation determines that municipal personal property is not needed for public use, or is obsolete or unfit for the use for which it was acquired, and that the property has no value, the legislative authority may discard or salvage that property.

(D) Notwithstanding anything to the contrary in division (A) or (B) of this section and regardless of the property's value, the legislative authority of a municipal corporation may sell personal property, including motor vehicles acquired for the use of municipal officers and departments, and road machinery, equipment, tools, or supplies, which is not needed for public use, or is obsolete or unfit for the use for which it was acquired, by internet auction. The legislative authority shall adopt, during each calendar year, a resolution expressing its intent to sell that property by internet auction. The resolution shall include a description of how the auctions will be conducted and shall specify the number of days for bidding on the property, which shall be no less than ten days, including Saturdays, Sundays, and legal holidays. The resolution shall indicate whether the municipal corporation will conduct the auction or the legislative authority

will contract with a representative to conduct the auction and shall establish the general terms and conditions of sale. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

After adoption of the resolution, the legislative authority shall publish, in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, notice of its intent to sell unneeded, obsolete, or unfit municipal personal property by internet auction. The notice shall include a summary of the information provided in the resolution and shall be published ~~at least~~ twice. The second ~~and any subsequent~~ notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually throughout the calendar year in a conspicuous place in the offices of the village clerk or city auditor, and the legislative authority~~, and, if~~. If the municipal corporation maintains a ~~website~~ web site on the internet, the notice shall be posted continually throughout the calendar year at that ~~website~~ web site.

When the property is to be sold by internet auction, the legislative authority or its representative may establish a minimum price that will be accepted for specific items and may establish any other terms and conditions for the particular sale, including requirements for pick-up or delivery, method of payment, and sales tax. This type of information shall be provided on the internet at the time of the auction and may be provided before that time upon request after the terms and conditions have been determined by the legislative authority or its representative.

Sec. 721.20. Notice of the filing, pendency, and prayer of the petition provided for by section 721.19 of the Revised Code shall be published for four consecutive weeks or as provided in section 7.16 of the Revised Code, prior to the day of hearing, in a newspaper ~~published in the municipal corporation, or if there is none, then in a newspaper published in the county, and~~ of general circulation in such municipal corporation.

Sec. 723.07. No street or alley shall be vacated or narrowed unless notice of the pendency and prayer of the petition under section 723.04 of the Revised Code is given by publishing, in a newspaper ~~published or~~ of general circulation in such municipal corporation, for six consecutive weeks preceding action on such petition, or~~, where~~ as provided in section 7.16 of the Revised Code preceding action on the petition. Where no newspaper is ~~published~~ of general circulation in the municipal corporation, notice shall be given by posting the notice in three public places therein six weeks preceding such action. Action thereon shall take place within three months

after the completion of the notice.

Sec. 727.011. For the purpose of controlling the blight and disease of shade trees within public rights-of-way, and for planting, maintaining, trimming, and removing shade trees in and along the streets of a municipality, the legislative authority of such municipal corporation may establish one or more districts in the municipality designating the boundaries thereof, and may each year thereafter, by ordinance, designate the district in which such control, planting, care, and maintenance shall be effected, setting forth an estimate of the cost and providing for the levy of a special assessment upon all the real property in the district, in the amount and in the manner provided in section 727.01 of the Revised Code, for planting, maintaining, trimming, and removing shade trees. The ordinance shall be adopted ~~and published~~ as other ordinances and a succinct summary of the ordinance shall be published in the manner provided in section 731.21 of the Revised Code. Bonds and anticipatory notes may be issued in anticipation of the collection of such special assessments, under section 133.17 of the Revised Code.

Sec. 727.012. For the purpose of constructing, maintaining, repairing, cleaning, and enclosing ditches, the legislative authority of such municipal corporation may establish one or more districts in the municipality designating the boundaries thereof, and may each year thereafter, by ordinance, designate the district in which such constructing, maintaining, repairing, cleaning, and enclosing of ditches shall be effected, setting forth an estimate of the cost and providing for the levying of a special assessment upon all the real property in the district, in the amount and in the manner provided in section 727.01 of the Revised Code, for constructing, maintaining, repairing, cleaning, and enclosing ditches. The ordinance shall be adopted ~~and published~~ as other ordinances and a succinct summary of the ordinance shall be published in the manner provided in section 731.21 of the Revised Code. Bonds and anticipatory notes may be issued in anticipation of the collection of such special assessments, under section 133.17 of the Revised Code.

Sec. 727.08. The cost of any public improvement to be paid for directly or indirectly, in whole or in part, by funds derived from special assessments may include but not be limited to:

(A) The purchase price of real estate or any interest therein when acquired by purchase, or not more than fifty per cent of the cost of acquiring such real estate or any interest therein when acquired by appropriation;

(B) The cost of preliminary and other surveys;

(C) The cost of preparing plans, specifications, profiles, and estimates

except, to the extent that costs of plans, specifications, and estimates of cost have been paid for by the levy of assessments under section 729.11 of the Revised Code, such costs shall not be included in determining the cost of the improvement under this section;

(D) The cost of printing, serving, and publishing notices~~,~~ and summaries of resolutions~~,~~ and ordinances;

(E) The cost of all special proceedings;

(F) The cost of labor and material, whether furnished by contract or otherwise;

(G) Interest on securities issued in anticipation of the levy and collection of the special assessments or, if securities in anticipation of the levy of the special assessments are not issued, interest, at a rate to be determined by the legislative authority in the resolution of necessity adopted pursuant to section 727.12 of the Revised Code, on moneys advanced by the municipal corporation for the cost of the public improvement in anticipation of the levy of the special assessments;

(H) The total amount of damages, resulting from the improvement, assessed in favor of any owner of lands affected by the improvement, and interest thereon;

(I) The cost incurred in connection with the preparation, levy, and collection of the special assessments, including legal expenses incurred by reason of the improvement;

(J) Incidental costs directly connected with the improvement.

Sec. 727.14. In lieu of the procedure provided in section 727.13 of the Revised Code, the legislative authority may provide for notice of the passage of a resolution of necessity providing for the lighting, sprinkling, sweeping, or cleaning of any street, alley, public road, or place, or parts thereof or for treating the surface of the same with dust-laying or preservative substances, or for the planting, maintaining, and removing of shade trees, or for the constructing, maintaining, repairing, cleaning, and enclosing of ditches, and the filing of the estimated assessment under section 727.12 of the Revised Code, to be given by publication of such notice once a week for two consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code. When it appears from the estimated assessment filed as provided by section 727.12 of the Revised Code, that the assessment against the owner of any lot or parcel of land will exceed two hundred fifty dollars, such owner shall be notified of the assessment in the manner provided in section 727.13 of the Revised Code.

Sec. 727.46. When a general plan has been prepared under section

727.44 of the Revised Code and reported to the legislative authority, it shall be filed with the clerk of the legislative authority and the legislative authority shall cause its clerk to publish, once a week for two consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, a notice stating that such general plan has been prepared and is on file in the office of the clerk of the legislative authority for examination by interested persons and that written objections to such plan may be filed in the office of such clerk before the date specified in the notice, which shall not be earlier than the seventeenth day following the date of the first publication in said newspaper. Any person having an objection to the general plan shall file such objection in writing, with the clerk of the legislative authority within the time specified.

Sec. 729.08. The legislative authority of the municipal corporation shall cause a notice to be published for three consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, stating that such list of estimated assessments has been made and is on file in the office of the clerk of the legislative authority for the inspection and examination of persons interested therein.

If any person objects to an assessment on such list, ~~he~~ the person shall file ~~his~~ the objection in writing with the clerk of the legislative authority within two weeks after the expiration of the notice provided in this section.

Sec. 729.11. In addition to the power conferred upon municipal corporations under section 727.01 of the Revised Code to levy and collect special assessments, the legislative authority of a municipal corporation may, whenever it has determined by ordinance that it is necessary to construct, enlarge, or improve a system of storm or sanitary sewerage for the municipal corporation or any part thereof, including sewage disposal works, treatment plants, and sewage pumping stations, or a water supply system for the municipal corporation or any part thereof including mains, dams, reservoirs, wells, intakes, purification works, and pumping stations, and that any such improvement shall be constructed, enlarged, or improved, may levy upon property to be benefited in the municipal corporation or any designated part thereof, which property shall be described in the ordinance, a preliminary assessment upon the benefited lots and lands within the corporation or such part thereof, apportioned according to benefits or to the tax valuation or partly by one method and partly by the other, as the legislative authority determines for the purpose of paying the costs of general and detailed plans, specifications, estimates, preparation of the tentative assessment, financing, and legal services incident to the preparation of such plans, and a plan for financing the proposed

improvements.

Prior to the adoption of such ordinance, the legislative authority of such municipal corporation shall give notice of the pendency thereof and of the proposed determination of the necessity of the improvement therein generally described, which notice shall set forth the description of the benefited property as designated in the ordinance and the time and place of hearing of objections to and endorsements of the improvement. Such notice shall be given by publication in a newspaper of general circulation in the municipal corporation once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, the first publication to be at least two weeks prior to the date set for the hearing. At such hearing, or at any adjournment thereof, of which no further published notice need be given, the legislative authority shall hear all persons whose properties are proposed to be assessed, and such evidence as is deemed to be necessary, and shall then determine the necessity of the proposed improvement and in addition shall determine whether the improvement shall be made by the municipal corporation, and shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.

Such assessments shall be in the amount determined to be necessary by the legislative authority to pay the costs of general and detailed plans, specifications, estimates of cost, preparation of the tentative assessment, financing and legal services incident to the preparation of such plans, and a plan of financing the proposed improvements, and shall be payable in such number of years as the legislative authority determines, not to exceed twenty, together with interest on any notes which may be issued in anticipation of the collection of such assessments.

The legislative authority may at any time levy additional assessments according to benefits or to tax valuation or partly by one method and partly by the other as the legislative authority determines for such purposes upon such properties to complete the payment of such costs or to pay the cost of any additional plans, specifications, estimates of cost, tentative assessments, and the cost of financing and legal services incident to the preparation of such plans and such plan of financing, which additional assessments shall be payable in such number of years as the legislative authority determines, not to exceed twenty years, together with interest on any notes and bonds which may be issued in anticipation of the collection thereof.

Upon completion of the tentative assessments or any additional assessments, they shall be filed with the clerk of the legislative authority and shall be and remain open to public inspection, and thereupon, the legislative

authority shall give at least ten days' notice of the filing thereof in one newspaper of general circulation in the municipal corporation, or shall give notice as provided in section 7.16 of the Revised Code, which notice shall state the time and place when and where such tentative assessments shall be taken up for consideration. At such time and place or at any adjournment thereof, of which no further published notice need be given, the legislative authority shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions that appear to be necessary or just, and may then pass an ordinance levying upon the properties determined to be benefited such assessments as so corrected and revised.

The assessments levied by such ordinance shall be certified to the county auditor for collection as other taxes in the year or years in which they are payable; provided any such assessment in the amount of five dollars or less, or any unpaid balance of any such assessment which is five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable.

Upon the adoption of such ordinance levying assessments the legislative authority may authorize contracts to carry out the purposes for which such assessments have been levied without the prior issuance of notes and bonds; provided that the payments due by the municipal corporation do not fall due prior to the times in which such assessments shall be collected. The municipal corporation may also issue and sell its bonds with a maximum maturity of twenty years in anticipation of the collection of such assessments and may issue its notes in anticipation of the issuance of such bonds, which notes and bonds shall be issued and sold as provided in Chapter 133. of the Revised Code.

Sec. 731.14. All contracts made by the legislative authority of a village shall be executed in the name of the village and signed on its behalf by the mayor and clerk. Except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code, available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, or required to be purchased from a qualified nonprofit agency under sections 125.60 to 125.6012 of the Revised Code, when any expenditure, other than the compensation of persons employed in the village, exceeds ~~twenty-five~~ fifty thousand dollars, such contracts shall be in writing and made with the lowest and best bidder after advertising once a week for not less than two consecutive weeks in a newspaper of general circulation within the village. The legislative authority may also cause notice to be

inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the legislative authority's internet web site. If the legislative authority posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation within the village, provided that the first notice published in such newspaper meets all of the following requirements:

(A) It is published at least two weeks before the opening of bids.

(B) It includes a statement that the notice is posted on the legislative authority's internet web site.

(C) It includes the internet address of the legislative authority's internet web site.

(D) It includes instructions describing how the notice may be accessed on the legislative authority's internet web site.

The bids shall be opened and shall be publicly read by the clerk of the village or a person designated by the clerk at the time, date, and place specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the legislative authority of the village, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. This section does not apply to those villages that have provided for the appointment of a village administrator under section 735.271 of the Revised Code.

Sec. 731.141. In those villages that have established the position of village administrator, as provided by section 735.271 of the Revised Code, the village administrator shall make contracts, purchase supplies and materials, and provide labor for any work under the administrator's supervision involving not more than twenty-five thousand dollars. When an expenditure, other than the compensation of persons employed by the village, exceeds twenty-five thousand dollars, the expenditure shall first be authorized and directed by ordinance of the legislative authority of the village. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code, available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, or required to be purchased from a qualified nonprofit agency under sections 125.60 to 125.6012 of the Revised Code, the village administrator shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four

consecutive weeks in a newspaper of general circulation within the village or as provided in section 7.16 of the Revised Code. The bids shall be opened and shall be publicly read by the village administrator or a person designated by the village administrator at the time, date, and place as specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the village administrator, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. All contracts shall be executed in the name of the village and signed on its behalf by the village administrator and the clerk.

The legislative authority of a village may provide, by ordinance, for central purchasing for all offices, departments, divisions, boards, and commissions of the village, under the direction of the village administrator, who shall make contracts, purchase supplies or materials, and provide labor for any work of the village in the manner provided by this section.

Sec. 731.20. Ordinances, resolutions, and bylaws shall be authenticated by the signature of the presiding officer and clerk of the legislative authority of the municipal corporation. ~~Ordinances~~ A succinct summary of ordinances of a general nature or providing for improvements shall be published as provided by sections 731.21 and 731.22 of the Revised Code before going into operation. No ordinance shall take effect until the expiration of ten days after the first publication of such notice. As soon as a bylaw, resolution, or ordinance is passed and signed, it shall be recorded by the clerk in a book furnished by the legislative authority for that purpose.

Sec. 731.21. (A) ~~Notwithstanding any conflicting provision of section 7.12 of the Revised Code,~~ A succinct summary of each municipal ordinance or resolution~~, or a succinct summary of each municipal ordinance and resolution,~~ and all statements, orders, proclamations, notices, and reports required by law or ordinance to be published shall be published ~~as follows:~~

~~(1) In two English language newspapers of opposite politics, published and~~ in a newspaper of general circulation in the municipal corporation~~, if there are any such newspapers;~~

~~(2) If two English language newspapers of opposite politics are not published and of general circulation in the municipal corporation, then in one such political newspaper and one other English language newspaper published and of general circulation therein;~~

~~(3) If only one english language newspaper is published and of general circulation in the municipal corporation, then in that newspaper;~~

~~(4) If no english language newspaper is published and of general~~

~~circulation in the municipal corporation, then in any English language newspaper of general circulation therein or by posting as provided in section 731.25 of the Revised Code, at the option of the legislative authority of such municipal corporation~~. Proof of the publication and required circulation of any newspaper used as a medium of publication as provided by this section shall be made by affidavit of the proprietor of ~~either of such newspapers~~ the newspaper, and shall be filed with the clerk of the legislative authority.

(B) ~~If a summary of an ordinance or resolution is published under division (A) of this section, the~~ The publication shall contain notice that the complete text of each such ordinance or resolution may be obtained or viewed at the office of the clerk of the legislative authority of the municipal corporation and may be viewed at any other location designated by the legislative authority of the municipal corporation. The city director of law, village solicitor, or other chief legal officer of the municipal corporation shall review ~~any~~ the summary of an ordinance or resolution published under this section prior to forwarding it to the clerk for publication, to ensure that the summary is legally accurate and sufficient.

(C) Upon publication of a summary of an ordinance or resolution in accordance with this section, the clerk of the legislative authority shall supply a copy of the complete text of each such ordinance or resolution to any person, upon request, and may charge a reasonable fee, set by the legislative authority, for each copy supplied. The clerk shall post a copy of the text at ~~his~~ the clerk's office and at every other location designated by the legislative authority.

Sec. 731.211. In accordance with Section 9 of Article XVIII, Ohio Constitution, notice of proposed amendments to municipal charters shall be given in one of the following ways:

(A) Not less than thirty days prior to the election at which the amendment is to be submitted to the electors, the clerk of the municipality shall mail a copy of the proposed charter amendment to each elector whose name appears upon the poll or registration books of the last regular or general election held therein.

(B) The full text of the proposed charter amendment shall be published once a week for not less than two consecutive weeks in a newspaper ~~published~~ of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, with the first publication being at least fifteen days prior to the election at which the amendment is to be submitted to the electors. ~~If no newspaper is published in the municipal corporation, then such publication shall be made in a newspaper of general circulation within the municipal corporation.~~

Sec. 731.22. The publication required in section 731.21 of the Revised Code shall be for the following times:

(A) ~~Ordinances and resolutions, or summaries~~ Summaries of ordinances or resolutions, and proclamations of elections, once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code;

(B) Notices, not less than two nor more than four consecutive weeks or as provided in section 7.16 of the Revised Code;

(C) All other matters shall be published once.

Sec. 731.23. When ordinances are revised, codified, rearranged, published in book form, and certified as correct by the clerk of the legislative authority of a municipal corporation and the mayor, such publication shall be a sufficient publication, and the ordinances so published, under appropriate titles, chapters, and sections, shall be held the same in law as though they had been published in a newspaper. A new ordinance so published in book form, a summary of which has not been published as required by sections 731.21 and 731.22 of the Revised Code, and which contains entirely new matter, shall be published as required by such sections. If such revision or codification is made by a municipal corporation and contains new matter, it shall be a sufficient publication of such codification, including the new matter, to publish, in the manner required by such sections, a notice of the enactment of such codifying ordinance, containing the title of the ordinance and a summary of the new matters covered by it. Such revision and codification may be made under appropriate titles, chapters, and sections and in one ordinance containing one or more subjects.

Except as provided by this section, a succinct summary of all ordinances, including emergency ordinances, shall be published in accordance with section 731.21 of the Revised Code.

Sec. 731.24. Immediately after the expiration of the period of publication ~~for ordinances or~~ of summaries of ordinances required by section 731.22 of the Revised Code, the clerk of the legislative authority of a municipal corporation shall enter on the record of ordinances, in a blank to be left for such purpose under the recorded ordinance, a certificate stating in which newspaper and on what dates such publication was made, and shall sign ~~his~~ the clerk's name thereto officially. Such certificate shall be prima-facie evidence that legal publication of the ~~ordinance or~~ summary of the ordinance was made.

Sec. 731.25. ~~Notwithstanding any conflicting provision of section 7.12 of the Revised Code, in~~ In municipal corporations in which no newspaper is ~~published~~ generally circulated, publication of ~~ordinances and resolutions, or~~

summaries of ordinances and resolutions, and publication of all statements, orders, proclamations, notices, and reports, required by law or ordinance to be published, shall be accomplished ~~in either of the following methods, as determined by the legislative authority:~~

~~(A) By~~ by posting copies in not less than five of the most public places in the municipal corporation, as determined by the legislative authority, for a period of not less than fifteen days prior to the effective date thereof~~;~~

~~(B) By publication in any newspaper printed in this state and of general circulation in such municipal corporation~~.

Notices to bidders for the construction of public improvements and notices of the sale of bonds shall be published in ~~not more than two newspapers, printed in this state and~~ a newspaper of general circulation in such municipal corporation, for the time prescribed in section 731.22 of the Revised Code.

Where such publication is by posting, the clerk shall make a certificate as to such posting, and as to the times when and the places where such posting is done, in the manner provided in section 731.24 of the Revised Code, and such certificate shall be prima-facie evidence that the copies were posted as required.

Sec. 735.05. The director of public service may make any contract, purchase supplies or material, or provide labor for any work under the supervision of the department of public service involving not more than twenty-five thousand dollars. When an expenditure within the department, other than the compensation of persons employed in the department, exceeds twenty-five thousand dollars, the expenditure shall first be authorized and directed by ordinance of the city legislative authority. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code or available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, the director shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the city or as provided in section 7.16 of the Revised Code.

Sec. 735.20. When a whole plan, or any portion thereof, as provided in section 735.19 of the Revised Code is completed, or when the location of any avenue, street, roadway, or alley has been finally determined by the platting commissioner of a city, a plat of the plan, avenue, street, roadway, or alley shall be placed in the office of the city engineer for the inspection of persons interested, and notice that it is ready for inspection shall be

published in ~~one or more newspapers,~~ a newspaper of general circulation within the city, for six consecutive weeks, or as provided in section 7.16 of the Revised Code.

Sec. 737.022. ~~When authorized by ordinance of the legislative authority of a city, and in~~ (A) As used in this section:

(1) "Occupy or use," with respect to a public way, means to create parking spaces and install, repair, maintain, replace, and operate parking meters or other similar devices for the purpose of providing on-street parking.

(2) "Public agency" includes any county, municipal corporation, port authority, regional transit authority, airport authority, or transportation improvement district created pursuant to the laws of this state.

(3) "Public parking franchise" means a property right and privilege to occupy and use one or more public ways for the operation of an on-street parking system in all or in one or more portions of the area within the corporate limits of a municipal corporation or to construct, install, repair, maintain, and operate parking meters or other devices or facilities on public property owned or controlled by the municipal corporation.

(4) "Public way" means the surface of, and the space within, through, on, across, above, or below, any public street, road, highway, lane, path, alley, court, sidewalk, boulevard, parkway, or drive owned or controlled by a municipal corporation.

(B) In order to expedite the flow and direction of traffic, to eliminate congestion on ~~streets, alleys, and highways~~ public ways, and to provide for the safety of passengers in motor vehicles and pedestrians, the legislative authority of a municipal corporation may by ordinance make and issue, or, in the case of the legislative authority of a city, authorize the director of public safety ~~may~~ to make and issue rules and regulations concerning:

~~(A)~~(1) The number, type, and location of traffic control devices and signs;

~~(B)~~(2) The regulation or prohibition of parking on ~~streets, alleys, highways,~~ public ways or public property;

~~(C)~~(3) The regulation of the right-of-way at intersections of streets, alleys, and highways;

~~(D)~~(4) The regulation or prohibition of turns at intersections;

~~(E)~~(5) The creation, abolition, and regulation of through routes and truck routes;

~~(F)~~(6) The creation, abolition, and regulation of pedestrian crosswalk and safety zones;

~~(G)~~(7) The creation, abolition, and regulation of bus loading and

unloading zones and business loading zones;

~~(H)~~(8) The creation, abolition, and regulation of traffic lanes, and passing zones;

~~(I)~~(9) The regulation of the direction of traffic on ~~streets, alleys, and highways~~ public ways and the creation and abolition of one way public streets, roads, alleys, courts, or drives;

~~(J)~~(10) Such other subjects as may be provided by ordinance, which shall not be limited by the specific enumeration of subjects by this section.

~~Such rules~~ (C) The legislative authority of a municipal corporation having rules and regulations with respect to parking on public ways or public property for the purposes specified in division (B) of this section may establish and maintain reasonable fees and charges for the privilege of parking in locations permitted by those rules and regulations and may construct, install, maintain, repair, replace, and operate parking meters or other devices or facilities on public ways and public property for the collection of those fees and charges. The operation of meters, devices, and facilities may be managed and operated by municipal officials and employees or by any other person or public agency retained by the municipal corporation for those purposes, as determined by the legislative authority.

(D) As an alternative to the operation of parking meters, devices, and facilities in the manner specified in division (C) of this section, the legislative authority of a municipal corporation having rules and regulations with respect to parking on public ways or public property for the purposes specified in division (B) of this section may grant to a person or public agency a public parking franchise permitting that person or agency to occupy and use certain public ways or to construct, install, maintain, repair, replace, and operate parking meters or other devices or facilities on public property on and subject to terms and conditions specified in a franchise agreement approved by the legislative authority; provided, that no such public parking franchise shall be granted for a term of more than thirty years. The legislative authority may require the person or public agency receiving such a public parking franchise to pay to the municipal corporation a lump sum fee, a periodic fee, or both for the property rights and privileges granted. Public parking franchises shall be subject to regulation by the legislative authority of the municipal corporation and shall not be deemed to be a public utility or an entity otherwise subject to regulation by any state agency or commission.

(E) Rules and regulations made and issued in accordance with division (B) of this section shall be issued in the manner and subject to the conditions

and limitations as prescribed by ordinance of the legislative authority of such city. Copies of ~~such~~ rules and regulations issued pursuant to this section, when certified by the director of public safety, shall be competent evidence in all courts. Violation of any such rules and regulations shall be as specified by the legislative authority, either a criminal misdemeanor ~~and shall be~~ punishable as provided by the ordinances of such ~~city~~ municipal corporation or a civil infraction for which a charge is prescribed. The enforcement of rules and regulations violations of which constitute criminal misdemeanors shall be by authorized law enforcement officers.

Sec. 737.04. The legislative authority of any municipal corporation, in order to obtain police protection or to obtain additional police protection, or to allow its police officers to work in multijurisdictional drug, gang, or career criminal task forces, may enter into contracts with one or more municipal corporations, townships, township police districts, joint police districts, or county sheriffs in this state, with one or more park districts created pursuant to section 511.18 or 1545.01 of the Revised Code, with one or more port authorities, or with a contiguous municipal corporation in an adjoining state, upon any terms that are agreed upon, for services of police departments or the use of police equipment or for the interchange of services of police departments or police equipment within the several territories of the contracting subdivisions.

Chapter 2744. of the Revised Code, insofar as it applies to the operation of police departments, shall apply to the contracting political subdivisions and to the police department members when they are rendering service outside their own subdivisions pursuant to the contracts.

Police department members acting outside the subdivision in which they are employed, pursuant to a contract entered into under this section, shall be entitled to participate in any indemnity fund established by their employer to the same extent as while acting within the employing subdivision. Those members shall be entitled to all the rights and benefits of Chapter 4123. of the Revised Code, to the same extent as while performing service within the subdivision.

The contracts may provide for:

(A) A fixed annual charge to be paid at the times agreed upon and stipulated in the contract;

(B) Compensation based upon:

(1) A stipulated price for each call or emergency;

(2) The number of members or pieces of equipment employed;

(3) The elapsed time of service required in each call or emergency.

(C) Compensation for loss or damage to equipment while engaged in

rendering police services outside the limits of the subdivision owning and furnishing the equipment;

(D) Reimbursement of the subdivision in which the police department members are employed for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death of its police department members occurring while engaged in rendering police services pursuant to the contract.

Sec. 737.041. The police department of any municipal corporation may provide police protection to any county, municipal corporation, township, ~~or~~ township police district, or joint police district of this state, to a park district created pursuant to section 511.18 or 1545.01 of the Revised Code, to a port authority, to any multijurisdictional drug, gang, or career criminal task force, or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the legislative authority of the municipal corporation in which the department is located and upon authorization by an officer or employee of the police department providing the police protection who is designated by title of office or position, pursuant to the resolution of the legislative authority of the municipal corporation, to give the authorization.

Chapter 2744. of the Revised Code, insofar as it applies to the operation of police departments, shall apply to any municipal corporation and to members of its police department when the members are rendering police services pursuant to this section outside the municipal corporation by which they are employed.

Police department members acting, as provided in this section, outside the municipal corporation by which they are employed shall be entitled to participate in any pension or indemnity fund established by their employer to the same extent as while acting within the municipal corporation by which they are employed. Those members shall be entitled to all the rights and benefits of Chapter 4123. of the Revised Code to the same extent as while performing services within the municipal corporation by which they are employed.

Sec. 737.32. Except as otherwise provided in this section and unless the property involved is required to be disposed of pursuant to another section of the Revised Code, property that is unclaimed for ninety days or more shall be sold by the chief of police of the municipal corporation, marshal of the village, or licensed auctioneer at public auction, after notice of the sale has been provided by publication once a week for three successive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The proceeds of the sale shall be paid to the

treasurer of the municipal corporation and shall be credited to the general fund of the municipal corporation.

If authorized to do so by an ordinance adopted by the legislative authority of the municipal corporation and if the property involved is not required to be disposed of pursuant to another section of the Revised Code, the chief of police or marshal may contribute property that is unclaimed for ninety days or more to one or more public agencies, to one or more nonprofit organizations no part of the net income of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation, or to one or more organizations satisfying section 501(c)(3) or (c)(19) of the Internal Revenue Code of 1986.

Sec. 737.40. (A) The legislative authority of a municipal corporation may establish, by ordinance or resolution, a voluntary motor vehicle decal registration program to be controlled by the director of public safety of the municipal corporation and conducted by the police department of the municipal corporation. The legislative authority may establish a fee for participation in the program in an amount sufficient to cover the cost of administering the program and the cost of the decals.

(B) Any resident of the municipal corporation may enroll a motor vehicle that he owns in the program by signing a consent form, displaying the decal issued under this section, and paying the prescribed fee. The motor vehicle owner shall remove the decal to withdraw from the program and also prior to the sale or transfer of ownership of the vehicle. Any law enforcement officer may conduct, at any place within this state at which the officer would be permitted to arrest the person operating the vehicle, an investigatory stop of any motor vehicle displaying a decal issued under this section when the vehicle is being driven between the hours of one a.m. and five a.m. A law enforcement officer may conduct an investigatory stop under this division regardless of whether the officer observes a violation of law involving the vehicle or whether he has probable cause to believe that any violation of law involving the vehicle has occurred.

(C) The consent form required under division (B) of this section shall:

(1) Describe the conditions for participation in the program, including a description of an investigatory stop and a statement that any law enforcement officer may conduct, at any place within this state at which the officer would be permitted to arrest the person operating the vehicle, an investigatory stop of the motor vehicle when it is being driven between the hours of one a.m. and five a.m.

(2) Contain other information identifying the vehicle and owner as the

director of public safety of the municipal corporation or the chief of police considers necessary.

(D) The state director of public safety, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the color, size, and design of decals issued under this section and the location where the decals shall be displayed on vehicles that are enrolled in the program.

(E) Divisions (A) to (D) and (G) of this section do not require a law enforcement officer to conduct an investigatory stop of a vehicle displaying a decal issued under this section or under a program described in division (G) of this section.

(F) As used in this section:

(1) "Investigatory stop" means a temporary stop of a motor vehicle and its operator and occupants for purposes of determining the identity of the person who is operating the vehicle and, if the person who is operating it is not its owner, whether any violation of law has occurred or is occurring. An "investigatory stop" is not an arrest, but, if an officer who conducts an investigatory stop determines that illegal conduct has occurred or is occurring, an "investigatory stop" may be the basis for an arrest.

(2) "Law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint ~~township~~ police district, marshal, deputy marshal, municipal police officer, or state highway patrol trooper.

(G) Any motor vehicle decal registration program that was in existence on June 1, 1993, and administered by a municipal corporation shall not be required to conform in any manner to this section and may continue to be administered in the manner in which it was administered on that date.

Sec. 742.41. (A) As used in this section:

(1) "Other system retirant" has the same meaning as in section 742.26 of the Revised Code.

(2) "Personal history record" includes a member's, former member's, or other system retirant's name, address, telephone number, social security number, record of contributions, correspondence with the Ohio police and fire pension fund, status of any application for benefits, and any other information deemed confidential by the trustees of the fund.

(B) The treasurer of state shall furnish annually to the board of trustees of the fund a sworn statement of the amount of the funds in the treasurer of state's custody belonging to the Ohio police and fire pension fund. The records of the fund shall be open for public inspection except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(1) The individual's personal history record;

(2) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual.

(C) All medical reports and recommendations required are privileged, except as follows:

(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent or, when necessary for the proper administration of the fund, to the board-assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(D) Any person who is a member of the fund or an other system retirant shall be furnished with a statement of the amount to the credit of the person's individual account upon the person's written request. The fund need not answer more than one such request of a person in any one year.

(E) Notwithstanding the exceptions to public inspection in division (B) of this section, the fund may furnish the following information:

(1) If a member, former member, or other system retirant is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the fund shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court order issued pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised Code, the fund shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the request of any organization or association of members of the fund, the fund shall provide a list of the names and addresses of members of the fund and other system retirants. The fund shall comply with the request of such organization or association at least once a year and may impose a reasonable charge for the list.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the fund shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member or other system retirant whose name and social security number are the same as that

of a person whose name or social security number was submitted by the director. The fund and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with ~~division (A) of~~ section 5101.181 of the Revised Code.

(5) The fund shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the fund shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the fund shall make available to the person copies of all documents, including resumes, in the fund's possession regarding filling a vacancy of a police officer employee member, firefighter employee member, police retirant member, or firefighter retirant member of the board of trustees. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(7) The fund shall provide the notice required by section 742.464 of the Revised Code to the prosecutor assigned to the case.

(F) A statement that contains information obtained from the fund's records that is signed by the secretary of the board of trustees of the Ohio police and fire pension fund and to which the board's official seal is affixed, or copies of the fund's records to which the signature and seal are attached, shall be received as true copies of the fund's records in any court or before any officer of this state.

Sec. 745.07. An ordinance passed pursuant to section 745.06 of the Revised Code shall not take effect until submitted to the electors of the municipal corporation, at a special or general election held in the municipal corporation at such time as the legislative authority determines, and approved by a majority of the electors voting on it. The ordinance shall be passed by an affirmative vote of not less than a majority of the members of the legislative authority and shall be subject to the approval of the mayor as provided by law. The ordinance shall specify the form or phrasing of the question to be placed upon the ballot. Thirty days' notice of the election shall be given by publication once a week for two consecutive weeks in ~~two daily or weekly newspapers published or circulated~~ a newspaper of general circulation in the municipal corporation ~~and, if~~ or as provided in section 7.16 of the Revised Code. If the board of elections operates and maintains a

web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The notice shall contain the full form or phrasing of the question to be submitted. The clerk of the legislative authority shall certify the passage of the ordinance to the officers having control of elections in the municipal corporation, who shall cause the question to be voted on at the general or special election as specified in the ordinance.

Sec. 747.05. The board of rapid transit commissioners shall have control of the expenditure of all moneys appropriated by the legislative authority of the city, received from the sale of bonds provided for in sections 747.01 to 747.13~~, inclusive,~~ of the Revised Code, or from any other source, for the purchase, construction, improvement, maintenance, equipment, or enjoyment of all such rapid transit property, but no liability shall be incurred or expenditure made unless the money required therefor is in the city treasury to the credit of the board of rapid transit commissioners' fund and not appropriated for any other purpose. Moneys to be derived from the sale of bonds, the issue of which has been authorized, shall be deemed to be in the treasury to the credit of such fund.

All moneys expended for the construction and acquisition of parkways or boulevards, as authorized by such sections, shall be provided for partly by special appropriation or bond issue and partly by assessments, as specified in section 747.06 of the Revised Code, and such funds shall be separately accounted for, and such expenditure shall not be considered a part of the rapid transit expenditure authorized by this section. The board may let contracts for any part of the work to the lowest and best bidder after three weeks' advertisement in ~~two newspapers~~ a newspaper of general circulation in the city or as provided in section 7.16 of the Revised Code.

The board may reject any bid, and the proceedings for such contracts and payment therefor shall be the same as provided for the director of public service except the requirement of the approval of the board of control.

Sec. 747.11. The board of rapid transit commissioners may grant to any corporation organized for street or interurban railway purposes the right to operate, by lease or otherwise, the depots, terminals, and railways mentioned in section 747.08 of the Revised Code upon such terms as the board is authorized by ordinance to agree upon with such corporation, subject to the approval of a majority of the electors of the city voting on the question.

The board of rapid transit commissioners shall certify such lease or agreement to the board of elections, which shall then submit the question of the approval of such lease or agreement to the qualified electors of the city at either a special or general election as the ordinance specifies. Thirty days'

notice of the election shall be given by publication in ~~one or more of the newspapers published~~ a newspaper of general circulation in the city once a week for two consecutive weeks prior to the election, ~~and, if~~ or as provided in section 7.16 of the Revised Code. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election for thirty days prior to the election on its web site. The notice shall set forth the terms of the lease or agreement and the time of holding the election. On the approval by a majority of the voters voting at the election, the corporation may operate such depots, terminals, and railways as provided in the lease or agreement, and corporations organized under the laws of this state for street or interurban railway purposes may lease and operate such depots, terminals, and railways.

Sec. 747.12. Whenever the board of rapid transit commissioners of a city declares by resolution that real estate of the city acquired for rapid transit purposes is not needed for the proper conduct and maintenance of such rapid transit system, such real estate may be sold or leased by the board to the highest bidder after advertisement once a week for three consecutive weeks in a newspaper of general circulation within the city or as provided in section 7.16 of the Revised Code. The board may reject any bid and readvertise until all such property is sold or leased. When the board has twice so offered to sell or lease such property, and it is not sold or leased, the board may privately sell or lease it.

Moneys arising from such sales or leases shall be deposited in the treasury of the city to the credit of the board of rapid transit commissioners' fund, and may be expended for the purchase, construction, improvement, maintenance, equipment, and enjoyment of the city's rapid transit property, as such board directs.

Contracts, leases, deeds, bills of sale, or other instruments in writing pertaining to such sales or leases shall be executed on behalf of the city by the board, by its president and secretary.

Sec. 755.16. (A) Any ~~municipal corporation, township, township park district, county, or school district~~ contracting subdivision, jointly with one or more other ~~municipal corporations, townships, township park districts, counties, or school districts or with an educational service center~~ contracting subdivisions, in any combination, ~~and a joint recreation district,~~ may acquire property for, construct, operate, and maintain any parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, indoor recreation centers, educational facilities, or community centers. Any school district ~~or,~~ educational service center, or state institution of higher education may provide by the erection of any school ~~or,~~ educational service center, or state

institution of higher education building or premises, or by the enlargement of, addition to, or reconstruction or improvement of any school ~~or,~~ educational service center, or state institution of higher education building or premises, for the inclusion of any such parks, recreational facilities, educational facilities, and community centers to be jointly acquired, constructed, operated, and maintained. Any ~~municipal corporation, township, township park district, county, or school district~~ contracting subdivision, jointly with one or more other ~~municipal corporations, townships, township park districts, counties, or school districts or with an educational service center~~ contracting subdivisions, in any combination, ~~and a joint recreation district,~~ may equip, operate, and maintain those parks, recreational facilities, educational facilities, and community centers and may appropriate money for ~~them~~ those purposes. ~~An educational service center also may appropriate money for purposes of equipping, operating, and maintaining those parks, recreational facilities, and community centers.~~

Any ~~municipal corporation, township, township park district, county, school district, or educational service center~~ contracting subdivision agreeing to jointly acquire, construct, operate, or maintain parks, recreational facilities, educational facilities, and community centers pursuant to this section may contribute lands, money, other personal property, or services to the joint venture, as may be agreed upon. Any agreement shall specify the rights of the parties in any lands or personal property contributed.

Any lands acquired by a township park district pursuant to Chapter 511. of the Revised Code and established as a public park or parks may be contributed to a joint venture authorized by this section. Fees may be charged in connection with the use of any recreational facilities, educational facilities, and community centers that may be constructed on those lands.

(B) Any township may, jointly with a private land owner, construct, operate, equip, and maintain free public playgrounds and playfields. Any equipment provided by a township pursuant to this division shall remain township property and shall be used subject to a right of removal by the township.

(C) As used in this section and in sections 755.17 and 755.18 of the Revised Code:

(1) "Community centers" means facilities characterized by all of the following:

(a) They are acquired, constructed, operated, or maintained by ~~political~~ contracting subdivisions ~~or an educational service center~~ pursuant to division (A) of this section.

(b) They may be used for governmental, civic, or educational operations or purposes, or recreational activities.

(c) They may be used only by the ~~entities~~ contracting subdivisions that acquire, construct, operate, or maintain them or by any other person upon terms and conditions determined by those ~~entities~~ contracting subdivisions.

(2) "Educational service center" has the same meaning as in division (A) of section 3311.05 of the Revised Code.

(3) "Contracting subdivision" means a municipal corporation, township, joint recreation district, township park district, county, school district, educational service center, or state institution of higher education.

(4) "School district" means any of the school districts or joint vocational school districts referred to in section 3311.01 of the Revised Code.

(5) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 755.29. The board of park trustees, before entering into any contract for the performance of any work, the cost of which exceeds ~~ten~~ twenty-five thousand dollars, shall cause plans and specifications and forms of bids to be prepared, and when adopted by the board, ~~it~~ shall have them printed for distribution among bidders.

Sec. 755.41. When lands lying within the limits of a municipal corporation have been dedicated to or for the use of the public for parks or park lands, and where such lands have remained unimproved and unused by the public for a period of twenty-one years and there appears to be little or no possibility that such lands will be improved and used by the public, the legislative authority of a municipal corporation in which said lands are located may, by ordinance, declare such parks or park lands vacated upon the petition of a majority of the abutting freeholders. No such parks or park lands shall be vacated unless notice of the pendency and prayer of the petition is given, in a newspaper of general circulation in the municipal corporation in which such lands are situated for three consecutive weeks, or as provided in section 7.16 of the Revised Code, preceding action on such petition. No such lands shall be vacated prior to a public hearing had thereon.

Sec. 755.42. Upon the vacation of parks or park lands as provided by section 755.41 of the Revised Code, the legislative authority of a municipal corporation shall offer such lands for sale at a public auction. No lands shall be sold until the legislative authority of such municipal corporation gives notice of intention to sell such lands. Such notice shall be published as provided in section 7.16 of the Revised Code or once a week for four consecutive weeks in a newspaper of general circulation in a municipal

corporation in which the sale is to be had. The legislative authority of such municipal corporation or the board or officer having supervision or management of such real estate shall sell such lands to the highest and best bidder, provided that any and all bids made hereunder may be rejected.

When such sale is made, the mayor or other officer of a municipal corporation in which sale is had and in which such lands are located, shall enter into a deed, conveying said lands to the purchaser thereof. At or after the time of sale, the auditor of the county shall place the lands sold hereunder on the tax duplicate of the county at a value to be established by ~~him~~ the auditor as in cases where ~~he~~ the auditor re-enters property which has been tax exempt on the taxable list of the county.

The proceeds from the sale of lands sold pursuant to this section shall be placed in the general fund of the treasury of the municipal corporation in which such lands are located and may be disbursed as other general fund moneys.

Sec. 755.43. When real estate ~~which~~ that has been dedicated to or for the use of the public for parks or park lands is vacated by the legislative authority of a municipal corporation pursuant to section 755.41 of the Revised Code, and where reversionary interests have been set up in the event of the non-use of such lands for the dedicated purpose, such reversionary interests shall accelerate and vest in the holders thereof upon such vacation. Thereupon, the auditor of the county shall place the lands on the tax duplicate of the county in the names of such reversionaries as are known to and supplied by the legislative authority of the municipal corporation or the board or officer having supervision or management of such real estate. If the legislative authority of such board or officer is unable to furnish the names of such reversioners, the legislative authority of a municipal corporation shall fix a date on or before which claims to such real estate may be asserted and after which such real estate shall be sold. Notice shall be given of such date and of the sale to be held thereafter, as provided in section 7.16 of the Revised Code or once each week for four consecutive weeks in a newspaper of general circulation in the municipal corporation wherein such lands are located. In the event that no claims to such lands are asserted or found to be valid, the lands shall be sold pursuant to section 755.42 of the Revised Code, and the title of any holders of reversionary interests shall be extinguished.

Nothing contained in sections 755.41, 755.42, or 755.43 of the Revised Code shall be construed as limiting any of the home rule powers conferred upon municipalities by Article XVIII of the Constitution of the State of Ohio.

Sec. 759.47. Land belonging to a public cemetery and used for an approach thereto, and which is, in the judgment of a majority of the officers having control or management thereof, unnecessary for cemetery purposes, may be sold by them at public sale to the highest bidder after advertisement as provided in section 7.16 of the Revised Code or once a week for five consecutive weeks in a newspaper of general circulation within the county in which the cemetery is situated. The board of township trustees or board of cemetery trustees of a municipal corporation making such sale shall execute in the name of the township or municipal corporation owning such cemetery proper conveyances for the land so sold.

Sec. 901.09. (A) The director of agriculture may employ and establish a compensation rate for seasonal produce graders and seasonal gypsy mothtrap tenders, who shall be in the unclassified civil service.

(B) In lieu of employing seasonal gypsy moth tenders as provided in division (A) of this section, the director may contract with qualified individuals or entities to perform gypsy moth trapping.

Sec. 924.52. (A) The Ohio grape industries committee may:

(1) Conduct, and contract with others to conduct, research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere, concerning the marketing and distribution of grapes and grape products, the storage, refrigeration, processing, and transportation of them, and the production and product development of grapes and grape products. The committee shall expend for these activities ~~no less than thirty per cent and~~ no more than seventy per cent of all money it receives from the Ohio grape industries fund created under section 924.54 of the Revised Code.

(2) Provide the wholesale and retail trade with information relative to proper methods of handling and selling grapes and grape products;

(3) Make or contract for market surveys and analyses, undertake any other similar activities that it determines are appropriate for the maintenance and expansion of present markets and the creation of new and larger markets for grapes and grape products, and make, in the name of the committee, contracts to render service in formulating and conducting plans and programs and such other contracts or agreements as the committee considers necessary for the promotion of the sale of grapes and grape products. The committee shall expend for these activities ~~no less than thirty per cent and~~ no more than seventy per cent of all money it receives from the fund.

(4) Publish and distribute to producers and others information relating to the grape and grape product industries;

(5) Propose to the director of agriculture for adoption, rescission, or

amendment, pursuant to Chapter 119. of the Revised Code, rules necessary for the exercise of its powers and the performance of its duties;

(6) Advertise for, post notices seeking, or otherwise solicit applicants to serve in administrative positions in the department of agriculture as employees who support the administrative functions of the committee. Applications shall be submitted to the committee. The committee shall select applicants that it wishes to recommend for employment and shall submit a list of the recommended applicants to the director.

(B) The committee shall:

(1) Promote the sale of grapes and grape products for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for grapes and grape products, and inform the public of the uses and benefits of grapes and grape products;

(2) Perform all acts and exercise all powers incidental to, in connection with, or considered reasonably necessary, proper, or advisable to effectuate the purposes of this section.

Sec. 927.69. To effect the purpose of sections 927.51 to 927.73 of the Revised Code, the director of agriculture or the director's authorized representative may:

(A) Make reasonable inspection of any premises in this state and any property therein or thereon;

(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article that is subject to sections 927.51 to 927.72 of the Revised Code;

(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such an inspection, the director or the director's authorized representative determines that an agricultural product is not infested, the director or the director's authorized representative may issue a certificate, as required by other states, the United States department of agriculture, other federal agencies, or foreign countries, indicating that the product is not infested.

If the director charges fees for any of the certificates, agreements, or inspections specified in this section, the fees shall be as follows:

(1) ~~Phyto-sanitary~~ Phytosanitary certificates, twenty-five dollars for ~~those collectors or dealers that are licensed under section 927.53 of the Revised Code~~ shipments comprised exclusively of nursery stock;

(2) ~~Phyto-sanitary~~ Phytosanitary certificates, one hundred dollars for all

others;

(3) Phytosanitary certificates, twenty-five dollars for replacement of an issued certificate because of a mistake on the certificate or a change made by the shipper if no additional inspection is required;

(4) Compliance agreements, forty dollars;

~~(4)~~(5) Agricultural products and their conveyances inspections, an amount equal to the hourly rate of pay in the highest step in the pay range, including fringe benefits, of a plant pest control specialist multiplied by the number of hours worked by such a specialist in conducting an inspection.

The director may adopt rules under section 927.52 of the Revised Code that define the certificates, agreements, and inspections.

The fees shall be credited to the plant pest program fund created in section 927.54 of the Revised Code.

Sec. 951.11. A person finding an animal at large in violation of section 951.01 or 951.02 of the Revised Code, may, and a law enforcement officer of a county, township, city, or village, on view or information, shall, take and confine such animal, forthwith giving notice thereof to the owner or keeper, if known, and, if not known, by publishing a notice describing such animal ~~at least~~ once in a newspaper of general circulation in the county, township, city, or village wherein the animal was found. If the owner or keeper does not appear and claim the animal and pay the compensation prescribed in section 951.13 of the Revised Code for so taking, advertising, and keeping it within ten days from the date of such notice, such person or the county shall have a lien therefor and the animal may be sold at public auction as provided in section 1311.49 of the Revised Code, and the residue of the proceeds of sale shall be paid and deposited by the treasurer in the general fund of the county.

Sec. 955.011. (A) When an application is made for registration of an assistance dog and the owner can show proof by certificate or other means that the dog is an assistance dog, the owner of the dog shall be exempt from any fee for the registration. Registration for an assistance dog shall be permanent and not subject to annual renewal so long as the dog is an assistance dog. Certificates and tags stamped "Ohio Assistance Dog-Permanent Registration," with registration number, shall be issued upon registration of such a dog. Any certificate and tag stamped "Ohio Guide Dog-Permanent Registration" or "Ohio Hearing Dog-Permanent Registration," with registration number, that was issued for a dog in accordance with this section as it existed prior to July 4, 1984, any certificate and tag stamped "Ohio Handicapped Assistance Dog-Permanent Registration," with registration number, that was issued for a dog in

accordance with this section as it existed on and after July 5, 1984, but prior to November 26, 2004, and any certificate and tag stamped "Ohio Service Dog-Permanent Registration," with registration number, that was issued for a dog in accordance with this section as it existed on and after November 26, 2004, but prior to ~~the effective date of this amendment~~ June 30, 2006, shall remain in effect as valid proof of the registration of the dog on and after November 26, 2004. Duplicate certificates and tags for a dog registered in accordance with this section, upon proper proof of loss, shall be issued and no fee required. Each duplicate certificate and tag that is issued shall be stamped "Ohio Assistance Dog-Permanent Registration."

(B) As used in this section and in sections 955.16 and 955.43 of the Revised Code:

(1) "Mobility impaired person" means any person, regardless of age, who is subject to a physiological defect or deficiency regardless of its cause, nature, or extent that renders the person unable to move about without the aid of crutches, a wheelchair, or any other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function. "Mobility impaired person" includes a person with a neurological or psychological disability that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function. "Mobility impaired person" also includes a person with a seizure disorder and a person who is diagnosed with autism.

(2) "Blind" means either of the following:

(a) Vision twenty/two hundred or less in the better eye with proper correction;

(b) Field defect in the better eye with proper correction that contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than twenty degrees.

(3) "Assistance dog" means a guide dog, hearing dog, or service dog that has been trained by a nonprofit special agency.

(4) "Guide dog" means a dog that has been trained or is in training to assist a blind person.

(5) "Hearing dog" means a dog that has been trained or is in training to assist a deaf or hearing-impaired person.

(6) "Service dog" means a dog that has been trained or is in training to assist a mobility impaired person.

Sec. 955.012. (A) As used in this section:

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(2) "Law enforcement agency" means the state highway patrol, the

office of a county sheriff, the police department of a municipal corporation or township, or a township or joint ~~township~~ police district.

(3) "Law enforcement canine" means a dog regularly utilized by a law enforcement agency for general law enforcement purposes, tracking, or detecting the presence of a controlled substance or explosive.

(B) Instead of obtaining an annual registration under section 955.01 of the Revised Code, a law enforcement agency owning, keeping, or harboring a law enforcement canine may obtain an annual registration for the dog as a law enforcement canine under this section. The application for a law enforcement canine registration shall be submitted to the county auditor of the county in which the central office of the law enforcement agency that owns, keeps, or harbors the dog is located, except that for a dog owned, kept, or harbored by the state highway patrol, the application shall be submitted to the county auditor of the county in which is located the state highway patrol post to which the dog and its handler primarily are assigned. The application shall be submitted on or after the first day of December immediately preceding the beginning of the registration year and before the thirty-first day of January of that year. If the period for filing registration applications under division (A)(1) of section 955.01 of the Revised Code is extended in the county in which a law enforcement canine is to be registered, an application for registration under this section shall be submitted to the county auditor not later than the registration deadline for that year, as so extended.

The application for registration of a law enforcement canine shall state the age, sex, hair color, character of hair, whether short or long, and breed, if known, of the dog, the name and address of the owner of the dog, and, if the law enforcement agency keeping or harboring the dog is different from the owner, the name of that law enforcement agency. For a dog owned, kept, or harbored by the police department of a municipal corporation or township or by a township or joint ~~township~~ police district, the application shall be signed by the chief of the police department or district. For a dog owned, kept, or harbored by the office of a county sheriff, the application shall be signed by the sheriff. For a dog owned, kept, or harbored by the state highway patrol, the application shall be signed by the officer in charge of the post of the state highway patrol to which the dog and its handler primarily are assigned. The application shall include a certification by the chief of the police department or district, sheriff, or officer of the state highway patrol post, as applicable, that the dog described in the application has been properly trained to carry out one or more of the purposes described in division (A)(3) of this section and actually is used for one or more of

those purposes by the law enforcement agency making the application.

No fee is required for issuance of a law enforcement canine registration. Upon proper proof of loss, a duplicate certificate and tag shall be issued for a dog registered under this section, and no fee shall be required.

If an application for registration of a law enforcement canine is not filed under this section on or before the thirty-first day of January of the registration year, or the extended registration deadline established under division (A)(1) of section 955.01 of the Revised Code, as applicable, the law enforcement canine shall be registered under that section, and the registration fee and late registration penalty applicable under divisions (A) and (B) of that section shall accompany the application.

(C) If a law enforcement agency becomes the owner, keeper, or harborer of a law enforcement canine or brings a law enforcement canine into the state after the thirty-first day of January of a registration year or the extended registration deadline established under division (A)(1) of section 955.01 of the Revised Code, as applicable, the law enforcement agency, within thirty days after becoming the owner, keeper, or harborer or bringing the dog into the state, may submit an application for registration of the dog under this section. Upon submission of the application, the law enforcement agency shall be issued such a registration in the manner provided in division (B) of this section. If such an application is not filed within the thirty-day period, the dog shall be registered under section 955.05 of the Revised Code, and the registration fee and late registration penalty applicable under that section or section 955.06 of the Revised Code shall accompany the application.

Sec. 1309.528. ~~(A)~~ All fees collected by the secretary of state for filings under Title XIII or XVII of the Revised Code shall be deposited into the state treasury to the credit of the corporate and uniform commercial code filing fund, which is hereby created. All moneys credited to the fund~~, subject to division (B) of this section,~~ shall be used for the purpose of paying for the operations of the office of the secretary of state and for the purpose of paying for expenses relating to the processing of filings under Title XIII or XVII of the Revised Code.

~~(B) There is hereby created in the state treasury the secretary of state business technology fund. One per cent of the money credited to the corporate and uniform commercial code filing fund created in division (A) of this section shall be transferred to the credit of this fund. All moneys credited to this fund shall be used only for the upkeep, improvement, or replacement of equipment, or for the purpose of training employees in the use of equipment, used to conduct business of the secretary of state's office~~

~~under Title XIII or XVII of the Revised Code.~~

Sec. 1327.46. ~~(A)~~ As used in sections 1327.46 to 1327.61 of the Revised Code:

(A) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any such instruments and devices, except that ~~the term~~ "weights and measures" shall not be construed to include meters for the measurement of electricity, gas, whether natural or manufactured, or water when the same are operated in a public utility system. Such electricity, gas, and water meters, and appliances or accessories associated therewith, are specifically excluded from the purview of the weights and measures laws.

(B) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of this state, and "introduced into intrastate commerce" defines the time and place in which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(C) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(D) "Consumer package" means a package that is customarily produced or distributed for sale through a retail sales agency for consumption by an individual or use by an individual.

(E) "Weight" as used in connection with any commodity means net weight.

(F) "Correct" as used in connection with weights and measures means conformity with all applicable requirements of sections 1327.46 to 1327.61 of the Revised Code and rules adopted pursuant to those sections.

(G) "Primary standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

(H) "Secondary standards" means the physical standards that are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules.

(I) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.

(J) "Net weight" means the weight of a commodity, excluding any materials, substances, or items not considered to be a part of the commodity. Materials, substances, or items not considered to be part of the commodity

include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

(K) "Random weight package" means a package that is one of a lot, shipment, or delivery of packages of the same commodity with no fixed pattern of weights.

(L) "Sold" includes keeping, offering, or exposing for sale.

(M) "Commercially used weighing and measuring device" means a device described in the national institute of standards and technology handbook 44 or its supplements and revisions and any other weighing and measuring device designated by rules adopted under division (C) of section 1327.50 of the Revised Code. "Commercially used weighing and measuring device" includes, but is not limited to, a livestock scale, vehicle scale, railway scale, vehicle tank meter, bulk rack meter, and LPG meter.

(N) "Livestock scale" means a scale equipped with stock racks and gates that is adapted to weighing livestock standing on the scale platform.

(O) "Vehicle scale" means a scale that is adapted to weighing highway, farm, or other large industrial vehicles other than railroad cars.

(P) "Railway scale" means a rail scale that is designed to weigh railroad cars.

(Q) "Vehicle tank meter" means a vehicle mounted device that is designed for the measurement and delivery of liquid products from a tank.

(R) "Bulk rack meter" means a wholesale device, usually mounted on a rack, that is designed for the measurement and delivery of liquid products.

(S) "LPG meter" means a system, including a mechanism or machine of the meter type, that is designed to measure and deliver liquefied petroleum gas in the liquid state by a definite quantity whether installed in a permanent location or mounted on a vehicle.

Sec. 1327.50. The director of agriculture shall:

(A) Maintain traceability of the state standards to those of the national institute of standards and technology;

(B) Enforce sections 1327.46 to 1327.61 of the Revised Code;

(C) Issue reasonable rules for the uniform enforcement of sections 1327.46 to 1327.61 of the Revised Code, which rules shall have the force and effect of law;

(D) Establish standards of weight, measure, or count, reasonable standards of fill, and standards for the voluntary presentation of cost per unit information for any package;

(E) Grant any exemptions from sections 1327.46 to 1327.61 of the Revised Code, or any rules adopted under those sections, when appropriate

to the maintenance of good commercial practices in the state;

(F) Conduct investigations to ensure compliance with sections 1327.46 to 1327.61 of the Revised Code;

(G) Delegate to appropriate personnel any of these responsibilities for the proper administration of the director's office;

(H) Test as often as is prescribed by rule the standards of weight and measure used by any municipal corporation or county within the state, and approve the same when found to be correct;

(I) Inspect and test weights and measures ~~kept, offered, or exposed for sale~~ that are sold;

(J) Inspect and test to ascertain if they are correct, weights and measures commercially used either:

(1) In determining the weight, measure, or count of commodities or things sold~~, or offered or exposed for sale,~~ on the basis of weight, measure, or count;

(2) In computing the basic charge or payment for goods or services rendered on the basis of weight, measure, or count.

(K) Test all weights and measures used in checking the receipt or disbursement of supplies in every institution, for the maintenance of which funds are appropriated by the general assembly;

(L) Approve for use, and may mark, such weights and measures as the director finds to be correct, and shall reject and mark as rejected such weights and measures as the director finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized, and may be condemned and seized if found to be incorrect and not capable of being made correct.

(M) Weigh, measure, or inspect packaged commodities ~~kept, offered, or exposed for sale,~~ that are sold~~,~~ or in the process of delivery to determine whether they contain the amounts represented and whether they are ~~kept, offered, or exposed for sale~~ sold in accordance with sections 1327.46 to 1327.61 of the Revised Code or rules adopted under those sections. In carrying out this section, the director shall employ recognized sampling procedures, such as those designated in the national institute of standards and technology handbook 133 "checking the net contents of packaged goods."

(N) Prescribe by rule the appropriate term or unit of weight or measure to be used, whenever the director determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof, does not facilitate value

comparisons by consumers, or offers an opportunity for consumer confusion;

(O) Allow reasonable variations from the stated quantity of contents, which shall include those caused by unavoidable deviations in good manufacturing practice and by loss or gain of moisture during the course of good distribution practice, only after the commodity has entered intrastate commerce;

(P) Provide for the weights and measures training of inspector personnel and establish minimum training requirements, which shall be met by all inspector personnel, whether county, municipal, or state;

(Q) Prescribe the methods of tests and inspections to be employed in the enforcement of sections 1327.46 to 1327.61 of the Revised Code. The director may prescribe the official test and inspection forms to be used.

(R) Provide by rule for voluntary registration with the director of private weighing and measuring device servicing agencies, and personnel;

(S) In conjunction with the national institute of standards and technology, operate a type evaluation program for certification of weighing and measuring devices as part of the national type evaluation program. The director shall establish a schedule of fees for services rendered by the department of agriculture for type evaluation services. The director may require any weighing or measuring instrument or device to be traceable to a national type evaluation program certificate of conformance prior to use for commercial or law enforcement purposes.

Sec. 1327.501. (A) No person shall operate in this state a commercially used weighing and measuring device that provides the final quantity and final cost of a transaction and for which a fee is established in division (G) of this section unless the operator of the device obtains a permit issued by the director of agriculture or the director's designee.

(B) An application for a permit shall be submitted to the director on a form that the director prescribes and provides. The applicant shall include with the application any information that is specified on the application form as well as the application fee established in this section.

(C) Upon receipt of a completed application and the required fee from an applicant, the director or the director's designee shall issue or deny the permit to operate the commercially used weighing and measuring device that was the subject of the application.

(D) A permit issued under this section expires on the thirtieth day of June of the year following its issuance and may be renewed annually on or before the first day of July of that year upon payment of a permit renewal fee established in this section.

(E) If a permit renewal fee is more than sixty days past due, the director may assess a late penalty in an amount established under this section.

(F) The director shall do both of the following:

(1) Establish procedures and requirements governing the issuance or denial of permits under this section;

(2) Establish late penalties to be assessed for the late payment of a permit renewal fee and fees for the replacement of lost or destroyed permits.

(G) An applicant for a permit to operate under this section shall pay an application fee in the following applicable amount:

(1) Seventy-five dollars for a livestock scale;

(2) Seventy-five dollars for a vehicle scale;

(3) Seventy-five dollars for a railway scale;

(4) Seventy-five dollars for a vehicle tank meter;

(5) Seventy-five dollars for a bulk rack meter;

(6) Seventy-five dollars for a LPG meter.

A person who is issued a permit under this section and who seeks to renew that permit shall pay an annual permit renewal fee. The amount of a permit renewal fee shall be equal to the application fee for that permit established in this division.

(H) All money collected through the payment of fees and the imposition of penalties under this section shall be credited to the metrology and scale certification and device permitting fund created in section 1327.511 of the Revised Code.

Sec. 1327.51. (A) When necessary for the enforcement of sections 1327.46 to 1327.61 of the Revised Code or rules adopted pursuant thereto, the director of agriculture and any weights and measures official acting under the authority of section 1327.52 of the Revised Code may do any of the following:

(1) Enter any commercial premises during normal business hours, except that in the event such premises are not open to the public, ~~he~~ the director or official shall first present ~~his~~ the director's or official's credentials and obtain consent before making entry thereto, unless a search warrant previously has been obtained;

(2) Issue stop-use, hold, and removal orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodity observed to be or believed to be ~~kept, offered, or exposed for sale~~ sold;

(3) Seize for use as evidence any incorrect or unapproved weight or measure or any package or commodity found to be used, retained, ~~offered or exposed for sale,~~ or sold in violation of sections 1327.46 to 1327.61 of the

Revised Code or rules ~~promulgated~~ adopted pursuant thereto.

(B) The director shall afford an opportunity for a hearing in accordance with Chapter 119. of the Revised Code to any owner or operator whose property is seized by the ~~Ohio~~ department of agriculture.

Sec. 1327.511. All money collected under ~~section~~ sections 1327.50 and 1327.501 of the Revised Code from fees and for services rendered by the department of agriculture in operating the type evaluation program, a metrology laboratory program, and the device permitting program shall be deposited in the state treasury to the credit of the metrology and scale certification and device permitting fund, which is hereby created. Money credited to the fund shall be used to pay operating costs incurred by the department in administering the ~~program~~ programs.

Sec. 1327.54. No person shall misrepresent the price of any commodity or service sold~~, offered, exposed,~~ or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person.

Sec. 1327.57. (A) Except as otherwise provided by law, any consumer package or commodity in package form introduced or delivered for introduction into or received in intrastate commerce~~, kept for the purpose of sale, or offered~~ or ~~exposed for sale~~ sold in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration, as may be prescribed by rule adopted by the director of agriculture, of any of the following, as applicable:

(1) The identity of the commodity in the package unless the same can easily be identified through the wrapper or container;

(2) The net quantity of the contents in terms of weight, measure, or count;

(3) In the case of any package ~~kept, or offered or exposed for sale, or~~ sold at any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor.

This section does not apply to beer or intoxicating liquor as defined in section 4301.01 of the Revised Code, or packages thereof, or to malt or brewer's wort, or packages thereof.

(B) Under division (A)(2) of this section, neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of commodity in a package, shall be used.

(C) In addition to the declarations required by division (A) of this section, any package or commodity in package form, if the package is one of a lot containing random weights, measures, or counts of the same

commodity and bears the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

(D) No package or commodity in package form shall be so wrapped, nor shall it be in a container so made, formed, or filled, as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container shall not fall below any reasonable standard of fill that may have been prescribed for the commodity in question by the director.

Sec. 1327.62. Whenever the director of agriculture, or ~~his~~ the director's designee, has cause to believe that any person has violated, or is violating~~,~~ ~~section~~ any provision of sections ~~1327.54 or~~ 1327.46 to 1327.61 of the Revised Code or a rule adopted under them, ~~he~~ the director, or ~~his~~ the director's designee, may conduct a hearing in accordance with Chapter 119. of the Revised Code to determine whether a violation has occurred. If the director or ~~his~~ the director's designee determines that the person has violated or is violating ~~section 1327.54 or~~ any provision of sections 1327.46 to 1327.61 of the Revised Code or a rule adopted under it, ~~he~~ the director or the director's designee may assess a civil penalty against the person. The person is liable for a civil penalty of not more than five hundred dollars for a first violation; for a second violation the person is liable for a civil penalty of not more than two thousand five hundred dollars; for each subsequent violation that occurs within five years after the second violation, the person is liable for a civil penalty of not more than ten thousand dollars.

Any person assessed a civil penalty under this section shall pay the amount prescribed to the department of agriculture. The department shall remit all moneys collected under this section to the treasurer of state for deposit in the general revenue fund.

Sec. 1327.99. Whoever violates section 1327.501 or 1327.54 or division (A), (B), (C), or (D) of section 1327.61 of the Revised Code or a rule adopted under sections 1327.46 to 1327.61 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense; on each subsequent offense within seven years after the first offense, such person is guilty of a misdemeanor of the first degree.

Sec. 1329.04. Registration of a trade name or report of a fictitious name, under sections 1329.01 to 1329.10 of the Revised Code, shall be effective for a term of five years from the date of registration or report. Upon application filed within six months prior to the expiration of such term, on a form furnished by the secretary of state, the registration or report may be renewed at the end of each five-year period for a like term, provided that a general partnership shall renew its registration or report whenever any

partner named on its registration or report ceases to be a partner. Such a renewal shall extend the registration or report for five years, unless further changes occur in the interim. The renewal fee specified in division (S)(3) of section 111.16 of the Revised Code, payable to the secretary of state, shall accompany the application for renewal of the registration or report.

The secretary of state shall notify persons who have registered trade names or reported fictitious names, within the six months next preceding the expiration of the five years from the date of registration or report, of the necessity of renewal by ~~writing~~ ordinary or electronic mail to the last known physical or electronic mail address of such persons.

Sec. 1329.42. A person who uses in this state a name, mark, or device to indicate ownership of articles or supplies may file in the office of the secretary of state, on a form to be prescribed by the secretary of state, a verified statement setting forth, but not limited to, the following information:

(A) The name and business address of the person filing the statement; and, if a corporation, the state of incorporation;

(B) The nature of the business of the applicant;

(C) The type of articles or supplies in connection with which the name, mark, or device is used.

The statement shall include or be accompanied by a specimen evidencing actual use of the name, mark, or device, together with the filing fee specified in division (U)(1) of section 111.16 of the Revised Code. The registration of a name, mark, or device pursuant to this section is effective for a ten-year period beginning on the date of registration. If an application for renewal is filed within six months prior to the expiration of the ten-year period on a form prescribed by the secretary of state, the registration may be renewed at the end of each ten-year period for an additional ten-year period. The renewal fee specified in division (U)(2) of section 111.16 of the Revised Code shall accompany the application for renewal. The secretary of state shall notify a registrant within the six months next preceding the expiration of ten years from the date of registration of the necessity of renewal by ~~writing~~ ordinary or electronic mail to the last known physical or electronic mail address of the registrant.

Sec. 1332.24. (A)(1) In accordance with section 1332.25 of the Revised Code, the director of commerce may issue to any person, or renew, a video service authorization, which authorization confers on the person the authority, subject to sections 1332.21 to 1332.34 of the Revised Code, to provide video service in its video service area; construct and operate a video service network in, along, across, or on public rights-of-way for the

provision of video service; and, when necessary to provide that service, exercise the power of a telephone company under section 4931.04 of the Revised Code. The term of a video service authorization or authorization renewal shall be ten years.

(2) For the purposes of the "Cable Communications Policy Act of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et seq., a video service authorization shall constitute a franchise under that law, and the director shall be the sole franchising authority under that law for video service authorizations in this state.

(3) The director may impose upon and collect an annual assessment on video service providers. All money collected under division (A)(3) of this section shall be deposited in the state treasury to the credit of the ~~division of administration~~ video service authorization fund created under section ~~121.08~~ 1332.25 of the Revised Code. The total amount assessed in a fiscal year shall not exceed the lesser of four hundred fifty thousand dollars or, as shall be determined annually by the director, the department's actual, current fiscal year administrative costs in carrying out its duties under sections 1332.21 to 1332.34 of the Revised Code. The director shall allocate that total amount proportionately among the video service providers to be assessed, using a formula based on subscriber counts as of the thirty-first day of December of the preceding calendar year, which counts shall be submitted to the director not later than the thirty-first day of January of each year, via a notarized statement signed by an authorized officer. Any information submitted by a video service provider to the director for the purpose of determining subscriber counts shall be considered trade secret information, shall not be disclosed except by court order, and shall not constitute a public record under section 149.43 of the Revised Code. On or about the first day of June of each year, the director shall send to each video service provider to be assessed written notice of its proportional amount of the total assessment. The provider shall pay that amount on a quarterly basis not later than forty-five days after the end of each calendar quarter. After the initial assessment, the director annually shall reconcile the amount collected with the total, current amount assessed pursuant to this section, and either shall charge each assessed video service provider its respective proportion of any insufficiency or proportionately credit the provider's next assessment for any excess collected.

(B)(1) The director may investigate alleged violations of or failures to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 1332.27, division (A) of section 1332.28,

division (A) or (B) of section 1332.29, or section 1332.30 or 1332.31 of the Revised Code, or complaints concerning any such violation or failure. Except as provided in this section, the director has no authority to regulate video service in this state, including, but not limited to, the rates, terms, or conditions of that service.

(2) In conducting an investigation under division (B)(1) of this section, the director, by subpoena, may compel witnesses to testify in relation to any matter over which the director has jurisdiction and may require the production of any book, record, or other document pertaining to that matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the director, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify.

(C)(1) If the director finds that a person has violated or failed to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 1332.27, division (A) of section 1332.28, division (A) or (B) of section 1332.29, or section 1332.30 or 1332.31 of the Revised Code, and the person has failed to cure the violation or failure after reasonable, written notice and reasonable time to cure, the director may do any of the following:

(a) Apply to the court of common pleas of any county in this state for an order enjoining the activity or requiring compliance. Such an action shall be commenced not later than three years after the date the alleged violation or failure occurred or was reasonably discovered. Upon a showing by the director that the person has engaged in a violation or failure to comply, the court shall grant an injunction, restraining order, or other appropriate relief.

(b) Enter into a written assurance of voluntary compliance with the person;

(c) Pursuant to an adjudication under Chapter 119. of the Revised Code, assess a civil penalty in an amount determined by the director, including for any failure to comply with an assurance of voluntary compliance under division (C)(1)(b) of this section. The amount shall be not more than one thousand dollars for each day of violation or noncompliance, not to exceed a total of ten thousand dollars, counting all subscriber impacts as a single violation or act of noncompliance. In determining whether a civil penalty is appropriate under division (C)(1)(c) of this section, the director shall

consider all of the following factors:

(i) The seriousness of the noncompliance;

(ii) The good faith efforts of the person to comply;

(iii) The person's history of noncompliance;

(iv) The financial resources of the person;

(v) Any other matter that justice requires.

Civil penalties collected pursuant to division (C)(1)(c) of this section shall be deposited to the credit of the video service enforcement fund in the state treasury, which is hereby created, to be used by the department of commerce in carrying out its duties under this section.

(2) Pursuant to an adjudication under Chapter 119. of the Revised Code, the director may revoke, in whole or in part, the video service authorization of any person that has repeatedly and knowingly violated or failed to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 1332.27, division (A) of section 1332.28, division (A) or (B) of section 1332.29, or section 1332.30 or 1332.31 of the Revised Code and that has failed to cure the violations or noncompliances after reasonable written notice and reasonable time to cure. Such person acts knowingly, regardless of the person's purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

(3) The court shall conduct a de novo review in any appeal from an adjudication under division (C)(1)(c) or (C)(2) of this section.

(D) The public utilities commission has no authority over a video service provider in its offering of video service or a cable operator in its offering of cable or video service, or over any person in its offering of video service pursuant to a competitive video service agreement.

Sec. 1345.52. There is hereby created in the state treasury the title defect recision fund. The fund shall consist of ~~moneys~~ money collected under section 4505.09 of the Revised Code when a motor vehicle dealer is issued a certificate of title, money collected under section 4517.10 of the Revised Code when the registrar of motor vehicles grants the initial application of a person for a license as a motor vehicle dealer or motor vehicle leasing dealer, money paid to the attorney general by motor vehicle dealers under division (A)(2) of section 4505.181 of the Revised Code for deposit into the fund, the proceeds of all sales conducted and collections obtained by the attorney general under division ~~(D)~~(E) of that section, and any recoveries to the fund obtained by the attorney general in actions filed under section

1345.07 of the Revised Code for violations of section 4505.181 of the Revised Code.

~~Moneys~~ Money in the fund shall be used solely for maintaining and administering the fund, providing restitution or other remedies pursuant to division ~~(D)~~(E)(1) or (F) of section 4505.181 of the Revised Code to retail purchasers of motor vehicles who suffer damages due to failure of a motor vehicle dealer or person acting on behalf of such a dealer to comply with that section, and pursuit of deficiencies in the fund caused by the failure of motor vehicle dealers to comply with divisions (A), (B), and (G) of that section. The attorney general may adopt rules governing the maintenance and administration of the fund.

Sec. 1345.73. ~~It~~ (A) Except as provided in division (B) of this section, it shall be presumed that a reasonable number of attempts have been undertaken by the manufacturer, its dealer, or its authorized agent to conform a motor vehicle to any applicable express warranty if, during the period of one year following the date of original delivery or during the first eighteen thousand miles of operation, whichever is earlier, any of the following apply:

~~(A)~~(1) Substantially the same nonconformity has been subject to repair three or more times and either continues to exist or recurs;

~~(B)~~(2) The vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days;

~~(C)~~(3) There have been eight or more attempts to repair any nonconformity;

~~(D)~~(4) There has been at least one attempt to repair a nonconformity that results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven, and the nonconformity either continues to exist or recurs.

(B)(1) Any period of time described in division (A) of this section shall be extended by any period of time during which the vehicle could not be reasonably repaired due to war, invasion, civil unrest, strike, fire, flood, or natural disaster.

(2) If an extension of time is necessitated under division (B)(1) of this section due to the conditions described in that division, the manufacturer shall arrange for the use of a vehicle for the consumer whose vehicle is out of service at no cost to the consumer. If the manufacturer utilizes or contracts with a motor vehicle dealer or other third party to provide the vehicle, the manufacturer shall reimburse the motor vehicle dealer or other third party at a reasonable rate for the use of the vehicle.

Sec. 1501.01. (A) Except where otherwise expressly provided, the

director of natural resources shall formulate and institute all the policies and programs of the department of natural resources. The chief of any division of the department shall not enter into any contract, agreement, or understanding unless it is approved by the director. No appointee or employee of the director, other than the assistant director, may bind the director in a contract except when given general or special authority to do so by the director.

The director may enter into contracts or agreements with any agency of the United States government, any other public agency, or any private entity or organization for the performance of the duties of the department.

(B) The director shall correlate and coordinate the work and activities of the divisions in the department to eliminate unnecessary duplications of effort and overlapping of functions. The chiefs of the various divisions of the department shall meet with the director at least once each month at a time and place designated by the director.

The director may create advisory boards to any of those divisions in conformity with section 121.13 of the Revised Code.

(C) The director may accept and expend gifts, devises, and bequests of money, lands, and other properties on behalf of the department or any division thereof under the terms set forth in section 9.20 of the Revised Code. Any political subdivision of this state may make contributions to the department for the use of the department or any division therein according to the terms of the contribution.

(D) The director may publish and sell or otherwise distribute data, reports, and information.

(E) The director may identify and develop the geographic information system needs for the department, which may include, but not be limited to, all of the following:

(1) Assisting in the training and education of department resource managers, administrators, and other staff in the application and use of geographic information system technology;

(2) Providing technical support to the department in the design, preparation of data, and use of appropriate geographic information system applications in order to help solve resource related problems and to improve the effectiveness and efficiency of department delivered services;

(3) Creating, maintaining, and documenting spatial digital data bases;

(4) Providing information to and otherwise assisting government officials, planners, and resource managers in understanding land use planning and resource management;

(5) Providing continuing assistance to local government officials and

others in natural resource digital data base development and in applying and utilizing the geographic information system for land use planning, current agricultural use value assessment, development reviews, coastal management, and other resource management activities;

(6) Coordinating and administering the remote sensing needs of the department, including the collection and analysis of aerial photography, satellite data, and other data pertaining to land, water, and other resources of the state;

(7) Preparing and publishing maps and digital data relating to the state's land use and land cover over time on a local, regional, and statewide basis;

(8) Locating and distributing hard copy maps, digital data, aerial photography, and other resource data and information to government agencies and the public;

(9) Preparing special studies and executing any other related duties, functions, and responsibilities identified by the director;

(10) Entering into contracts or agreements with any agency of the United States government, any other public agency, or any private agency or organization for the performance of the duties specified in division (E) of this section or for accomplishing cooperative projects within those duties;

(11) Entering into agreements with local government agencies for the purposes of land use inventories, Ohio capability analysis data layers, and other duties related to resource management.

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to permit the department to accept by means of a credit card the payment of fees, charges, and rentals at those facilities described in section 1501.07 of the Revised Code that are operated by the department, for any data, reports, or information sold by the department, and for any other goods or services provided by the department.

(G) Whenever authorized by the governor to do so, the director may appropriate property for the uses and purposes authorized to be performed by the department and on behalf of any division within the department. This authority shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for the appropriation of property by the director of administrative services. This authority to appropriate property is in addition to the authority provided by law for the appropriation of property by divisions of the department. The director of natural resources also may acquire by purchase, lease, or otherwise such real and personal property rights or privileges in the name of the state as are necessary for the purposes of the department or any division therein. The director, with the approval of the governor and the attorney general, may sell, lease, or exchange portions

of lands or property, real or personal, of any division of the department or grant easements or licenses for the use thereof, or enter into agreements for the sale of water from lands and waters under the administration or care of the department or any of its divisions, when the sale, lease, exchange, easement, agreement, or license for use is advantageous to the state, provided that such approval is not required for leases and contracts made under section 1501.07, 1501.09, or 1520.03 or Chapter 1523. of the Revised Code. Water may be sold from a reservoir only to the extent that the reservoir was designed to yield a supply of water for a purpose other than recreation or wildlife, and the water sold is in excess of that needed to maintain the reservoir for purposes of recreation or wildlife.

Money received from such sales, leases, easements, exchanges, agreements, or licenses for use, except revenues required to be set aside or paid into depositories or trust funds for the payment of bonds issued under sections 1501.12 to 1501.15 of the Revised Code, and to maintain the required reserves therefor as provided in the orders authorizing the issuance of such bonds or the trust agreements securing such bonds, revenues required to be paid and credited pursuant to the bond proceeding applicable to obligations issued pursuant to section 154.22, and revenues generated under section 1520.05 of the Revised Code, shall be deposited in the state treasury to the credit of the fund of the division of the department having prior jurisdiction over the lands or property. If no such fund exists, the money shall be credited to the general revenue fund. All such money received from lands or properties administered by the division of wildlife shall be credited to the wildlife fund.

(H) The director shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by the department or its employees prior to paying them to the treasurer of state under section 113.08 of the Revised Code.

(I) The director shall cooperate with the nature conservancy, other nonprofit organizations, and the United States fish and wildlife service in order to secure protection of islands in the Ohio river and the wildlife and wildlife habitat of those islands.

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

Sec. 1501.022. There is hereby created in the state treasury the injection well review fund consisting of moneys transferred to it under section 6111.046 of the Revised Code. Moneys in the fund shall be used by the chiefs of the divisions of mineral resources management, oil and gas

resources management, geological survey, and soil and water resources in the department of natural resources exclusively for the purpose of executing their duties under sections 6111.043 to 6111.047 of the Revised Code.

Sec. 1501.40. The department of natural resources is the designated state agency responsible for the coordination and administration of sections 120 to 136 of the "National and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C.A. 12401 to 12456, as amended. With the assistance of the Ohio ~~community~~ commission on service ~~council~~ and volunteerism created in section 121.40 of the Revised Code, the director of natural resources shall coordinate with other state agencies to apply for funding under the act when appropriate and shall administer any federal funds the state receives under sections 120 to 136 of the act.

Sec. 1503.05. (A) The chief of the division of forestry may sell timber and other forest products from the state forest and state forest nurseries whenever the chief considers such a sale desirable and, with the approval of the attorney general and the director of natural resources, may sell portions of the state forest lands when such a sale is advantageous to the state.

(B) Except as otherwise provided in this section, a timber sale agreement shall not be executed unless the person or governmental entity bidding on the sale executes and files a surety bond conditioned on completion of the timber sale in accordance with the terms of the agreement in an amount equal to twenty-five per cent of the highest value cutting section. All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the attorney in fact thereof, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

In lieu of a bond, the bidder may deposit any of the following:

(1) Cash in an amount equal to the amount of the bond;

(2) United States government securities having a par value equal to or greater than the amount of the bond;

(3) Negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state having a par value equal to or greater than the amount of the bond.

The cash or securities shall be deposited on the same terms as bonds. If one or more certificates of deposit are deposited in lieu of a bond, the chief shall require the bank that issued any of the certificates to pledge securities

of the aggregate market value equal to the amount of the certificate or certificates that is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section 135.18 of the Revised Code. The securities shall be security for the repayment of the certificate or certificates of deposit.

Immediately upon a deposit of cash, securities, certificates of deposit, or letters of credit, the chief shall deliver them to the treasurer of state, who shall hold them in trust for the purposes for which they have been deposited. The treasurer of state is responsible for the safekeeping of the deposits. A bidder making a deposit of cash, securities, certificates of deposit, or letters of credit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any portion of the cash, securities, certificates of deposit, or letters of credit upon depositing with the treasurer of state cash, other United States government securities, or other negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state, equal in par value to the par value of the cash, securities, certificates of deposit, or letters of credit withdrawn.

A bidder may demand and receive from the treasurer of state all interest or other income from any such securities or certificates as it becomes due. If securities so deposited with and in the possession of the treasurer of state mature or are called for payment by their issuer, the treasurer of state, at the request of the bidder who deposited them, shall convert the proceeds of the redemption or payment of the securities into other United States government securities, negotiable certificates of deposit, or cash as the bidder designates.

When the chief finds that a person or governmental agency has failed to comply with the conditions of the person's or governmental agency's bond, the chief shall make a finding of that fact and declare the bond, cash, securities, certificates, or letters of credit forfeited. The chief thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the bond, cash, securities, certificates, or letters of credit.

In lieu of total forfeiture, the surety, at its option, may cause the timber sale to be completed or pay to the treasurer of state the cost thereof.

All moneys collected as a result of forfeitures of bonds, cash, securities, certificates, and letters of credit under this section shall be credited to the state forest fund created in this section.

(C) The chief may grant easements and leases on portions of the state forest lands and state forest nurseries under terms that are advantageous to the state, and the chief may grant mineral rights on a royalty basis on those

lands and nurseries, with the approval of the attorney general and the director.

(D) All moneys received from the sale of state forest lands, or in payment for easements or leases on or as rents from those lands or from state forest nurseries, shall be paid into the state treasury to the credit of the state forest fund, which is hereby created. In addition, all moneys received from federal grants, payments, and reimbursements, from the sale of reforestation tree stock, from the sale of forest products, other than standing timber, and from the sale of minerals taken from the state forest lands and state forest nurseries, together with royalties from mineral rights, shall be paid into the state treasury to the credit of the state forest fund. Any other revenues derived from the operation of the state forests and related facilities or equipment also shall be paid into the state treasury to the credit of the state forest fund, as shall contributions received for the issuance of Smokey Bear license plates under section 4503.574 of the Revised Code and any other moneys required by law to be deposited in the fund.

The state forest fund shall not be expended for any purpose other than the administration, operation, maintenance, development, or utilization of the state forests, forest nurseries, and forest programs, for facilities or equipment incident to them, or for the further purchase of lands for state forest or forest nursery purposes and, in the case of contributions received pursuant to section 4503.574 of the Revised Code, for fire prevention purposes.

All moneys received from the sale of standing timber taken from state forest lands and state forest nurseries shall be deposited into the state treasury to the credit of the forestry holding account redistribution fund, which is hereby created. The moneys shall remain in the fund until they are redistributed in accordance with this division.

The redistribution shall occur at least once each year. To begin the redistribution, the chief first shall determine the amount of all standing timber sold from state forest lands and state forest nurseries, together with the amount of the total sale proceeds, in each county, in each township within the county, and in each school district within the county. The chief next shall determine the amount of the direct costs that the division of forestry incurred in association with the sale of that standing timber. The amount of the direct costs shall be subtracted from the amount of the total sale proceeds and shall be transferred from the forestry holding account redistribution fund to the state forest fund.

The remaining amount of the total sale proceeds equals the net value of the standing timber that was sold. The chief shall determine the net value of

standing timber sold from state forest lands and state forest nurseries in each county, in each township within the county, and in each school district within the county and shall send to each county treasurer a copy of the determination at the time that moneys are paid to the county treasurer under this division.

~~Twenty-five~~ Thirty-five per cent of the net value of standing timber sold from state forest lands and state forest nurseries located in a county shall be transferred from the forestry holding account redistribution fund to the state forest fund. ~~Ten per cent of that net value shall be transferred from the forestry holding account redistribution fund to the general revenue fund.~~ The remaining sixty-five per cent of the net value shall be transferred from the forestry holding account redistribution fund and paid to the county treasurer for the use of the general fund of that county.

The county auditor shall do all of the following:

(1) Retain for the use of the general fund of the county one-fourth of the amount received by the county under division (D) of this section;

(2) Pay into the general fund of any township located within the county and containing such lands and nurseries one-fourth of the amount received by the county from standing timber sold from lands and nurseries located in the township;

(3) Request the board of education of any school district located within the county and containing such lands and nurseries to identify which fund or funds of the district should receive the moneys available to the school district under division (D)(3) of this section. After receiving notice from the board, the county auditor shall pay into the fund or funds so identified one-half of the amount received by the county from standing timber sold from lands and nurseries located in the school district, distributed proportionately as identified by the board.

The division of forestry shall not supply logs, lumber, or other forest products or minerals, taken from the state forest lands or state forest nurseries, to any other agency or subdivision of the state unless payment is made therefor in the amount of the actual prevailing value thereof. This section is applicable to the moneys so received.

(E) The chief may enter into a personal service contract for consulting services to assist the chief with the sale of timber or other forest products and related inventory. Compensation for consulting services shall be paid from the proceeds of the sale of timber or other forest products and related inventory that are the subject of the personal service contract.

Sec. 1503.141. There is hereby created in the state treasury the wildfire suppression fund. The fund shall consist of any federal moneys received for

the purposes of this section and donations, gifts, bequests, and other moneys received for those purposes. In addition, the chief of the division of forestry annually may request that the director of budget and management transfer, and, if so requested, the director shall transfer, not more than one hundred thousand dollars to the wildfire suppression fund from the ~~general revenue~~ state forest fund created in section 1503.05 of the Revised Code. The amount transferred shall consist only of money deposited into the ~~general revenue~~ state forest fund from the sale of standing timber taken from state forest lands as set forth in that section ~~1503.05 of the Revised Code~~.

The chief shall use moneys in the wildfire suppression fund to reimburse firefighting agencies and private fire companies for their costs incurred in the suppression of wildfires. The chief shall provide such reimbursement pursuant to agreements and contracts entered into under section 1503.14 of the Revised Code and in accordance with the following schedule:

(A) For wildfire suppression on private land, an initial seventy-dollar payment to the firefighting agency or private fire company;

(B) For wildfire suppression on land under the administration or care of the department of natural resources or on land that is part of any national forest administered by the United States department of agriculture forest service, an initial one-hundred-dollar payment to the firefighting agency or private fire company;

(C) For any wildfire suppression on land specified in division (A) or (B) of this section lasting more than two hours, an additional payment of thirty-five dollars per hour.

If at any time moneys in the fund exceed two hundred thousand dollars, the chief shall disburse the moneys that exceed that amount to the firefighting agencies and private fire companies in accordance with rules that the chief shall adopt in accordance with Chapter 119. of the Revised Code. The rules shall establish requirements and procedures that are similar in purpose and operation to the federal rural community fire protection program established under the "Cooperative Forestry Assistance Act of 1978," 92 Stat. 365, 16 U.S.C.A. 2101, as amended.

As used in this section, "firefighting agency" and "private fire company" have the same meanings as in section 9.60 of the Revised Code.

Sec. 1505.01. The division of geological survey:

(A) Shall collect, study, and interpret all available information pertaining to the geomorphology, stratigraphy, paleontology, mineralogy, and geologic structure of the state and shall publish reports on the same;

(B) Shall collect, study, and interpret all available data pertaining to the

origin, distribution, extent, use, and valuation of mineralogical and geological raw materials and natural resources such as: clays, coals, building stones, gypsum, salt, limestones ~~and~~, dolomite, aggregates, sand, gravel, shales ~~for cement and other uses, petroleum~~, oil, natural gas, brines, ~~saline deposits,~~ molding sands, and other natural substances of use and value, excluding only those pertaining to water usable as such for agricultural, industrial, commercial, and domestic purposes, but not excluding other rock fluids such as natural and artificial brines and oil-well fluids;

(C) Shall make special studies and reports of resources of geological nature within the state ~~which~~ that in its discretion are of current or potential economic, environmental, or educational significance or of significance to the health, welfare, and safety of the public;

(D) May examine the technological processes by which mining, quarrying, or other extracting processes may be improved, or by which materials now uneconomical to exploit may be extracted and used commercially for the public welfare;

(E) Shall make, store, catalog, and have available ~~for distribution~~ in perpetuity data, maps, diagrams, records, rock cores, samples, profiles, and geologic sections portraying the geological characteristics and topography of the state, both of general nature and of specific localities;

(F) May~~, or at the request of other agencies of the state government shall,~~ advise ~~and~~, consult, or collaborate with representatives of ~~those~~ agencies of the state, other state governments, or the United States government on problems or issues of a geological nature;

(G) Shall advise, consult, or collaborate with representatives of agencies of the state, other state governments, or the United States government on problems or issues of a geological nature when requested by such an agency or government;

(H) May create custom maps, custom data sets, or other custom products for government agencies, colleges and universities, and persons;

(I) May provide information on the geological nature of the state to government agencies, colleges and universities, and persons.

Sec. 1505.04. (A) Any person, firm, government agency, or corporation who, for hire, or by its own forces for economic use or exploration, drills, bores, or digs within the state a well for the production or extraction of any gas or liquid, excluding only water to be used as such, but including natural or artificial brines and oil-filled waters, or who drills ~~wells~~, bores, or digs within the state a well to explore geological formations, shall keep a careful and accurate log of ~~such~~ the activity and report the same together with the results of any rock or fluid analyses or of any production ~~test results~~ or

pressure tests in such form as is designated by the division of geological survey to the chief of the division of geological survey.

(B) The division may file such well logs and establish and observe such regulations regarding their availability and use as will meet the legitimate requirements of the owner or lessee of the well. Personnel of the division ~~of~~ may examine any such well during its construction to confirm the accuracy of the log and to collect samples of the cores, chips, fluids, gases, or sludge.

(C) No person, firm, agency, or corporation shall fail to keep an accurate log or file a report as required in division (A) of this section.

Sec. 1505.05. (A) Notwithstanding any other provision of the Revised Code to the contrary, the chief of the division of geological survey shall adopt rules under Chapter 119. of the Revised Code that establish a fee schedule for requests for manipulated, interpreted, or analyzed data from the geologic records, data, maps, rock cores, and samples archived by the division. The fee schedule may include the cost of specialized storage requirements, programming, labor, research, retrieval, data manipulation, and copying and mailing of records requested from the archives. In addition, the rules shall establish procedures for the levying and collection of the fees in the fee schedule.

(B) For purposes of divisions (H) and (I) of section 1505.01 of the Revised Code, the chief shall adopt rules under Chapter 119. of the Revised Code that establish a fee schedule to be paid for creating custom maps, custom data sets, and other custom products and for providing geological information of the state. The fee schedule may include the costs of labor, research, analysis, equipment, and technology. In addition, the rules shall establish procedures for the levying and collection of the fees in the fee schedule.

(C) The chief may reduce or waive a fee in a fee schedule established in rules adopted under division (A) or (B) of this section for a student that is enrolled in an institution of higher education.

(D) Any revision to a fee schedule established in rules adopted under division (A) or (B) of this section shall be established in rules adopted under Chapter 119. of the Revised Code. A revision to a fee schedule is subject to review by the Ohio geology advisory council created in section 1505.11 of the Revised Code and to approval by the director of natural resources.

(E) All fees collected under this section shall be credited to the geological mapping fund created in section 1505.09 of the Revised Code.

Sec. 1505.06. The chief of the division of geological survey in the discharge of ~~his~~ official duties under ~~section~~ sections 1505.01 to 1505.08~~, inclusive,~~ of the Revised Code~~,~~ may call to ~~his~~ the chief's assistance,

temporarily, any engineers or other employees in any state department, or in the Ohio state university, or other educational institutions financed wholly or in part by the state, for the purpose of making studies, surveys, maps, and plans for ~~erosion~~ economic development or geologic hazards projects.

Such engineers and employees shall not receive any additional compensation over that which they receive from the departments by which they are employed, but they shall be reimbursed for their actual necessary expenses incurred while working under the direction of the chief on ~~erosion~~ the projects.

Sec. 1505.09. There is hereby created in the state treasury the geological mapping fund, to be administered by the chief of the division of geological survey. The fund shall be used ~~exclusively~~ for the purposes of performing the necessary field, laboratory, and administrative tasks to map and make public reports on the geology, geologic hazards, and energy and mineral resources ~~of each county~~ of the state. The source of moneys for the fund shall include, but not be limited to, the mineral severance tax as specified in section 5749.02 of the Revised Code and the fees collected under rules adopted under section 1505.05 of the Revised Code. The chief may seek federal or other moneys in addition to the mineral severance tax and fees to carry out the purposes of this section. If the chief receives federal moneys for the purposes of this section, ~~he~~ the chief shall deposit those moneys into the state treasury to the credit of a fund ~~which shall be~~ created ~~at that time~~ by the controlling board to carry out those purposes. Other moneys received by the chief for the purposes of this section in addition to the mineral severance tax, fees, and federal moneys shall be credited to the geological mapping fund.

Sec. 1505.11. There is hereby created in the department of natural resources the Ohio geology advisory council consisting of seven members to be appointed by the governor with the advice and consent of the senate. No more than four of the members shall be of the same political party. Members shall be persons who have a demonstrated interest in ~~Ohio~~ the geology and mineral resources of this state and whose expertise reflects the various responsibilities of the division of geological survey. The council shall include at least one representative from each of the following: the oil and gas industry, the industrial minerals industry, the coal industry, hydrogeology interests, environmental geology interests, and an institution of higher education in this state. The chief of the division of geological survey may participate in the deliberations of the council, but shall not vote.

Within ninety days after ~~the effective date of this section~~ May 3, 1990, the governor shall make initial appointments to the council. Of the initial

appointments, three shall be for a term ending one year after ~~the effective date of this section~~ May 3, 1990, three shall be for a term ending two years after ~~the effective date of this section~~ May 3, 1990, and one shall be for a term ending three years after ~~the effective date of this section~~ May 3, 1990. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Members may be reappointed. The governor may remove any member at any time for inefficiency, neglect of duty, or malfeasance in office. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy prior to the expiration date of the term for which ~~his~~ the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

Serving as an appointed member on the council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

Members shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties from moneys appropriated to the division.

The council annually shall select from its members a ~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson. The council shall hold at least one meeting each calendar quarter and shall keep a record of its proceedings, which shall be open to public inspection. Special meetings may be called by the ~~chairman~~ chairperson and shall be called upon the written request of two or more members. A majority of the members constitutes a quorum. The division shall furnish clerical, technical, legal, and other services required by the council in the performance of its duties.

The council shall do all of the following:

(A) Advise the chief ~~of the division of geological survey~~ in carrying out the duties of the division under this chapter;

(B) Recommend policy and legislation with respect to geology, resource analysis, and management that will promote the economic and industrial development of the state while minimizing threats to the natural environment of the state;

(C) Review and make recommendations on the development of plans and programs for long-term, comprehensive geologic mapping and analysis throughout the state;

(D) Recommend ways to enhance cooperation among governmental agencies having an interest in ~~Ohio~~ the geology of the state to encourage wise use and management of the geology and mineral resources of the state. To this end, the council shall request nonvoting representation from appropriate governmental agencies.

(E) Review and make recommendations with respect to changes in the fee schedules established in rules adopted under section 1505.05 of the Revised Code.

Sec. 1505.99. (A) Whoever violates section 1505.07 of the Revised Code shall be fined not less than one thousand nor more than two thousand dollars on a first offense; on each subsequent offense, the person shall be fined not less than two thousand nor more than five thousand dollars.

(B) Whoever violates section 1505.04 or 1505.10 of the Revised Code shall be fined not less than one hundred nor more than one thousand dollars on a first offense; on each subsequent offense, the person shall be fined not less than one thousand nor more than two thousand dollars. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under this division shall be paid into the geological mapping fund created in section 1505.09 of the Revised Code.

Sec. 1506.21. (A) There is hereby created the Ohio Lake Erie commission, consisting of the directors of environmental protection, natural resources, health, agriculture, and transportation, or their designees, and five additional members appointed by the governor who shall serve at the pleasure of the governor. The members of the commission annually shall designate a chairperson, who shall preside at the meetings of the commission, and a secretary.

The commission shall hold at least one meeting every three months. The secretary of the commission shall keep a record of its proceedings. Special meetings shall be held at the call of the chairperson or upon the request of four members of the commission. All meetings and records of the commission shall be open to the public. ~~Three~~ Six members of the commission constitute a quorum. The agencies represented on the commission shall furnish clerical, technical, and other services required by the commission in the performance of its duties.

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

(1) Ensure the coordination of state and local policies and programs pertaining to Lake Erie water quality, toxic pollution control, and resource protection;

(2) Review, and make recommendations concerning, the development

and implementation of policies, programs, and issues for long-term, comprehensive protection of Lake Erie water resources and water quality that are consistent with the great lakes water quality agreement and the great lakes toxic substances control agreement;

(3) Recommend policies and programs to modify the coastal management program of this state;

(4) At each regular meeting, consider matters relating to the implementation of sections 1506.22 and 1506.23 of the Revised Code;

(5) Publish and submit the Lake Erie protection agenda in accordance with division (C) of section 1506.23 of the Revised Code;

(6) Ensure the implementation of a basinwide approach to Lake Erie issues;

(7) Increase representation of the interests of this state in state, regional, national, and international forums pertaining to the resources and water quality of Lake Erie and the Lake Erie basin;

(8) Promote education concerning the wise management of the resources of Lake Erie;

(9) Establish public advisory councils as considered necessary to assist in programs established under this section and sections 1506.22 and 1506.23 of the Revised Code. Members of the public advisory councils shall represent a broad cross section of interests, shall have experience or expertise in the subject for which the advisory council was established, and shall serve without compensation.

(10) Prepare and submit the report required under division (D) of section 1506.23 of the Revised Code.

(C) Each state agency, upon the request of the commission, shall cooperate in the implementation of this section and sections 1506.22 and 1506.23 of the Revised Code.

Sec. 1509.01. As used in this chapter:

(A) "Well" means any borehole, whether drilled or bored, within the state for production, extraction, or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.

(B) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.

(C) "Gas" means all natural gas and all other fluid hydrocarbons that are not oil, including condensate.

(D) "Condensate" means liquid hydrocarbons that were originally in the

gaseous phase in the reservoir.

(E) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both, but does not include a gas storage reservoir. Each zone of a geological structure that is completely separated from any other zone in the same structure may contain a separate pool.

(F) "Field" means the general area underlaid by one or more pools.

(G) "Drilling unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.

(H) "Waste" includes all of the following:

(1) Physical waste, as that term generally is understood in the oil and gas industry;

(2) Inefficient, excessive, or improper use, or the unnecessary dissipation, of reservoir energy;

(3) Inefficient storing of oil or gas;

(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.

(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.

(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.

(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter. "Owner" does not include a person who obtains a lease of the mineral rights for oil and gas on a parcel of land if the person does not attempt to produce or produce oil or gas from a well or obtain a permit under this chapter for a well or if the entire interest of a well is transferred to the person in accordance with division (B) of section 1509.31 of the Revised Code.

(L) "Royalty interest" means the fee holder's share in the production

from a well.

(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.

(N) "Prepared clay" means a clay that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through saltwater in the well in which it is to be used, except as otherwise approved by the chief of the division of ~~mineral~~ oil and gas resources management.

(O) "Rock sediment" means the combined cutting and residue from drilling sedimentary rocks and formation.

(P) "Excavations and workings," "mine," and "pillar" have the same meanings as in section 1561.01 of the Revised Code.

(Q) "Coal bearing township" means a township designated as such by the chief of the division of mineral resources management under section 1561.06 of the Revised Code.

(R) "Gas storage reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata into which gas is or may be injected for the purpose of storing it therein and removing it therefrom and includes a gas storage reservoir as defined in section 1571.01 of the Revised Code.

(S) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and regulations adopted under those acts.

(T) "Person" includes any political subdivision, department, agency, or instrumentality of this state; the United States and any department, agency, or instrumentality thereof; and any legal entity defined as a person under section 1.59 of the Revised Code.

(U) "Brine" means all saline geological formation water resulting from, obtained from, or produced in connection with exploration, drilling, well stimulation, production of oil or gas, or plugging of a well.

(V) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, springs, irrigation systems, drainage systems, and other bodies of water, surface or underground, natural or artificial, that are situated wholly or partially within this state or within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(W) "Exempt Mississippian well" means a well that meets all of the following criteria:

(1) Was drilled and completed before January 1, 1980;

(2) Is located in an unglaciated part of the state;

(3) Was completed in a reservoir no deeper than the Mississippian Big Injun sandstone in areas underlain by Pennsylvanian or Permian stratigraphy, or the Mississippian Berea sandstone in areas directly underlain by Permian stratigraphy;

(4) Is used primarily to provide oil or gas for domestic use.

(X) "Exempt domestic well" means a well that meets all of the following criteria:

(1) Is owned by the owner of the surface estate of the tract on which the well is located;

(2) Is used primarily to provide gas for the owner's domestic use;

(3) Is located more than two hundred feet horizontal distance from any inhabited private dwelling house other than an inhabited private dwelling house located on the tract on which the well is located;

(4) Is located more than two hundred feet horizontal distance from any public building that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic, or occupancy by the public.

(Y) "Urbanized area" means an area where a well or production facilities of a well are located within a municipal corporation or within a township that has an unincorporated population of more than five thousand in the most recent federal decennial census prior to the issuance of the permit for the well or production facilities.

(Z) "Well stimulation" or "stimulation of a well" means the process of enhancing well productivity, including hydraulic fracturing operations.

(AA) "Production operation" means all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are regulated under this chapter, including operations and activities associated with site preparation, site construction, access ~~roads~~ road construction, well drilling, well completion, well stimulation, well ~~operation~~ site activities, ~~site~~ reclamation, and ~~well~~ plugging. "Production operation" also includes all of the following:

(1) The piping ~~and~~, equipment, and facilities used for the production and preparation of hydrocarbon gas or liquids for transportation or delivery;

(2) The processes of extraction and recovery, lifting, stabilization, treatment, separation, production processing, storage, waste disposal, and measurement of hydrocarbon gas and liquids, including related equipment and facilities;

(3) The processes and related equipment and facilities associated with production compression, gas lift, gas injection, ~~and~~ fuel gas supply, well drilling, well stimulation, and well completion activities, including dikes, pits, and earthen and other impoundments used for the temporary storage of fluids and waste substances associated with well drilling, well stimulation, and well completion activities.

(BB) "Annular overpressurization" means the accumulation of fluids within an annulus with sufficient pressure to allow migration of annular fluids into underground sources of drinking water.

(CC) "Idle and orphaned well" means a well for which a bond has been forfeited or an abandoned well for which no money is available to plug the well in accordance with this chapter and rules adopted under it.

(DD) "Temporarily inactive well" means a well that has been granted temporary inactive status under section 1509.062 of the Revised Code.

(EE) "Material and substantial violation" means any of the following:

(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter;

(2) Failure to obtain or maintain insurance coverage that is required under this chapter;

(3) Failure to obtain or maintain a surety bond that is required under this chapter;

(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief of the division of oil and gas resources management has approved another option concerning the abandoned well or idle and orphaned well;

(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;

(6) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code;

(7) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code.

(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code.

Sec. 1509.02. There is hereby created in the department of natural resources the division of ~~mineral~~ oil and gas resources management, which shall be administered by the chief of the division of ~~mineral~~ oil and gas resources management. The division has sole and exclusive authority to regulate the permitting, location, and spacing of oil and gas wells and production operations within the state, excepting only those activities

regulated under federal laws for which oversight has been delegated to the environmental protection agency and activities regulated under sections 6111.02 to 6111.029 of the Revised Code. The regulation of oil and gas activities is a matter of general statewide interest that requires uniform statewide regulation, and this chapter and rules adopted under it constitute a comprehensive plan with respect to all aspects of the locating, drilling, well stimulation, completing, and operating of oil and gas wells within this state, including site construction and restoration, permitting related to those activities, and the disposal of wastes from those wells. Nothing in this section affects the authority granted to the director of transportation and local authorities in section 723.01 or 4513.34 of the Revised Code, provided that the authority granted under those sections shall not be exercised in a manner that discriminates against, unfairly impedes, or obstructs oil and gas activities and operations regulated under this chapter.

The chief shall not hold any other public office, nor shall the chief be engaged in any occupation or business that might interfere with or be inconsistent with the duties as chief.

All moneys collected by the chief pursuant to sections 1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.221, 1509.222, 1509.34, and 1509.50 of the Revised Code, ninety per cent of moneys received by the treasurer of state from the tax levied in divisions (A)(5) and (6) of section 5749.02 of the Revised Code, all civil penalties paid under section 1509.33 of the Revised Code, and, notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under divisions (A) and (B) of section 1509.99 of the Revised Code and fines imposed under divisions (C) and (D) of section 1509.99 of the Revised Code for all violations prosecuted by the attorney general and for violations prosecuted by prosecuting attorneys that do not involve the transportation of brine by vehicle shall be deposited into the state treasury to the credit of the oil and gas well fund, which is hereby created. Fines imposed under divisions (C) and (D) of section 1509.99 of the Revised Code for violations prosecuted by prosecuting attorneys that involve the transportation of brine by vehicle and penalties associated with a compliance agreement entered into pursuant to this chapter shall be paid to the county treasury of the county where the violation occurred.

The fund shall be used solely and exclusively for the purposes enumerated in division (B) of section 1509.071 of the Revised Code, for the expenses of the division associated with the administration of this chapter and Chapter 1571. of the Revised Code and rules adopted under them, and

for expenses that are critical and necessary for the protection of human health and safety and the environment related to oil and gas production in this state. The expenses of the division in excess of the moneys available in the fund shall be paid from general revenue fund appropriations to the department.

Sec. 1509.021. On and after ~~the effective date of this section~~ June 30, 2010, all of the following apply:

(A) The surface location of a new well or a tank battery of a well shall not be within one hundred fifty feet of an occupied dwelling that is located in an urbanized area unless the owner of the land on which the occupied dwelling is located consents in writing to the surface location of the well or tank battery of a well less than one hundred fifty feet from the occupied dwelling and the chief of the division of ~~mineral~~ oil and gas resources management approves the written consent of that owner. However, the chief shall not approve the written consent of such an owner when the surface location of a new well or a tank battery of a well will be within one hundred feet of an occupied dwelling that is located in an urbanized area.

(B) The surface location of a new well shall not be within one hundred fifty feet from the property line of a parcel of land that is not in the drilling unit of the well if the parcel of land is located in an urbanized area and directional drilling will be used to drill the new well unless the owner of the parcel of land consents in writing to the surface location of the well less than one hundred fifty feet from the property line of the parcel of land and the chief approves the written consent of that owner. However, the chief shall not approve the written consent of such an owner when the surface location of a new well will be less than one hundred feet from the property line of the owner's parcel of land that is not in the drilling unit of the well if the parcel of land is located in an urbanized area and directional drilling will be used.

(C) The surface location of a new well shall not be within two hundred feet of an occupied dwelling that is located in an urbanized area and that is located on land that has become part of the drilling unit of the well pursuant to a mandatory pooling order issued under section 1509.27 of the Revised Code unless the owner of the land on which the occupied dwelling is located consents in writing to the surface location of the well at a distance that is less than two hundred feet from the occupied dwelling. However, if the owner of the land on which the occupied dwelling is located provides such written consent, the surface location of the well shall not be within one hundred feet of the occupied dwelling.

If an applicant cannot identify an owner of land or if an owner of land is not responsive to attempts by the applicant to contact the owner, the

applicant may submit an affidavit to the chief attesting to such an unidentifiable owner or to such unresponsiveness of an owner and attempts by the applicant to contact the owner and include a written request to reduce the distance of the location of the well from the occupied dwelling to less than two hundred feet. If the chief receives such an affidavit and written request, the chief shall reduce the distance of the location of the well from the occupied dwelling to a distance of not less than one hundred feet.

(D) Except as otherwise provided in division (L) of this section, the surface location of a new well shall not be within one hundred fifty feet of the property line of a parcel of land that is located in an urbanized area and that has become part of the drilling unit of the well pursuant to a mandatory pooling order issued under section 1509.27 of the Revised Code unless the owner of the land consents in writing to the surface location of the well at a distance that is less than one hundred fifty feet from the owner's property line. However, if the owner of the land provides such written consent, the surface location of the well shall not be within seventy-five feet of the property line of the owner's parcel of land.

If an applicant cannot identify an owner of land or if an owner of land is not responsive to attempts by the applicant to contact the owner, the applicant may submit an affidavit to the chief attesting to such an unidentifiable owner or to such unresponsiveness of an owner and attempts by the applicant to contact the owner and include a written request to reduce the distance of the location of the well from the property line of the owner's parcel of land to less than one hundred fifty feet. If the chief receives such an affidavit and written request, the chief shall reduce the distance of the location of the well from the property line to a distance of not less than seventy-five feet.

(E) The surface location of a new tank battery of a well shall not be within one hundred fifty feet of an occupied dwelling that is located in an urbanized area and that is located on land that has become part of the drilling unit of the well pursuant to a mandatory pooling order issued under section 1509.27 of the Revised Code unless the owner of the land on which the occupied dwelling is located consents in writing to the location of the tank battery at a distance that is less than one hundred fifty feet from the occupied dwelling. However, if the owner of the land on which the occupied dwelling is located provides such written consent, the location of the tank battery shall not be within one hundred feet of the occupied dwelling.

If an applicant cannot identify an owner of land or if an owner of land is not responsive to attempts by the applicant to contact the owner, the applicant may submit an affidavit to the chief attesting to such an

unidentifiable owner or to such unresponsiveness of an owner and attempts by the applicant to contact the owner and include a written request to reduce the distance of the location of the tank battery from the occupied dwelling to less than one hundred fifty feet. If the chief receives such an affidavit and written request, the chief shall reduce the distance of the location of the tank battery from the occupied dwelling to a distance of not less than one hundred feet.

(F) Except as otherwise provided in division (L) of this section, the location of a new tank battery of a well shall not be within seventy-five feet of the property line of a parcel of land that is located in an urbanized area and that has become part of the drilling unit of the well pursuant to a mandatory pooling order issued under section 1509.27 of the Revised Code unless the owner of the land consents in writing to the location of the tank battery at a distance that is less than seventy-five feet from the owner's property line. However, if the owner of the land provides such written consent, the location of the tank battery shall not be within the property line of the owner's parcel of land.

If an applicant cannot identify an owner of land or if an owner of land is not responsive to attempts by the applicant to contact the owner, the applicant may submit an affidavit to the chief attesting to such an unidentifiable owner or to such unresponsiveness of an owner and attempts by the applicant to contact the owner and include a written request to reduce the distance of the location of the tank battery from the property line of the owner's parcel of land to less than seventy-five feet. If the chief receives such an affidavit and written request, the chief shall reduce the distance of the location of the tank battery from the property line, provided that the tank battery shall not be within the property line of the owner's parcel of land.

(G) For purposes of divisions (C) to (F) of this section, written consent of an owner of land may be provided by any of the following:

(1) A copy of an original lease agreement as recorded in the office of the county recorder of the county in which the occupied dwelling or property is located that expressly provides for the reduction of the distance of the location of a well or a tank battery, as applicable, from an occupied dwelling or a property line;

(2) A copy of a deed severing the oil or gas mineral rights, as applicable, from the owner's parcel of land as recorded in the office of the county recorder of the county in which the property is located that expressly provides for the reduction of the distance of the location of a well or a tank battery, as applicable, from an occupied dwelling or a property line;

(3) A written statement that consents to the proposed location of a well

or a tank battery, as applicable, and that is approved by the chief. For purposes of division (G)(3) of this section, an applicant shall submit a copy of a written statement to the chief.

(H) For areas that are not urbanized areas, the surface location of a new well shall not be within one hundred feet of an occupied private dwelling or of a public building that may be used as a place of assembly, education, entertainment, lodging, trade, manufacture, repair, storage, or occupancy by the public. This division does not apply to a building or other structure that is incidental to agricultural use of the land on which the building or other structure is located unless the building or other structure is used as an occupied private dwelling or for retail trade.

(I) The surface location of a new well shall not be within one hundred feet of any other well. However, an applicant may submit a written statement to request the chief to authorize a new well to be located at a distance that is less than one hundred feet from another well. If the chief receives such a written statement, the chief may authorize a new well to be located within one hundred feet of another well if the chief determines that the applicant satisfactorily has demonstrated that the location of the new well at a distance that is less than one hundred feet from another well is necessary to reduce impacts to the owner of the land on which the well is to be located or to the surface of the land on which the well is to be located.

(J) For areas that are not urbanized areas, the location of a new tank battery of a well shall not be within one hundred feet of an existing inhabited structure.

(K) The location of a new tank battery of a well shall not be within fifty feet of any other well.

(L) The location of a new well or a new tank battery of a well shall not be within fifty feet of a stream, river, watercourse, water well, pond, lake, or other body of water. However, the chief may authorize a new well or a new tank battery of a well to be located at a distance that is less than fifty feet from a stream, river, watercourse, water well, pond, lake, or other body of water if the chief determines that the reduction in the distance is necessary to reduce impacts to the owner of the land on which the well or tank battery of a well is to be located or to protect public safety or the environment.

(M) The surface location of a new well or a new tank battery of a well shall not be within fifty feet of a railroad track or of the traveled portion of a public street, road, or highway. This division applies regardless of whether the public street, road, or highway has become part of the drilling unit of the well pursuant to a mandatory pooling order issued under section 1509.27 of the Revised Code.

~~(M)~~(N) A new oil tank shall not be within three feet of another oil tank.

~~(N)~~(O) The surface location of a mechanical separator shall not be within any of the following:

(1) Fifty feet of a well;

(2) Ten feet of an oil tank;

(3) One hundred feet of an existing inhabited structure.

~~(O)~~(P) A vessel that is equipped in such a manner that the contents of the vessel may be heated shall not be within any of the following:

(1) Fifty feet of an oil production tank;

(2) Fifty feet of a well;

(3) One hundred feet of an existing inhabited structure;

(4) If the contents of the vessel are heated by a direct fire heater, fifty feet of a mechanical separator.

Sec. 1509.022. Except as provided in section 1509.021 of the Revised Code, the surface location of a new well that will be drilled using directional drilling may be located on a parcel of land that is not in the drilling unit of the well.

Sec. 1509.03. (A) The chief of the division of ~~mineral~~ oil and gas resources management shall adopt, rescind, and amend, in accordance with Chapter 119. of the Revised Code, rules for the administration, implementation, and enforcement of this chapter. The rules shall include an identification of the subjects that the chief shall address when attaching terms and conditions to a permit with respect to a well and production facilities of a well that are located within an urbanized area. The subjects shall include all of the following:

(1) Safety concerning the drilling or operation of a well;

(2) Protection of the public and private water supply;

(3) Fencing and screening of surface facilities of a well;

(4) Containment and disposal of drilling and production wastes;

(5) Construction of access roads for purposes of the drilling and operation of a well;

(6) Noise mitigation for purposes of the drilling of a well and the operation of a well, excluding safety and maintenance operations.

No person shall violate any rule of the chief adopted under this chapter.

(B) Any order issuing, denying, or modifying a permit or notices required to be made by the chief pursuant to this chapter shall be made in compliance with Chapter 119. of the Revised Code, except that personal service may be used in lieu of service by mail. Every order issuing, denying, or modifying a permit under this chapter and described as such shall be considered an adjudication order for purposes of Chapter 119. of the

Revised Code.

Where notice to the owners is required by this chapter, the notice shall be given as prescribed by a rule adopted by the chief to govern the giving of notices. The rule shall provide for notice by publication except in those cases where other types of notice are necessary in order to meet the requirements of the law.

(C) The chief or the chief's authorized representative may at any time enter upon lands, public or private, for the purpose of administration or enforcement of this chapter, the rules adopted or orders made thereunder, or terms or conditions of permits or registration certificates issued thereunder and may examine and copy records pertaining to the drilling, conversion, or operation of a well for injection of fluids and logs required by division (C) of section 1509.223 of the Revised Code. No person shall prevent or hinder the chief or the chief's authorized representative in the performance of official duties. If entry is prevented or hindered, the chief or the chief's authorized representative may apply for, and the court of common pleas may issue, an appropriate inspection warrant necessary to achieve the purposes of this chapter within the court's territorial jurisdiction.

(D) The chief may issue orders to enforce this chapter, rules adopted thereunder, and terms or conditions of permits issued thereunder. Any such order shall be considered an adjudication order for the purposes of Chapter 119. of the Revised Code. No person shall violate any order of the chief issued under this chapter. No person shall violate a term or condition of a permit or registration certificate issued under this chapter.

(E) Orders of the chief denying, suspending, or revoking a registration certificate; approving or denying approval of an application for revision of a registered transporter's plan for disposal; or to implement, administer, or enforce division (A) of section 1509.224 and sections 1509.22, 1509.222, 1509.223, 1509.225, and 1509.226 of the Revised Code pertaining to the transportation of brine by vehicle and the disposal of brine so transported are not adjudication orders for purposes of Chapter 119. of the Revised Code. The chief shall issue such orders under division (A) or (B) of section 1509.224 of the Revised Code, as appropriate.

Sec. 1509.04. (A) The chief of the division of ~~mineral~~ oil and gas resources management, or the chief's authorized representatives, shall enforce this chapter and the rules, terms and conditions of permits and registration certificates, and orders adopted or issued pursuant thereto, except that any peace officer, as defined in section 2935.01 of the Revised Code, may arrest for violations of this chapter involving transportation of brine by vehicle. The enforcement authority of the chief includes the

authority to issue compliance notices and to enter into compliance agreements.

(B)(1) The chief or the chief's authorized representative may issue an administrative order to an owner for a violation of this chapter or rules adopted under it, terms and conditions of a permit issued under it, a registration certificate that is required under this chapter, or orders issued under this chapter.

(2) The chief may issue an order finding that an owner has committed a material and substantial violation.

(C) The chief, by order, immediately may suspend drilling, operating, or plugging activities that are related to a material and substantial violation and suspend and revoke an unused permit after finding either of the following:

(1) An owner has failed to comply with an order issued under division (B)(2) of this section that is final and nonappealable.

(2) An owner is causing, engaging in, or maintaining a condition or activity that the chief determines presents an imminent danger to the health or safety of the public or that results in or is likely to result in immediate substantial damage to the natural resources of this state.

(D)(1) The chief may issue an order under division (C) of this section without prior notification if reasonable attempts to notify the owner have failed or if the owner is currently in material breach of a prior order, but in such an event notification shall be given as soon thereafter as practical.

(2) Not later than five days after the issuance of an order under division (C) of this section, the chief shall provide the owner an opportunity to be heard and to present evidence that one of the following applies:

(a) The condition or activity does not present an imminent danger to the public health or safety or is not likely to result in immediate substantial damage to natural resources.

(b) Required records, reports, or logs have been submitted.

(3) If the chief, after considering evidence presented by the owner under division (D)(2)(a) of this section, determines that the activities do not present such a threat or that the required records, reports, or logs have been submitted under division (D)(2)(b) of this section, the chief shall revoke the order. The owner may appeal an order to the court of common pleas of the county in which the activity that is the subject of the order is located.

(E) The chief may issue a bond forfeiture order pursuant to section 1509.071 of the Revised Code for failure to comply with a final nonappealable order issued or compliance agreement entered into under this section.

(F) The chief may notify drilling contractors, transporters, service

companies, or other similar entities of the compliance status of an owner.

If the owner fails to comply with a prior enforcement action of the chief, the chief may issue a suspension order without prior notification, but in such an event the chief shall give notice as soon thereafter as practical. Not later than five calendar days after the issuance of an order, the chief shall provide the owner an opportunity to be heard and to present evidence that required records, reports, or logs have been submitted. If the chief, after considering the evidence presented by the owner, determines that the requirements have been satisfied, the chief shall revoke the suspension order. The owner may appeal a suspension order to the court of common pleas of the county in which the activity that is the subject of the suspension order is located.

(G) The prosecuting attorney of the county or the attorney general, upon the request of the chief, may apply to the court of common pleas in the county in which any of the provisions of this chapter or any rules, terms or conditions of a permit or registration certificate, or orders adopted or issued pursuant to this chapter are being violated for a temporary restraining order, preliminary injunction, or permanent injunction restraining any person from such violation.

Sec. 1509.041. The chief of the division of ~~mineral~~ oil and gas resources management shall maintain a database on the division of ~~mineral~~ oil and gas resources management's web site that is accessible to the public. The database shall list each final nonappealable order issued for a material and substantial violation under this chapter. The list shall identify the violator, the date on which the violation occurred, and the date on which the violation was corrected.

Sec. 1509.05. No person shall drill a new well, drill an existing well any deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a source of supply different from the existing pool, without having a permit to do so issued by the chief of the division of ~~mineral~~ oil and gas resources management, and until the original permit or a photostatic copy thereof is posted or displayed in a conspicuous and easily accessible place at the well site, with the name, current address, and telephone number of the permit holder and the telephone numbers for fire and emergency medical services maintained on the posted permit or copy. The permit or a copy shall be continuously displayed in that manner at all times during the work authorized by the permit.

Sec. 1509.06. (A) An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply, including associated production operations, shall be filed with the chief of

the division of ~~mineral~~ oil and gas resources management upon such form as the chief prescribes and shall contain each of the following that is applicable:

(1) The name and address of the owner and, if a corporation, the name and address of the statutory agent;

(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent.

(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;

(5) Designation of the well by name and number;

(6) The geological formation to be tested or used and the proposed total depth of the well;

(7) The type of drilling equipment to be used;

(8) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected;

(9) For an application for a permit to drill a new well within an urbanized area, a sworn statement that the applicant has provided notice by regular mail of the application to the owner of each parcel of real property that is located within five hundred feet of the surface location of the well and to the executive authority of the municipal corporation or the board of township trustees of the township, as applicable, in which the well is to be located. In addition, the notice shall contain a statement that informs an owner of real property who is required to receive the notice under division (A)(9) of this section that within five days of receipt of the notice, the owner is required to provide notice under section 1509.60 of the Revised Code to each residence in an occupied dwelling that is located on the owner's parcel of real property. The notice shall contain a statement that an application has been filed with the division of ~~mineral~~ oil and gas resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be provided by hand delivery or regular mail. The identity of the owners of parcels of real property shall be determined using the tax records of the municipal corporation or county in which a parcel of real property is located

as of the date of the notice.

(10) A plan for restoration of the land surface disturbed by drilling operations. The plan shall provide for compliance with the restoration requirements of division (A) of section 1509.072 of the Revised Code and any rules adopted by the chief pertaining to that restoration.

(11) A description by name or number of the county, township, and municipal corporation roads, streets, and highways that the applicant anticipates will be used for access to and egress from the well site;

(12) Such other relevant information as the chief prescribes by rule.

Each application shall be accompanied by a map, on a scale not smaller than four hundred feet to the inch, prepared by an Ohio registered surveyor, showing the location of the well and containing such other data as may be prescribed by the chief. If the well is or is to be located within the excavations and workings of a mine, the map also shall include the location of the mine, the name of the mine, and the name of the person operating the mine.

(B) The chief shall cause a copy of the weekly circular prepared by the division to be provided to the county engineer of each county that contains active or proposed drilling activity. The weekly circular shall contain, in the manner prescribed by the chief, the names of all applicants for permits, the location of each well or proposed well, the information required by division (A)(11) of this section, and any additional information the chief prescribes. In addition, the chief promptly shall transfer an electronic copy or facsimile, or if those methods are not available to a municipal corporation or township, a copy via regular mail, of a drilling permit application to the clerk of the legislative authority of the municipal corporation or to the clerk of the township in which the well or proposed well is or is to be located if the legislative authority of the municipal corporation or the board of township trustees has asked to receive copies of such applications and the appropriate clerk has provided the chief an accurate, current electronic mailing address or facsimile number, as applicable.

(C)(1) Except as provided in division (C)(2) of this section, the chief shall not issue a permit for at least ten days after the date of filing of the application for the permit unless, upon reasonable cause shown, the chief waives that period or a request for expedited review is filed under this section. However, the chief shall issue a permit within twenty-one days of the filing of the application unless the chief denies the application by order.

(2) If the location of a well or proposed well will be or is within an urbanized area, the chief shall not issue a permit for at least eighteen days after the date of filing of the application for the permit unless, upon

reasonable cause shown, the chief waives that period or the chief at the chief's discretion grants a request for an expedited review. However, the chief shall issue a permit for a well or proposed well within an urbanized area within thirty days of the filing of the application unless the chief denies the application by order.

(D) An applicant may file a request with the chief for expedited review of a permit application if the well is not or is not to be located in a gas storage reservoir or reservoir protective area, as "reservoir protective area" is defined in section 1571.01 of the Revised Code. If the well is or is to be located in a coal bearing township, the application shall be accompanied by the affidavit of the landowner prescribed in section 1509.08 of the Revised Code.

In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, a request for expedited review shall be accompanied by a separate nonrefundable filing fee of two hundred fifty dollars. Upon the filing of a request for expedited review, the chief shall cause the county engineer of the county in which the well is or is to be located to be notified of the filing of the permit application and the request for expedited review by telephone or other means that in the judgment of the chief will provide timely notice of the application and request. The chief shall issue a permit within seven days of the filing of the request unless the chief denies the application by order. Notwithstanding the provisions of this section governing expedited review of permit applications, the chief may refuse to accept requests for expedited review if, in the chief's judgment, the acceptance of the requests would prevent the issuance, within twenty-one days of their filing, of permits for which applications are pending.

(E) A well shall be drilled and operated in accordance with the plans, sworn statements, and other information submitted in the approved application.

(F) The chief shall issue an order denying a permit if the chief finds that there is a substantial risk that the operation will result in violations of this chapter or rules adopted under it that will present an imminent danger to public health or safety or damage to the environment, provided that where the chief finds that terms or conditions to the permit can reasonably be expected to prevent such violations, the chief shall issue the permit subject to those terms or conditions, including, if applicable, terms and conditions regarding subjects identified in rules adopted under section 1509.03 of the Revised Code. The issuance of a permit shall not be considered an order of the chief.

(G) Each application for a permit required by section 1509.05 of the Revised Code, except an application to plug back an existing well that is required by that section and an application for a well drilled or reopened for purposes of section 1509.22 of the Revised Code, also shall be accompanied by a nonrefundable fee as follows:

(1) Five hundred dollars for a permit to conduct activities in a township with a population of fewer than ten thousand;

(2) Seven hundred fifty dollars for a permit to conduct activities in a township with a population of ten thousand or more, but fewer than fifteen thousand;

(3) One thousand dollars for a permit to conduct activities in either of the following:

(a) A township with a population of fifteen thousand or more;

(b) A municipal corporation regardless of population.

(4) If the application is for a permit that requires mandatory pooling, an additional five thousand dollars.

For purposes of calculating fee amounts, populations shall be determined using the most recent federal decennial census.

Each application for the revision or reissuance of a permit shall be accompanied by a nonrefundable fee of two hundred fifty dollars.

(H) Prior to the issuance of a permit to drill a proposed well that is to be located in an urbanized area, the division shall conduct a site review to identify and evaluate any site-specific terms and conditions that may be attached to the permit. At the site review, a representative of the division shall consider fencing, screening, and landscaping requirements, if any, for similar structures in the community in which the well is proposed to be located. The terms and conditions that are attached to the permit shall include the establishment of fencing, screening, and landscaping requirements for the surface facilities of the proposed well, including a tank battery of the well.

(I) A permit shall be issued by the chief in accordance with this chapter. A permit issued under this section for a well that is or is to be located in an urbanized area shall be valid for twelve months, and all other permits issued under this section shall be valid for twenty-four months.

(J) A permittee or a permittee's authorized representative shall notify an inspector from the division ~~of mineral resources management~~ at least twenty-four hours, or another time period agreed to by the chief's authorized representative, prior to the commencement of drilling, reopening, converting, well stimulation, or plugback operations.

Sec. 1509.061. An owner of a well who has been issued a permit under

section 1509.06 of the Revised Code may submit to the chief of the division of ~~mineral~~ oil and gas resources management, on a form prescribed by the chief, a request to revise an existing tract upon which exists a producing or idle well. The chief shall adopt, and may amend and rescind, rules under section 1509.03 of the Revised Code that are necessary for the administration of this section. The rules at least shall stipulate the information to be included on the request form and shall establish a fee to be paid by the person submitting the request, which fee shall not exceed two hundred fifty dollars.

The chief shall approve a request submitted under this section unless it would result in a violation of this chapter or rules adopted under it, including provisions establishing spacing or minimum acreage requirements.

Sec. 1509.062. (A)(1) The owner of a well that has not been completed, a well that has not produced within one year after completion, or an existing well that has no reported production for two consecutive reporting periods as reported in accordance with section 1509.11 of the Revised Code shall plug the well in accordance with section 1509.12 of the Revised Code, obtain temporary inactive well status for the well in accordance with this section, or perform another activity regarding the well that is approved by the chief of the division of ~~mineral~~ oil and gas resources management.

(2) If a well has a reported annual production that is less than one hundred thousand cubic feet of natural gas or fifteen barrels of crude oil, or a combination thereof, the chief may require the owner of the well to submit an application for temporary inactive well status under this section for the well.

(B) In order for the owner of a well to submit an application for temporary inactive well status for the well under this division, the owner and the well shall be in compliance with this chapter and rules adopted under it, any terms and conditions of the permit for the well, and applicable orders issued by the chief. An application for temporary inactive status for a well shall be submitted to the chief on a form prescribed and provided by the chief and shall contain all of the following:

(1) The owner's name and address and, if the owner is a corporation, the name and address of the corporation's statutory agent;

(2) The signature of the owner or of the owner's authorized agent. When an authorized agent signs an application, the application shall be accompanied by a certified copy of the appointment as such agent.

(3) The permit number assigned to the well. If the well has not been assigned a permit number, the chief shall assign a permit number to the well.

(4) A map, on a scale not smaller than four hundred feet to the inch, that shows the location of the well and the tank battery, that includes the latitude and longitude of the well, and that contains all other data that are required by the chief;

(5) A demonstration that the well is of future utility and that the applicant has a viable plan to utilize the well within a reasonable period of time;

(6) A demonstration that the well poses no threat to the health or safety of persons, property, or the environment;

(7) Any other relevant information that the chief prescribes by rule.

The chief may waive any of the requirements established in divisions (B)(1) to (6) of this section if the division of ~~mineral~~ oil and gas resources management possesses a current copy of the information or document that is required in the applicable division.

(C) Upon receipt of an application for temporary inactive well status, the chief shall review the application and shall either deny the application by issuing an order or approve the application. The chief shall approve the application only if the chief determines that the well that is the subject of the application poses no threat to the health or safety of persons, property, or the environment. If the chief approves the application, the chief shall notify the applicant of the chief's approval. Upon receipt of the chief's approval, the owner shall shut in the well and empty all liquids and gases from all storage tanks, pipelines, and other equipment associated with the well. In addition, the owner shall maintain the well, other equipment associated with the well, and the surface location of the well in a manner that prevents hazards to the health and safety of people and the environment. The owner shall inspect the well at least every six months and submit to the chief within fourteen days after the inspection a record of inspection on a form prescribed and provided by the chief.

(D) Not later than thirty days prior to the expiration of temporary inactive well status or a renewal of temporary inactive well status approved by the chief for a well, the owner of the well may submit to the chief an application for renewal of the temporary inactive well status on a form prescribed and provided by the chief. The application shall include a detailed plan that describes the ultimate disposition of the well, the time frames for that disposition, and any other information that the chief determines is necessary. The chief shall either deny an application by order or approve the application. If the chief approves the application, the chief shall notify the owner of the well of the chief's approval.

(E) An application for temporary inactive well status shall be

accompanied by a nonrefundable fee of one hundred dollars. An application for a renewal of temporary inactive well status shall be accompanied by a nonrefundable fee of two hundred fifty dollars for the first renewal and five hundred dollars for each subsequent renewal.

(F) After a third renewal, the chief may require an owner to provide a surety bond in an amount not to exceed ten thousand dollars for each of the owner's wells that has been approved by the chief for temporary inactive well status.

(G) Temporary inactive well status approved by the chief expires one year after the date of approval of the application for temporary inactive well status or production from the well commences, whichever occurs sooner. In addition, a renewal of a temporary inactive well status expires one year after the expiration date of the initial temporary inactive well status or one year after the expiration date of the previous renewal of the temporary inactive well status, as applicable, or production from the well commences, whichever occurs sooner.

(H) The owner of a well that has been approved by the chief for temporary inactive well status may commence production from the well at any time. Not later than sixty days after the commencement of production from such a well, the owner shall notify the chief of the commencement of production.

(I) This chapter and rules adopted under it, any terms and conditions of the permit for a well, and applicable orders issued by the chief apply to a well that has been approved by the chief for temporary inactive well status or renewal of that status.

Sec. 1509.07. An owner of any well, except an exempt Mississippian well or an exempt domestic well, shall obtain liability insurance coverage from a company authorized to do business in this state in an amount of not less than one million dollars bodily injury coverage and property damage coverage to pay damages for injury to persons or damage to property caused by the drilling, operation, or plugging of all the owner's wells in this state. However, if any well is located within an urbanized area, the owner shall obtain liability insurance coverage in an amount of not less than three million dollars for bodily injury coverage and property damage coverage to pay damages for injury to persons or damage to property caused by the drilling, operation, or plugging of all of the owner's wells in this state. The owner shall maintain the coverage until all the owner's wells are plugged and abandoned or are transferred to an owner who has obtained insurance as required under this section and who is not under a notice of material and substantial violation or under a suspension order. The owner shall provide

proof of liability insurance coverage to the chief of the division of ~~mineral~~ oil and gas resources management upon request. Upon failure of the owner to provide that proof when requested, the chief may order the suspension of any outstanding permits and operations of the owner until the owner provides proof of the required insurance coverage.

Except as otherwise provided in this section, an owner of any well, before being issued a permit under section 1509.06 of the Revised Code or before operating or producing from a well, shall execute and file with the division of ~~mineral~~ oil and gas resources management a surety bond conditioned on compliance with the restoration requirements of section 1509.072, the plugging requirements of section 1509.12, the permit provisions of section 1509.13 of the Revised Code, and all rules and orders of the chief relating thereto, in an amount set by rule of the chief.

The owner may deposit with the chief, instead of a surety bond, cash in an amount equal to the surety bond as prescribed pursuant to this section or negotiable certificates of deposit or irrevocable letters of credit, issued by any bank organized or transacting business in this state or by any savings and loan association as defined in section 1151.01 of the Revised Code, having a cash value equal to or greater than the amount of the surety bond as prescribed pursuant to this section. Cash or certificates of deposit shall be deposited upon the same terms as those upon which surety bonds may be deposited. If certificates of deposit are deposited with the chief instead of a surety bond, the chief shall require the bank or savings and loan association that issued any such certificate to pledge securities of a cash value equal to the amount of the certificate that is in excess of the amount insured by any of the agencies and instrumentalities created under the "Federal Deposit Insurance Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and regulations adopted under it, including at least the federal deposit insurance corporation, bank insurance fund, and savings association insurance fund. The securities shall be security for the repayment of the certificate of deposit.

Immediately upon a deposit of cash, certificates of deposit, or letters of credit with the chief, the chief shall deliver them to the treasurer of state who shall hold them in trust for the purposes for which they have been deposited.

Instead of a surety bond, the chief may accept proof of financial responsibility consisting of a sworn financial statement showing a net financial worth within this state equal to twice the amount of the bond for which it substitutes and, as may be required by the chief, a list of producing properties of the owner within this state or other evidence showing ability

and intent to comply with the law and rules concerning restoration and plugging that may be required by rule of the chief. The owner of an exempt Mississippian well is not required to file scheduled updates of the financial documents, but shall file updates of those documents if requested to do so by the chief. The owner of a nonexempt Mississippian well shall file updates of the financial documents in accordance with a schedule established by rule of the chief. The chief, upon determining that an owner for whom the chief has accepted proof of financial responsibility instead of bond cannot demonstrate financial responsibility, shall order that the owner execute and file a bond or deposit cash, certificates of deposit, or irrevocable letters of credit as required by this section for the wells specified in the order within ten days of receipt of the order. If the order is not complied with, all wells of the owner that are specified in the order and for which no bond is filed or cash, certificates of deposit, or letters of credit are deposited shall be plugged. No owner shall fail or refuse to plug such a well. Each day on which such a well remains unplugged thereafter constitutes a separate offense.

The surety bond provided for in this section shall be executed by a surety company authorized to do business in this state.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the principal's or surety's attorney in fact, with a certified copy of the power of attorney attached thereto. The chief shall not approve a bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

All bonds shall be given in a form to be prescribed by the chief and shall run to the state as obligee.

An owner of an exempt Mississippian well or an exempt domestic well, in lieu of filing a surety bond, cash in an amount equal to the surety bond, certificates of deposit, irrevocable letters of credit, or a sworn financial statement, may file a one-time fee of fifty dollars, which shall be deposited in the oil and gas well plugging fund created in section 1509.071 of the Revised Code.

An owner, operator, producer, or other person shall not operate a well or produce from a well at any time if the owner, operator, producer, or other person has not satisfied the requirements established in this section.

Sec. 1509.071. (A) When the chief of the division of ~~mineral~~ oil and gas resources management finds that an owner has failed to comply with a final nonappealable order issued or compliance agreement entered into under section 1509.04, the restoration requirements of section 1509.072, plugging

requirements of section 1509.12, or permit provisions of section 1509.13 of the Revised Code, or rules and orders relating thereto, the chief shall make a finding of that fact and declare any surety bond filed to ensure compliance with those sections and rules forfeited in the amount set by rule of the chief. The chief thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the forfeiture. In addition, the chief may require an owner, operator, producer, or other person who forfeited a surety bond to post a new surety bond in the amount of fifteen thousand dollars for a single well, thirty thousand dollars for two wells, or fifty thousand dollars for three or more wells.

In lieu of total forfeiture, the surety or owner, at the surety's or owner's option, may cause the well to be properly plugged and abandoned and the area properly restored or pay to the treasurer of state the cost of plugging and abandonment.

(B) All moneys collected because of forfeitures of bonds as provided in this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.

The chief annually shall spend not less than fourteen per cent of the revenue credited to the fund during the previous fiscal year for the following purposes:

(1) In accordance with division (D) of this section, to plug idle and orphaned wells or to restore the land surface properly as required in section 1509.072 of the Revised Code;

(2) In accordance with division (E) of this section, to correct conditions that the chief reasonably has determined are causing imminent health or safety risks at an idle and orphaned well or a well for which the owner cannot be contacted in order to initiate a corrective action within a reasonable period of time as determined by the chief.

Expenditures from the fund shall be made only for lawful purposes. In addition, expenditures from the fund shall not be made to purchase real property or to remove a dwelling in order to access a well.

(C)(1) Upon determining that the owner of a well has failed to properly plug and abandon it or to properly restore the land surface at the well site in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it or that a well is an abandoned well for which no funds are available to plug the well in accordance with this chapter, the chief shall do all of the following:

(a) Determine from the records in the office of the county recorder of the county in which the well is located the identity of the owner of the land on which the well is located, the identity of the owner of the oil or gas lease

under which the well was drilled or the identity of each person owning an interest in the lease, and the identities of the persons having legal title to, or a lien upon, any of the equipment appurtenant to the well;

(b) Mail notice to the owner of the land on which the well is located informing the landowner that the well is to be plugged. If the owner of the oil or gas lease under which the well was drilled is different from the owner of the well or if any persons other than the owner of the well own interests in the lease, the chief also shall mail notice that the well is to be plugged to the owner of the lease or to each person owning an interest in the lease, as appropriate.

(c) Mail notice to each person having legal title to, or a lien upon, any equipment appurtenant to the well, informing the person that the well is to be plugged and offering the person the opportunity to plug the well and restore the land surface at the well site at the person's own expense in order to avoid forfeiture of the equipment to this state.

(2) If none of the persons described in division (C)(1)(c) of this section plugs the well within sixty days after the mailing of the notice required by that division, all equipment appurtenant to the well is hereby declared to be forfeited to this state without compensation and without the necessity for any action by the state for use to defray the cost of plugging and abandoning the well and restoring the land surface at the well site.

(D) Expenditures from the fund for the purpose of division (B)(1) of this section shall be made in accordance with either of the following:

(1) The expenditures may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract for activities associated with the restoration or plugging of a well as determined by the chief. The activities may include excavation to uncover a well, geophysical methods to locate a buried well when clear evidence of leakage from the well exists, cleanout of wellbores to remove material from a failed plugging of a well, plugging operations, installation of vault and vent systems, including associated engineering certifications and permits, restoration of property, and repair of damage to property that is caused by such activities. Expenditures shall not be used for salaries, maintenance, equipment, or other administrative purposes, except for costs directly attributed to the plugging of an idle and orphaned well. Agents or employees of persons contracting with the chief for a restoration or plugging project may enter upon any land, public or private, on which the well is located for the purpose of performing the work. Prior to such entry, the chief shall give to the following persons written notice of the existence of a contract for a

project to restore or plug a well, the names of the persons with whom the contract is made, and the date that the project will commence: the owner of the well, the owner of the land upon which the well is located, the owner or agents of adjoining land, and, if the well is located in the same township as or in a township adjacent to the excavations and workings of a mine and the owner or lessee of that mine has provided written notice identifying those townships to the chief at any time during the immediately preceding three years, the owner or lessee of the mine.

(2)(a) The owner of the land on which a well is located who has received notice under division (C)(1)(b) of this section may plug the well and be reimbursed by the division <u>of oil and gas resources management</u> for the reasonable cost of plugging the well. In order to plug the well, the landowner shall submit an application to the chief on a form prescribed by the chief and approved by the technical advisory council on oil and gas created in section 1509.38 of the Revised Code. The application, at a minimum, shall require the landowner to provide the same information as is required to be included in the application for a permit to plug and abandon under section 1509.13 of the Revised Code. The application shall be accompanied by a copy of a proposed contract to plug the well prepared by a contractor regularly engaged in the business of plugging oil and gas wells. The proposed contract shall require the contractor to furnish all of the materials, equipment, work, and labor necessary to plug the well properly and shall specify the price for doing the work, including a credit for the equipment appurtenant to the well that was forfeited to the state through the operation of division (C)(2) of this section. Expenditures under division (D)(2)(a) of this section shall be consistent with the expenditures for activities described in division (D)(1) of this section. The application also shall be accompanied by the permit fee required by section 1509.13 of the Revised Code unless the chief, in the chief's discretion, waives payment of the permit fee. The application constitutes an application for a permit to plug and abandon the well for the purposes of section 1509.13 of the Revised Code.

(b) Within thirty days after receiving an application and accompanying proposed contract under division (D)(2)(a) of this section, the chief shall determine whether the plugging would comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it and whether the cost of the plugging under the proposed contract is reasonable. If the chief determines that the proposed plugging would comply with those requirements and that the proposed cost of the plugging is reasonable, the chief shall notify the landowner of that determination and

issue to the landowner a permit to plug and abandon the well under section 1509.13 of the Revised Code. Upon approval of the application and proposed contract, the chief shall transfer ownership of the equipment appurtenant to the well to the landowner. The chief may disapprove an application submitted under division (D)(2)(a) of this section if the chief determines that the proposed plugging would not comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, that the cost of the plugging under the proposed contract is unreasonable, or that the proposed contract is not a bona fide, ~~arms~~ arm's length contract.

(c) After receiving the chief's notice of the approval of the application and permit to plug and abandon a well under division (D)(2)(b) of this section, the landowner shall enter into the proposed contract to plug the well.

(d) Upon determining that the plugging has been completed in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, the chief shall reimburse the landowner for the cost of the plugging as set forth in the proposed contract approved by the chief. The reimbursement shall be paid from the oil and gas well fund. If the chief determines that the plugging was not completed in accordance with the applicable requirements, the chief shall not reimburse the landowner for the cost of the plugging, and the landowner or the contractor, as applicable, promptly shall transfer back to this state title to and possession of the equipment appurtenant to the well that previously was transferred to the landowner under division (D)(2)(b) of this section. If any such equipment was removed from the well during the plugging and sold, the landowner shall pay to the chief the proceeds from the sale of the equipment, and the chief promptly shall pay the moneys so received to the treasurer of state for deposit into the oil and gas well fund.

The chief may establish an annual limit on the number of wells that may be plugged under division (D)(2) of this section or an annual limit on the expenditures to be made under that division.

As used in division (D)(2) of this section, "plug" and "plugging" include the plugging of the well and the restoration of the land surface disturbed by the plugging.

(E) Expenditures from the oil and gas well fund for the purpose of division (B)(2) of this section may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract. The competitive bidding requirements of Chapter 153. of the Revised Code

do not apply if the chief reasonably determines that correction of the applicable health or safety risk requires immediate action. The chief, designated representatives of the chief, and agents or employees of persons contracting with the chief under this division may enter upon any land, public or private, for the purpose of performing the work.

(F) Contracts entered into by the chief under this section are not subject to either of the following:

(1) Chapter 4115. of the Revised Code;

(2) Section 153.54 of the Revised Code, except that the contractor shall obtain and provide to the chief as a bid guaranty a surety bond or letter of credit in an amount equal to ten per cent of the amount of the contract.

(G) The owner of land on which a well is located who has received notice under division (C)(1)(b) of this section, in lieu of plugging the well in accordance with division (D)(2) of this section, may cause ownership of the well to be transferred to an owner who is lawfully doing business in this state and who has met the financial responsibility requirements established under section 1509.07 of the Revised Code, subject to the approval of the chief. The transfer of ownership also shall be subject to the landowner's filing the appropriate forms required under section 1509.31 of the Revised Code and providing to the chief sufficient information to demonstrate the landowner's or owner's right to produce a formation or formations. That information may include a deed, a lease, or other documentation of ownership or property rights.

The chief shall approve or disapprove the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:

(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

(2) Taking title to and possession of the equipment appurtenant to the well that has been identified by the chief as having been abandoned by the former owner;

(3) Complying with all applicable requirements that are necessary to drill deeper, plug the well, or plug back the well.

(H) The chief shall issue an order that requires the owner of a well to pay the actual documented costs of a corrective action that is described in division (B)(2) of this section concerning the well. The chief shall transmit the money so recovered to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund.

Sec. 1509.072. No oil or gas well owner or agent of an oil or gas well owner shall fail to restore the land surface within the area disturbed in siting, drilling, completing, and producing the well as required in this section.

(A) Within fourteen days after the date upon which the drilling of a well is completed to total depth in an urbanized area and within two months after the date upon which the drilling of a well is completed in all other areas, the owner or the owner's agent, in accordance with the restoration plan filed under division (A)(10) of section 1509.06 of the Revised Code, shall fill all the pits for containing brine and other waste substances resulting, obtained, or produced in connection with exploration or drilling for oil or gas that are not required by other state or federal law or regulation, and remove all drilling supplies and drilling equipment. Unless the chief of the division of ~~mineral~~ oil and gas resources management approves a longer time period, within three months after the date upon which the surface drilling of a well is commenced in an urbanized area and within six months after the date upon which the surface drilling of a well is commenced in all other areas, the owner or the owner's agent shall grade or terrace and plant, seed, or sod the area disturbed that is not required in production of the well where necessary to bind the soil and prevent substantial erosion and sedimentation. If the chief finds that a pit used for containing brine, other waste substances, or oil is in violation of section 1509.22 of the Revised Code or rules adopted or orders issued under it, the chief may require the pit to be emptied and closed before expiration of the fourteen-day or three-month restoration period.

(B) Within three months after a well that has produced oil or gas is plugged in an urbanized area and within six months after a well that has produced oil or gas is plugged in all other areas, or after the plugging of a dry hole, unless the chief approves a longer time period, the owner or the owner's agent shall remove all production and storage structures, supplies, and equipment, and any oil, salt water, and debris, and fill any remaining excavations. Within that period the owner or the owner's agent shall grade or terrace and plant, seed, or sod the area disturbed where necessary to bind the soil and prevent substantial erosion and sedimentation.

The owner shall be released from responsibility to perform any or all restoration requirements of this section on any part or all of the area disturbed upon the filing of a request for a waiver with and obtaining the written approval of the chief, which request shall be signed by the surface owner to certify the approval of the surface owner of the release sought. The chief shall approve the request unless the chief finds upon inspection that the waiver would be likely to result in substantial damage to adjoining

property, substantial contamination of surface or underground water, or substantial erosion or sedimentation.

The chief, by order, may shorten the time periods provided for under division (A) or (B) of this section if failure to shorten the periods would be likely to result in damage to public health or the waters or natural resources of the state.

The chief, upon written application by an owner or an owner's agent showing reasonable cause, may extend the period within which restoration shall be completed under divisions (A) and (B) of this section, but not to exceed a further six-month period, except under extraordinarily adverse weather conditions or when essential equipment, fuel, or labor is unavailable to the owner or the owner's agent.

If the chief refuses to approve a request for waiver or extension, the chief shall do so by order.

Sec. 1509.073. A person that is issued a permit under this chapter to drill a new well or drill an existing well deeper in an urbanized area shall establish fluid drilling conditions prior to penetration of the Onondaga limestone and continue to use fluid drilling until total depth of the well is achieved unless the chief of the division of ~~mineral~~ oil and gas resources management authorizes such drilling without using fluid.

Sec. 1509.08. Upon receipt of an application for a permit required by section 1509.05 of the Revised Code, or upon receipt of an application for a permit to plug and abandon under section 1509.13 of the Revised Code, the chief of the division of ~~mineral~~ oil and gas resources management shall determine whether the well is or is to be located in a coal bearing township.

Whether or not the well is or is to be located in a coal bearing township, the chief, by order, may refuse to issue a permit required by section 1509.05 of the Revised Code to any applicant who at the time of applying for the permit is in material or substantial violation of this chapter or rules adopted or orders issued under it. The chief shall refuse to issue a permit to any applicant who at the time of applying for the permit has been found liable by a final nonappealable order of a court of competent jurisdiction for damage to streets, roads, highways, bridges, culverts, or drainways pursuant to section 4513.34 or 5577.12 of the Revised Code until the applicant provides the chief with evidence of compliance with the order. No applicant shall attempt to circumvent this provision by applying for a permit under a different name or business organization name, by transferring responsibility to another person or entity, by abandoning the well or lease, or by any other similar act.

If the well is not or is not to be located in a coal bearing township, or if

it is to be located in a coal bearing township, but the landowner submits an affidavit attesting to ownership of the property in fee simple, including the coal, and has no objection to the well, the chief shall issue the permit.

If the application to drill, reopen, or convert concerns a well that is or is to be located in a coal bearing township, the chief shall transmit to the chief of the division of mineral resources management two copies of the application and three copies of the map required in section 1509.06 of the Revised Code, except that, when the affidavit with the waiver of objection described above is submitted, the chief of the division of oil and gas resources management shall not transmit the copies.

The chief of the division of mineral resources management immediately shall notify the owner or lessee of any affected mine that the application has been filed and send to the owner or lessee two copies of the map accompanying the application setting forth the location of the well.

If the owner or lessee objects to the location of the well or objects to any location within fifty feet of the original location as a possible site for relocation of the well, the owner or lessee shall notify the chief of the division of mineral resources management of the objection, giving the reasons for the objection and, if applicable, indicating on a copy of the map the particular location or locations within fifty feet of the original location to which the owner or lessee objects as a site for possible relocation of the well, within six days after the receipt of the notice. If the chief receives no objections from the owner or lessee of the mine within ten days after the receipt of the notice by the owner or lessee, or if in the opinion of the chief the objections offered by the owner or lessee are not sufficiently well founded, the chief immediately shall notify the owner or lessee of those findings. The owner or lessee may appeal the decision of the chief to the reclamation commission under section 1513.13 of the Revised Code. The appeal shall be filed within fifteen days, notwithstanding provisions in divisions (A)(1) of section 1513.13 of the Revised Code~~,~~ to the contrary, from the date on which the owner or lessee receives the notice. If the appeal is not filed within that time, the chief immediately shall approve the application ~~and~~, retain a copy of the application and map, and return a copy of the application to the chief of the division of oil and gas resources management with the approval noted on it. The chief of the division of oil and gas resources management then shall issue the permit if the provisions of this chapter pertaining to the issuance of such a permit have been complied with.

If the chief of the division of mineral resources management receives an objection from the owner or lessee of the mine as to the location of the well

within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is well founded, the chief shall disapprove the application and ~~suggest~~ immediately return it to the chief of the division of oil and gas resources management together with the reasons for disapproval and a suggestion for a new location for the well, provided that the suggested new location shall not be a location within fifty feet of the original location to which the owner or lessee has objected as a site for possible relocation of the well if the chief of the division of mineral resources management has determined that the objection is well founded. The chief of the division of oil and gas resources management immediately shall notify the applicant for the permit of the disapproval and any suggestion made by the chief of the division of mineral resources management as to a new location for the well. The applicant may withdraw the application or amend the application to drill the well at the location suggested by the chief, or the applicant may appeal the disapproval of the application by the chief to the reclamation commission.

If the chief of the division of mineral resources management receives no objection from the owner or lessee of a mine as to the location of the well, but does receive an objection from the owner or lessee as to one or more locations within fifty feet of the original location as possible sites for relocation of the well within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is well founded, the chief nevertheless shall approve the application and shall return it immediately to the chief of the division of oil and gas resources management together with the reasons for disapproving any of the locations to which the owner or lessee objects as possible sites for the relocation of the well. The chief of the division of oil and gas resources management then shall issue a permit if the provisions of this chapter pertaining to the issuance of such a permit have been complied with, incorporating as a term or condition of the permit that the applicant is prohibited from commencing drilling at any location within fifty feet of the original location that has been disapproved by the chief of the division of mineral resources management. The applicant may appeal to the reclamation commission the terms and conditions of the permit prohibiting the commencement of drilling at any such location disapproved by the chief of the division of mineral resources management.

Any such appeal shall be filed within fifteen days, notwithstanding provisions in division (A)(1) of section 1513.13 of the Revised Code to the contrary, from the date the applicant receives notice of the disapproval of the application, any other location within fifty feet of the original location,

or terms or conditions of the permit, or the owner or lessee receives notice of the chief's decision. No approval or disapproval of an application shall be delayed by the chief of the division of mineral resources management for more than fifteen days from the date of sending the notice of the application to the mine owner or lessee as required by this section.

All appeals provided for in this section shall be treated as expedited appeals. The reclamation commission shall hear any such appeal in accordance with section 1513.13 of the Revised Code and issue a decision within thirty days of the filing of the notice of appeal.

The chief of the division of oil and gas resources management shall not issue a permit to drill a new well or reopen a well that is or is to be located within three hundred feet of any opening of any mine used as a means of ingress, egress, or ventilation for persons employed in the mine, nor within one hundred feet of any building or inflammable structure connected with the mine and actually used as a part of the operating equipment of the mine, unless the chief of the division of mineral resources management determines that life or property will not be endangered by drilling and operating the well in that location.

The chief of the division of mineral resources management may suspend the drilling or reopening of a well in a coal bearing township after determining that the drilling or reopening activities present an imminent and substantial threat to public health or safety or to miners' health or safety and having been unable to contact the chief of the division of oil and gas resources management to request an order of suspension under section 1509.06 of the Revised Code. Before issuing a suspension order for that purpose, the chief of the division of mineral resources management shall notify the owner in a manner that in the chief's judgment would provide reasonable notification that the chief intends to issue a suspension order. The chief may issue such an order without prior notification if reasonable attempts to notify the owner have failed, but in that event notification shall be given as soon thereafter as practical. Within five calendar days after the issuance of the order, the chief shall provide the owner an opportunity to be heard and to present evidence that the activities do not present an imminent and substantial threat to public health or safety or to miners' health or safety. If, after considering the evidence presented by the owner, the chief determines that the activities do not present such a threat, the chief shall revoke the suspension order. An owner may appeal a suspension order issued by the chief of the division of mineral resources management under this section to the reclamation commission in accordance with section 1513.13 of the Revised Code or may appeal the order directly to the court of

common pleas of the county in which the well is located.

Sec. 1509.09. A well may be drilled under a permit only at the location designated on the map required in section 1509.06 of the Revised Code. The location of a well may be changed after the issuance of a permit only with the approval of the chief of the division of ~~mineral~~ oil and gas resources management and, if the well is located in a coal bearing township, with the approval of the chief of the division of mineral resources management using the procedures required in section 1509.08 of the Revised Code for a permit to drill a well unless the permit holder requests the issuance of an emergency drilling permit under this section due to a lost hole under such circumstances that completion of the well is not feasible at the original location. If a permit holder requests a change of location, the permit holder shall return the original permit and file an amended map indicating the proposed new location.

Drilling shall not be commenced at a new location until the original permit bearing a notation of approval by the chief or chiefs is posted at the well site. However, a permit holder may commence drilling at a new location without first receiving the prior approval required by this section, if all of the following conditions are met:

(A) Within one working day after spudding the new well, the permit holder files a request for an emergency drilling permit and submits to the chief of the division of oil and gas resources management an application for a permit that meets the requirements of section 1509.06 of the Revised Code, including the permit fee required by that section, with an amended map showing the new location~~;~~.

(B) ~~A mineral~~ An oil and gas resources inspector is present before spudding operations are commenced at the location~~;~~.

(C) The original well is plugged prior to the skidding of the drilling rig to the new location, and the plugging is witnessed or verified by ~~a mineral~~ an oil and gas resources inspector or, if the well is located in a coal bearing township, both a deputy mine inspector and ~~a mineral~~ an oil and gas resources inspector unless the chief or the chief's authorized representative temporarily waives the requirement, but in any event the original well shall be plugged before the drilling rig is moved from the location~~;~~.

(D) The new location is within fifty feet of the original location unless, upon request of the permit holder, the chief, with the approval of the chief of the division of mineral resources management if the well is located in a coal bearing township, agrees to a new location farther than fifty feet from the original location~~;~~.

(E) The new location meets all the distance and spacing requirements

prescribed by rules adopted under sections 1509.23 and 1509.24 of the Revised Code~~;~~.

(F) If the well is located in a coal bearing township, use of the new well location has not been disapproved by the chief of the division of mineral resources management and has not been prohibited as a term or condition of the permit under section 1509.08 of the Revised Code.

If the chief of the division of oil and gas resources management approves the change of location, the chief shall issue an emergency permit within two working days after the filing of the request for the emergency permit. If the chief disapproves the change of location, the chief shall, by order, deny the request and may issue an appropriate enforcement order under section 1509.03 of the Revised Code.

Sec. 1509.10. (A) Any person drilling within the state shall, within sixty days after the completion of drilling operations to the proposed total depth or after a determination that a well is a dry or lost hole, file with the division of ~~mineral~~ oil and gas resources management all wireline electric logs and an accurate well completion record on a form that is approved by the chief of the division of ~~mineral~~ oil and gas resources management that designates:

(1) The purpose for which the well was drilled;

(2) The character, depth, and thickness of geological units encountered, including coal seams, mineral beds, associated fluids such as fresh water, brine, and crude oil, natural gas, and sour gas, if such seams, beds, fluids, or gases are known;

(3) The dates on which drilling operations were commenced and completed;

(4) The types of drilling tools used and the name of the person that drilled the well;

(5) The length in feet of the various sizes of casing and tubing used in drilling the well, the amount removed after completion, the type and setting depth of each packer, all other data relating to cementing in the annular space behind such casing or tubing, and data indicating completion as a dry, gas, oil, combination oil and gas, brine injection, or artificial brine well or a stratigraphic test;

(6) The number of perforations in the casing and the intervals of the perforations;

(7) The elevation above mean sea level of the point from which the depth measurements were made, stating also the height of the point above ground level at the well, the total depth of the well, and the deepest geological unit that was penetrated in the drilling of the well;

(8) If applicable, the type, volume, and concentration of acid, and the

date on which acid was used in acidizing the well;

(9) If applicable, the type and volume of fluid used to stimulate the reservoir of the well, the reservoir breakdown pressure, the method used for the containment of fluids recovered from the fracturing of the well, the methods used for the containment of fluids when pulled from the wellbore from swabbing the well, the average pumping rate of the well, and the name of the person that performed the well stimulation. In addition, the owner shall include a copy of the log from the stimulation of the well, a copy of the invoice for each of the procedures and methods described in division (A)(9) of this section that were used on a well, and a copy of the pumping pressure and rate graphs. However, the owner may redact from the copy of each invoice that is required to be included under division (A)(9) of this section the costs of and charges for the procedures and methods described in division (A)(9) of this section that were used on a well.

(10) The name of the company that performed the logging of the well and the types of wireline electric logs performed on the well.

The well completion record shall be submitted in duplicate. The first copy shall be retained as a permanent record in the files of the division, and the second copy shall be transmitted by the chief to the division of geological survey.

(B)(1) Not later than sixty days after the completion of the drilling operations to the proposed total depth, the owner shall file all wireline electric logs with the division of ~~mineral~~ oil and gas resources management and the chief shall transmit such logs electronically, if available, to the division of geological survey. Such logs may be retained by the owner for a period of not more than six months, or such additional time as may be granted by the chief in writing, after the completion of the well substantially to the depth shown in the application required by section 1509.06 of the Revised Code.

(2) If a well is not completed within sixty days after the completion of drilling operations, the owner shall file with the division of oil and gas resources management a supplemental well completion record that includes all of the information required under this section within sixty days after the completion of the well.

(C) Upon request in writing by the chief of the division of geological survey prior to the beginning of drilling of the well, the person drilling the well shall make available a complete set of cuttings accurately identified as to depth.

(D) The form of the well completion record required by this section shall be one that has been approved by the chief of the division of ~~mineral~~

oil and gas resources management and the chief of the division of geological survey. The filing of a log as required by this section fulfills the requirement of filing a log with the chief of the division of geological survey in section 1505.04 of the Revised Code.

(E) If there is a material listed on the invoice that is required by division (A)(9) of this section for which the division of ~~mineral~~ oil and gas resources management does not have a material safety data sheet, the chief shall obtain a copy of the material safety data sheet for the material and post a copy of the material safety data sheet on the division's web site.

Sec. 1509.11. The owner of any well producing or capable of producing oil or gas shall file with the chief of the division of ~~mineral~~ oil and gas resources management, on or before the thirty-first day of March, a statement of production of oil, gas, and brine for the last preceding calendar year in such form as the chief may prescribe. An owner that has more than one hundred wells in this state shall submit electronically the statement of production in a format that is approved by the chief. The chief shall include on the form, at the minimum, a request for the submittal of the information that a person who is regulated under this chapter is required to submit under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001, and regulations adopted under it, and that the division does not obtain through other reporting mechanisms.

Sec. 1509.12. (A) No owner of any well shall construct a well, or permit defective casing in a well to leak fluids or gases, that causes damage to other permeable strata, underground sources of drinking water, or the surface of the land or that threatens the public health and safety or the environment. Upon the discovery that the casing in a well is defective or that a well was not adequately constructed, the owner of the well shall notify the chief of the division of ~~mineral~~ oil and gas resources management within twenty-four hours of the discovery, and the owner shall immediately repair the casing, correct the construction inadequacies, or plug and abandon the well.

(B) When the chief finds that a well should be plugged, the chief shall notify the owner to that effect by order in writing and shall specify in the order a reasonable time within which to comply. No owner shall fail or refuse to plug a well within the time specified in the order. Each day on which such a well remains unplugged thereafter constitutes a separate offense.

Where the plugging method prescribed by rules adopted pursuant to section 1509.15 of the Revised Code cannot be applied or if applied would be ineffective in carrying out the protection that the law is meant to give, the

chief may designate a different method of plugging. The abandonment report shall show the manner in which the well was plugged.

(C) In case of oil or gas wells abandoned prior to September 1, 1978, the board of county commissioners of the county in which the wells are located may submit to the electors of the county the question of establishing a special fund, by general levy, by general bond issue, or out of current funds, which shall be approved by a majority of the electors voting upon that question for the purpose of plugging the wells. The fund shall be administered by the board and the plugging of oil and gas wells shall be under the supervision of the chief, and the board shall let contracts for that purpose, provided that the fund shall not be used for the purpose of plugging oil and gas wells that were abandoned subsequent to September 1, 1978.

Sec. 1509.13. (A) No person shall plug and abandon a well without having a permit to do so issued by the chief of the division of ~~mineral~~ oil and gas resources management. The permit shall be issued by the chief in accordance with this chapter and shall be valid for a period of twenty-four months from the date of issue.

(B) Application by the owner for a permit to plug and abandon shall be filed as many days in advance as will be necessary for ~~a mineral~~ an oil and gas resources inspector or, if the well is located in a coal bearing township, both a deputy mine inspector and ~~a mineral~~ an oil and gas resources inspector to be present at the plugging. The application shall be filed with the chief upon a form that the chief prescribes and shall contain the following information:

(1) The name and address of the owner;

(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as that agent.

(3) The location of the well identified by section or lot number, city, village, township, and county;

(4) Designation of well by name and number;

(5) The total depth of the well to be plugged;

(6) The date and amount of last production from the well;

(7) Other data that the chief may require.

(C) If oil or gas has been produced from the well, the application shall be accompanied by a fee of two hundred fifty dollars. If a well has been drilled in accordance with law and the permit is still valid, the permit holder may receive approval to plug the well from ~~a mineral~~ an oil and gas resources inspector so that the well can be plugged and abandoned without undue delay. Unless waived by ~~a mineral~~ an oil and gas resources inspector,

the owner of a well or the owner's authorized representative shall notify ~~a mineral~~ an oil and gas resources inspector at least twenty-four hours prior to the commencement of the plugging of a well. No well shall be plugged and abandoned without ~~a mineral~~ an oil and gas resources inspector present unless permission has been granted by the chief. The owner of a well that has produced oil or gas shall give written notice at the same time to the owner of the land upon which the well is located and to all lessors that receive gas from the well pursuant to a lease agreement. If the well penetrates or passes within one hundred feet of the excavations and workings of a mine, the owner of the well shall give written notice to the owner or lessee of that mine, of the well owner's intention to abandon the well and of the time when the well owner will be prepared to commence plugging it.

(D) An applicant may file a request with the chief for expedited review of an application for a permit to plug and abandon a well. The chief may refuse to accept a request for expedited review if, in the chief's judgment, acceptance of the request will prevent the issuance, within twenty-one days of filing, of permits for which applications filed under section 1509.06 of the Revised Code are pending. In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, if applicable, a request shall be accompanied by a nonrefundable filing fee of five hundred dollars unless the chief has ordered the applicant to plug and abandon the well. When a request for expedited review is filed, the chief shall immediately begin to process the application and shall issue a permit within seven days of the filing of the request unless the chief, by order, denies the application.

(E) This section does not apply to a well plugged or abandoned in compliance with section 1571.05 of the Revised Code.

Sec. 1509.14. Any person who abandons a well, when written permission has been granted by the chief of the division of ~~mineral~~ oil and gas resources management to abandon and plug the well without an inspector being present to supervise the plugging, shall make a written report of the abandonment to the chief. The report shall be submitted not later than thirty days after the date of abandonment and shall include all of the following:

(A) The date of abandonment;

(B) The name of the owner or operator of the well at the time of abandonment and the post-office address of the owner or operator;

(C) The location of the well as to township and county and the name of the owner of the surface upon which the well is drilled, with the address

thereof;

(D) The date of the permit to drill;

(E) The date when drilled;

(F) The depth of the well;

(G) The depth of the top of the formation to which the well was drilled;

(H) The depth of each seam of coal drilled through, if known;

(I) A detailed report as to how the well was plugged, giving in particular the manner in which the coal and various formations were plugged, and the date of the plugging of the well, including the names of those who witnessed the plugging of the well.

The report shall be signed by the owner or operator, or the agent of the owner or operator, who abandons and plugs the well and verified by the oath of the party so signing. For the purposes of this section, the ~~mineral~~ oil and gas resources inspectors may take acknowledgments and administer oaths to the parties signing the report.

Sec. 1509.15. When any well is to be abandoned, it shall first be plugged in accordance with a method of plugging adopted by rule by the chief of the division of ~~mineral~~ oil and gas resources management. The abandonment report shall show the manner in which the well was plugged.

Sec. 1509.17. (A) A well shall be constructed in a manner that is approved by the chief of the division of ~~mineral~~ oil and gas resources management as specified in the permit using materials that comply with industry standards for the type and depth of the well and the anticipated fluid pressures that are associated with the well. In addition, a well shall be constructed using sufficient steel or conductor casing in a manner that supports unconsolidated sediments, that protects and isolates all underground sources of drinking water as defined by the Safe Drinking Water Act, and that provides a base for a blowout preventer or other well control equipment that is necessary to control formation pressures and fluids during the drilling of the well and other operations to complete the well. Using steel production casing with sufficient cement, an oil and gas reservoir shall be isolated during well stimulation and during the productive life of the well. In addition, sour gas zones and gas bearing zones that have sufficient pressure and volume to over-pressurize the surface production casing annulus resulting in annular overpressurization shall be isolated using approved cementing, casing, and well construction practices. However, isolating an oil and gas reservoir shall not exclude open-hole completion. A well shall not be perforated for purposes of well stimulation in any zone that is located around casing that protects underground sources of drinking water without written authorization from the chief in accordance with division (D)

of this section. When the well penetrates the excavations of a mine, the casing shall remain intact as provided in section 1509.18 of the Revised Code and be plugged and abandoned in accordance with section 1509.15 of the Revised Code.

(B) The chief may adopt rules in accordance with Chapter 119. of the Revised Code that are consistent with division (A) of this section and that establish standards for constructing a well, for evaluating the quality of well construction materials, and for completing remedial cementing. In addition, the standards established in the rules shall consider local geology and various drilling conditions and shall require the use of reasonable methods that are based on sound engineering principles.

(C) An owner or an owner's authorized representative shall notify ~~a mineral~~ an oil and gas resources inspector each time that the owner or the authorized representative notifies a person to perform the cementing of the conductor casing, the surface casing, or the production casing. In addition, not later than sixty days after the completion of the cementing of the production casing, an owner shall submit to the chief a copy of the cement tickets for each cemented string of casing and a copy of all logs that were used to evaluate the quality of the cementing.

(D) The chief shall grant an exemption from this section and rules adopted under it for a well if the chief determines that a cement bond log confirms zonal isolation and there is a minimum of five hundred feet between the uppermost perforation of the casing and the lowest depth of an underground source of drinking water.

Sec. 1509.181. (A) The chief of the division of mineral resources management may order the immediate suspension of the drilling or reopening of a well in a coal bearing township after determining that the drilling or reopening activities present an imminent and substantial threat to public health or safety or to a miner's health or safety.

(B) Before issuing an order under division (A) of this section, the chief shall notify the chief of the division of oil and gas resources management and the owner in any manner that the chief of the division of mineral resources management determines would provide reasonable notification of the chief's intent to issue a suspension order. However, the chief may order the immediate suspension of the drilling or reopening of a well in a coal bearing township without prior notification to the owner if the chief has made reasonable attempts to notify the owner and the attempts have failed. If the chief orders the immediate suspension of such drilling or reopening, the chief shall provide the chief of the division of oil and gas resources management and the owner notice of the order as soon as practical.

(C) Not later than five days after the issuance of an order under division (A) of this section to immediately suspend the drilling or reopening of a well in a coal bearing township, the chief of the division of mineral resources management shall provide the owner an opportunity to be heard and to present evidence that the drilling or reopening activities will not likely result in an imminent and substantial threat to public health or safety or to a miner's health or safety, as applicable. If the chief, after considering all evidence presented by the owner, determines that the activities do not present such a threat, the chief shall revoke the suspension order.

(D) Notwithstanding any other provision of this chapter, an owner may appeal a suspension order issued under this section to the reclamation commission in accordance with section 1513.13 of the Revised Code.

Sec. 1509.19. An owner who elects to stimulate a well shall stimulate the well in a manner that will not endanger underground sources of drinking water. Not later than twenty-four hours before commencing the stimulation of a well, the owner or the owner's authorized representative shall notify ~~a mineral~~ an oil and gas resources inspector. If during the stimulation of a well damage to the production casing or cement occurs and results in the circulation of fluids from the annulus of the surface production casing, the owner shall immediately terminate the stimulation of the well and notify the chief of the division of ~~mineral~~ oil and gas resources management. If the chief determines that the casing and the cement may be remediated in a manner that isolates the oil and gas bearing zones of the well, the chief may authorize the completion of the stimulation of the well. If the chief determines that the stimulation of a well resulted in irreparable damage to the well, the chief shall order that the well be plugged and abandoned within thirty days of the issuance of the order.

For purposes of determining the integrity of the remediation of the casing or cement of a well that was damaged during the stimulation of the well, the chief may require the owner of the well to submit cement evaluation logs, temperature surveys, pressure tests, or a combination of such logs, surveys, and tests.

Sec. 1509.21. No person shall, without first having obtained a permit from the chief of the division of ~~mineral~~ oil and gas resources management, conduct secondary or additional recovery operations, including any underground injection of fluids or carbon dioxide for the secondary or tertiary recovery of oil or natural gas or for the storage of hydrocarbons that are liquid at standard temperature or pressure, unless a rule of the chief expressly authorizes such operations without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code.

Secondary or additional recovery operations shall be conducted in accordance with rules and orders of the chief and any terms or conditions of the permit authorizing such operations. In addition, the chief may authorize tests to evaluate whether fluids or carbon dioxide may be injected in a reservoir and to determine the maximum allowable injection pressure. The tests shall be conducted in accordance with methods prescribed in rules of the chief or conditions of the permit. Rules adopted under this section shall include provisions regarding applications for and the issuance of permits; the terms and conditions of permits; entry to conduct inspections and to examine records to ascertain compliance with this section and rules, orders, and terms and conditions of permits adopted or issued thereunder; the provision and maintenance of information through monitoring, recordkeeping, and reporting; and other provisions in furtherance of the goals of this section and the Safe Drinking Water Act. To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit for the underground injection of fluids for the secondary or tertiary recovery of oil or natural gas or for the storage of hydrocarbons that are liquid at standard temperature and pressure, unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in underground water that supplies or can be reasonably expected to supply any public water system, such that the presence of any such contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. Rules, orders, and terms or conditions of permits adopted or issued under this section shall be construed to be no more stringent than required for compliance with the Safe Drinking Water Act, unless essential to ensure that underground sources of drinking water will not be endangered.

Sec. 1509.22. (A) Except when acting in accordance with section 1509.226 of the Revised Code, no person shall place or cause to be placed brine, crude oil, natural gas, or other fluids associated with the exploration or development of oil and gas resources in surface or ground water or in or on the land in such quantities or in such manner as actually causes or could reasonably be anticipated to cause either of the following:

(1) Water used for consumption by humans or domestic animals to exceed the standards of the Safe Drinking Water Act;

(2) Damage or injury to public health or safety or the environment.

(B) No person shall store or dispose of brine in violation of a plan approved under division (A) of section 1509.222 or section 1509.226 of the Revised Code, in violation of a resolution submitted under section 1509.226

of the Revised Code, or in violation of rules or orders applicable to those plans or resolutions.

(C) The chief of the division of ~~mineral~~ oil and gas resources management shall adopt rules and issue orders regarding storage and disposal of brine and other waste substances; however, the storage and disposal of brine and other waste substances and the chief's rules relating to storage and disposal are subject to all of the following standards:

(1) Brine from any well except an exempt Mississippian well shall be disposed of only by injection into an underground formation, including annular disposal if approved by rule of the chief, which injection shall be subject to division (D) of this section; by surface application in accordance with section 1509.226 of the Revised Code; in association with a method of enhanced recovery as provided in section 1509.21 of the Revised Code; or by other methods approved by the chief for testing or implementing a new technology or method of disposal. Brine from exempt Mississippian wells shall not be discharged directly into the waters of the state.

(2) Muds, cuttings, and other waste substances shall not be disposed of in violation of any rule.

(3) Pits or steel tanks shall be used as authorized by the chief for containing brine and other waste substances resulting from, obtained from, or produced in connection with drilling, well stimulation, reworking, reconditioning, plugging back, or plugging operations. The pits and steel tanks shall be constructed and maintained to prevent the escape of brine and other waste substances.

(4) A dike or pit may be used for spill prevention and control. A dike or pit so used shall be constructed and maintained to prevent the escape of brine and crude oil, and the reservoir within such a dike or pit shall be kept reasonably free of brine, crude oil, and other waste substances.

(5) Earthen impoundments constructed pursuant to the division's specifications may be used for the temporary storage of fluids used in the stimulation of a well.

(6) No pit, earthen impoundment, or dike shall be used for the temporary storage of brine or other substances except in accordance with divisions (C)(3) to (5) of this section.

(7) No pit or dike shall be used for the ultimate disposal of brine or other liquid waste substances.

(D) No person, without first having obtained a permit from the chief, shall inject brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production into an underground formation unless a rule of the chief expressly authorizes

the injection without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code, and the permit application shall be accompanied by a permit fee of one thousand dollars. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the injection into wells of brine and other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production. The rules may authorize tests to evaluate whether fluids or carbon dioxide may be injected in a reservoir and to determine the maximum allowable injection pressure, which shall be conducted in accordance with methods prescribed in the rules or in accordance with conditions of the permit. In addition, the rules shall include provisions regarding applications for and issuance of the permits required by this division; entry to conduct inspections and to examine and copy records to ascertain compliance with this division and rules, orders, and terms and conditions of permits adopted or issued under it; the provision and maintenance of information through monitoring, recordkeeping, and reporting; and other provisions in furtherance of the goals of this section and the Safe Drinking Water Act. To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit for the injection of brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in ground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. This division and rules, orders, and terms and conditions of permits adopted or issued under it shall be construed to be no more stringent than required for compliance with the Safe Drinking Water Act unless essential to ensure that underground sources of drinking water will not be endangered.

(E) The owner holding a permit, or an assignee or transferee who has assumed the obligations and liabilities imposed by this chapter and any rules adopted or orders issued under it pursuant to section 1509.31 of the Revised Code, and the operator of a well shall be liable for a violation of this section or any rules adopted or orders or terms or conditions of a permit issued under it.

(F) An owner shall replace the water supply of the holder of an interest in real property who obtains all or part of the holder's supply of water for domestic, agricultural, industrial, or other legitimate use from an

underground or surface source where the supply has been substantially disrupted by contamination, diminution, or interruption proximately resulting from the owner's oil or gas operation, or the owner may elect to compensate the holder of the interest in real property for the difference between the fair market value of the interest before the damage occurred to the water supply and the fair market value after the damage occurred if the cost of replacing the water supply exceeds this difference in fair market values. However, during the pendency of any order issued under this division, the owner shall obtain for the holder or shall reimburse the holder for the reasonable cost of obtaining a water supply from the time of the contamination, diminution, or interruption by the operation until the owner has complied with an order of the chief for compliance with this division or such an order has been revoked or otherwise becomes not effective. If the owner elects to pay the difference in fair market values, but the owner and the holder have not agreed on the difference within thirty days after the chief issues an order for compliance with this division, within ten days after the expiration of that thirty-day period, the owner and the chief each shall appoint an appraiser to determine the difference in fair market values, except that the holder of the interest in real property may elect to appoint and compensate the holder's own appraiser, in which case the chief shall not appoint an appraiser. The two appraisers appointed shall appoint a third appraiser, and within thirty days after the appointment of the third appraiser, the three appraisers shall hold a hearing to determine the difference in fair market values. Within ten days after the hearing, the appraisers shall make their determination by majority vote and issue their final determination of the difference in fair market values. The chief shall accept a determination of the difference in fair market values made by agreement of the owner and holder or by appraisers under this division and shall make and dissolve orders accordingly. This division does not affect in any way the right of any person to enforce or protect, under applicable law, the person's interest in water resources affected by an oil or gas operation.

(G) In any action brought by the state for a violation of division (A) of this section involving any well at which annular disposal is used, there shall be a rebuttable presumption available to the state that the annular disposal caused the violation if the well is located within a one-quarter-mile radius of the site of the violation.

Sec. 1509.221. (A) No person, without first having obtained a permit from the chief of the division of ~~mineral~~ oil and gas resources management, shall drill a well or inject a substance into a well for the exploration for or extraction of minerals or energy, other than oil or natural gas, including, but

not limited to, the mining of sulfur by the Frasch process, the solution mining of minerals, the in situ combustion of fossil fuel, or the recovery of geothermal energy to produce electric power, unless a rule of the chief expressly authorizes the activity without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code governing the issuance of permits under this section. The rules shall include provisions regarding the matters the applicant for a permit shall demonstrate to establish eligibility for a permit; the form and content of applications for permits; the terms and conditions of permits; entry to conduct inspections and to examine and copy records to ascertain compliance with this section and rules, orders, and terms and conditions of permits adopted or issued thereunder; provision and maintenance of information through monitoring, recordkeeping, and reporting; and other provisions in furtherance of the goals of this section and the Safe Drinking Water Act. To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit under this section, unless the chief concludes that the applicant has demonstrated that the drilling, injection of a substance, and extraction of minerals or energy will not result in the presence of any contaminant in underground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. The chief may issue, without a prior adjudication hearing, orders requiring compliance with this section and rules, orders, and terms and conditions of permits adopted or issued thereunder. This section and rules, orders, and terms and conditions of permits adopted or issued thereunder shall be construed to be no more stringent than required for compliance with the Safe Drinking Water Act, unless essential to ensure that underground sources of drinking water will not be endangered.

(B)(1) There is levied on the owner of an injection well who has been issued a permit under division (D) of section 1509.22 of the Revised Code the following fees:

(a) Five cents per barrel of each substance that is delivered to a well to be injected in the well when the substance is produced within the division of ~~mineral~~ oil and gas resources management regulatory district in which the well is located or within an adjoining ~~mineral~~ oil and gas resources management regulatory district;

(b) Twenty cents per barrel of each substance that is delivered to a well to be injected in the well when the substance is not produced within the

division of ~~mineral~~ oil and gas resources management regulatory district in which the well is located or within an adjoining ~~mineral~~ oil and gas resources management regulatory district.

(2) The maximum number of barrels of substance per injection well in a calendar year on which a fee may be levied under division (B) of this section is five hundred thousand. If in a calendar year the owner of an injection well receives more than five hundred thousand barrels of substance to be injected in the owner's well and if the owner receives at least one substance that is produced within the division's regulatory district in which the well is located or within an adjoining regulatory district and at least one substance that is not produced within the division's regulatory district in which the well is located or within an adjoining regulatory district, the fee shall be calculated first on all of the barrels of substance that are not produced within the division's regulatory district in which the well is located or within an adjoining district at the rate established in division (B)(2) of this section. The fee then shall be calculated on the barrels of substance that are produced within the division's regulatory district in which the well is located or within an adjoining district at the rate established in division (B)(1) of this section until the maximum number of barrels established in division (B)(2) of this section has been attained.

(3) The owner of an injection well who is issued a permit under division (D) of section 1509.22 of the Revised Code shall collect the fee levied by division (B) of this section on behalf of the division of ~~mineral~~ oil and gas resources management and forward the fee to the division. The chief shall transmit all money received under division (B) of this section to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code. The owner of an injection well who collects the fee levied by this division may retain up to three per cent of the amount that is collected.

(4) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements and procedures for collection of the fee levied by division (B) of this section.

(C) In an action under section 1509.04 or 1509.33 of the Revised Code to enforce this section, the court shall grant preliminary and permanent injunctive relief and impose a civil penalty upon the showing that the person against whom the action is brought has violated, is violating, or will violate this section or rules, orders, or terms or conditions of permits adopted or issued thereunder. The court shall not require, prior to granting such preliminary and permanent injunctive relief or imposing a civil penalty, proof that the violation was, is, or will be the result of intentional conduct or

negligence. In any such action, any person may intervene as a plaintiff upon the demonstration that the person has an interest that is or may be adversely affected by the activity for which injunctive relief or a civil penalty is sought.

Sec. 1509.222. (A)(1) Except as provided in section 1509.226 of the Revised Code, no person shall transport brine by vehicle in this state unless the business entity that employs the person first registers with and obtains a registration certificate and identification number from the chief of the division of ~~mineral~~ oil and gas resources management.

(2) No more than one registration certificate shall be required of any business entity. Registration certificates issued under this section are not transferable. An applicant shall file an application with the chief, containing such information in such form as the chief prescribes, but including a plan for disposal that provides for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported and that lists all disposal sites that the applicant intends to use, the bond required by section 1509.225 of the Revised Code, and a certificate issued by an insurance company authorized to do business in this state certifying that the applicant has in force a liability insurance policy in an amount not less than three hundred thousand dollars bodily injury coverage and three hundred thousand dollars property damage coverage to pay damages for injury to persons or property caused by the collecting, handling, transportation, or disposal of brine. The policy shall be maintained in effect during the term of the registration certificate. The policy or policies providing the coverage shall require the insurance company to give notice to the chief if the policy or policies lapse for any reason. Upon such termination of the policy, the chief may suspend the registration certificate until proper insurance coverage is obtained. Each application for a registration certificate shall be accompanied by a nonrefundable fee of five hundred dollars.

(3) If a business entity that has been issued a registration certificate under this section changes its name due to a business reorganization or merger, the business entity shall revise the bond or certificates of deposit required by section 1509.225 of the Revised Code and obtain a new certificate from an insurance company in accordance with division (A)(2) of this section to reflect the change in the name of the business entity.

(B) The chief shall issue an order denying an application for a registration certificate if the chief finds that either of the following applies:

(1) The applicant, at the time of applying for the registration certificate, has been found liable by a final nonappealable order of a court of competent

jurisdiction for damage to streets, roads, highways, bridges, culverts, or drainways pursuant to section 4513.34 or 5577.12 of the Revised Code until the applicant provides the chief with evidence of compliance with the order.

(2) The applicant's plan for disposal does not provide for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported.

(C) No applicant shall attempt to circumvent division (B) of this section by applying for a registration certificate under a different name or business organization name, by transferring responsibility to another person or entity, or by any similar act.

(D) A registered transporter shall apply to revise a disposal plan under procedures that the chief shall prescribe by rule. However, at a minimum, an application for a revision shall list all sources and disposal sites of brine currently transported. The chief shall deny any application for a revision of a plan under this division if the chief finds that the proposed revised plan does not provide for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported. Approvals and denials of revisions shall be by order of the chief.

(E) The chief may adopt rules, issue orders, and attach terms and conditions to registration certificates as may be necessary to administer, implement, and enforce sections 1509.222 to 1509.226 of the Revised Code for protection of public health or safety or conservation of natural resources.

Sec. 1509.223. (A) No permit holder or owner of a well shall enter into an agreement with or permit any person to transport brine produced from the well who is not registered pursuant to section 1509.222 of the Revised Code or exempt from registration under section 1509.226 of the Revised Code.

(B) Each registered transporter shall file with the chief of the division of ~~mineral~~ oil and gas resources management, on or before the fifteenth day of April, a statement concerning brine transported, including quantities transported and source and delivery points, during the last preceding calendar year, and such other information in such form as the chief may prescribe.

(C) Each registered transporter shall keep on each vehicle used to transport brine a daily log and have it available upon the request of the chief or an authorized representative of the chief or a peace officer. The log shall, at a minimum, include all of the following information:

(1) The name of the owner or owners of the well or wells producing the brine to be transported;

(2) The date and time the brine is loaded;

(3) The name of the driver;

(4) The amount of brine loaded at each collection point;

(5) The disposal location;

(6) The date and time the brine is disposed of and the amount of brine disposed of at each location.

No registered transporter shall falsify or fail to keep or submit the log required by this division.

(D) Each registered transporter shall legibly identify with reflective paints all vehicles employed in transporting or disposing of brine. Letters shall be no less than four inches in height and shall indicate the identification number issued by the chief, the word "brine," and the name and telephone number of the transporter.

(E) The chief shall maintain and keep a current list of persons registered to transport brine under section 1509.222 of the Revised Code. The list shall be open to public inspection. It is an affirmative defense to a charge under division (A) of this section that at the time the permit holder or owner of a well entered into an agreement with or permitted a person to transport brine, the person was shown on the list as currently registered to transport brine.

Sec. 1509.224. (A) In addition to any other remedies provided in this chapter, if the chief of the division of ~~mineral~~ oil and gas resources management has reason to believe that a pattern of the same or similar violations of any requirements of ~~sections~~ section 1509.22, 1509.222, or 1509.223 of the Revised Code, or any rule adopted thereunder or term or condition of the registration certificate issued thereunder exists or has existed, and the violations are caused by the transporter's indifference, lack of diligence, or lack of reasonable care, or are willfully caused by the transporter, the chief shall immediately issue an order to the transporter to show cause why the certificate should not be suspended or revoked. After the issuance of the order, the chief shall provide the transporter an opportunity to be heard and to present evidence at an informal hearing conducted by the chief. If, at the conclusion of the hearing, the chief finds that such a pattern of violations exists or has existed, the chief shall issue an order suspending or revoking the transporter's registration certificate. An order suspending or revoking a certificate under this section may be appealed under sections 1509.36 and 1509.37 of the Revised Code, or notwithstanding any other provision of this chapter, may be appealed directly to the court of common pleas of Franklin county.

(B) Before issuing an order denying a registration certificate; approving or denying approval of an application for revision of a registered transporter's plan for disposal; or to implement, administer, or enforce

section 1509.22, 1509.222, 1509.223, 1509.225, or 1509.226 of the Revised Code and rules and terms and conditions of registration certificates adopted or issued thereunder pertaining to the transportation of brine by vehicle and the disposal of brine so transported, the chief shall issue a preliminary order indicating the chief's intent to issue a final order. The preliminary order shall clearly state the nature of the chief's proposed action and the findings on which it is based and shall state that the preliminary order becomes a final order thirty days after its issuance unless the person to whom the preliminary order is directed submits to the chief a written request for an informal hearing before the chief within that thirty-day period. At the hearing the person may present evidence as to why the preliminary order should be revoked or modified. Based upon the findings from the informal hearing, the chief shall revoke, issue, or modify and issue the preliminary order as a final order. A final order may be appealed under sections 1509.36 and 1509.37 of the Revised Code.

Sec. 1509.225. (A) Before being issued a registration certificate under section 1509.222 of the Revised Code, an applicant shall execute and file with the division of ~~mineral~~ oil and gas resources management a surety bond for fifteen thousand dollars to provide compensation for damage and injury resulting from transporters' violations of sections 1509.22, 1509.222, and 1509.223 of the Revised Code, all rules and orders of the chief of the division of ~~mineral resource~~ oil and gas resources management relating thereto, and all terms and conditions of the registration certificate imposed thereunder. The applicant may deposit with the chief, in lieu of a surety bond, cash in an amount equal to the surety bond as prescribed in this section, or negotiable certificates of deposit issued by any bank organized or transacting business in this state, or certificates of deposit issued by any building and loan association as defined in section 1151.01 of the Revised Code, having a cash value equal to or greater than the amount of the surety bond as prescribed in this section. Cash or certificates of deposit shall be deposited upon the same terms as those upon which surety bonds may be deposited. If certificates of deposit are deposited with the chief in lieu of a surety bond, the chief shall require the bank or building and loan association that issued any such certificate to pledge securities of a cash value equal to the amount of the certificate that is in excess of the amount insured by any of the agencies and instrumentalities created under the "Federal Deposit Insurance Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and regulations adopted under it, including at least the federal deposit insurance corporation, bank insurance fund, and savings association insurance fund.

Such securities shall be security for the repayment of the certificate of

deposit. Immediately upon a deposit of cash or certificates with the chief, the chief shall deliver it to the treasurer of state who shall hold it in trust for the purposes for which it has been deposited.

(B) The surety bond provided for in this section shall be executed by a surety company authorized to do business in this state. The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by an attorney in fact, with a certified copy of the power of attorney attached thereto. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state. All bonds shall be given in a form to be prescribed by the chief.

(C) If a registered transporter is found liable for a violation of section 1509.22, 1509.222, or 1509.223 of the Revised Code or a rule, order, or term or condition of a certificate involving, in any case, damage or injury to persons or property, or both, the court may order the forfeiture of any portion of the bond, cash, or other securities required by this section in full or partial payment of damages to the person to whom the damages are due. The treasurer of state and the chief shall deliver the bond or any cash or other securities deposited in lieu of bond, as specified in the court's order, to the person to whom the damages are due; however, execution against the bond, cash, or other securities, if necessary, is the responsibility of the person to whom the damages are due. The chief shall not release the bond, cash, or securities required by this section except by court order or until the registration is terminated.

Sec. 1509.226. (A) If a board of county commissioners, a board of township trustees, or the legislative authority of a municipal corporation wishes to permit the surface application of brine to roads, streets, highways, and other similar land surfaces it owns or has the right to control for control of dust or ice, it may adopt a resolution permitting such application as provided in this section. If a board or legislative authority does not adopt such a resolution, then no such surface application of brine is permitted on such roads, streets, highways, and other similar surfaces. If a board or legislative authority votes on a proposed resolution to permit such surface application of brine, but the resolution fails to receive the affirmative vote of a majority of the board or legislative authority, the board or legislative authority shall not adopt such a resolution for one year following the date on which the vote was taken. A board or legislative authority shall hold at least one public hearing on any proposal to permit surface application of brine under this division and may hold additional hearings. The board or

legislative authority shall publish notice of the time and place of each such public hearing in a newspaper of general circulation in the political subdivision at least five days before the day on which the hearing is to be held.

(B) If a board or legislative authority adopts a resolution permitting the surface application of brine to roads, streets, highways, and other similar land surfaces under division (A) of this section, the board or legislative authority shall, within thirty days after the adoption of the resolution, prepare and submit to the chief of the division of ~~mineral~~ oil and gas resources management a copy of the resolution. Any department, agency, or instrumentality of this state or the United States that wishes to permit the surface application of brine to roads, streets, highways, and other similar land surfaces it owns or has a right to control shall prepare and submit guidelines for such application, but need not adopt a resolution under division (A) of this section permitting such surface application.

All resolutions and guidelines shall be subject to the following standards:

(1) Brine shall not be applied:

(a) To a water-saturated surface;

(b) Directly to vegetation near or adjacent to surfaces being treated;

(c) Within twelve feet of structures crossing bodies of water or crossing drainage ditches;

(d) Between sundown and sunrise, except for ice control.

(2) The discharge of brine through the spreader bar shall stop when the application stops.

(3) The applicator vehicle shall be moving at least five miles per hour at all times while the brine is being applied.

(4) The maximum spreader bar nozzle opening shall be three-quarters of an inch in diameter.

(5) The maximum uniform application rate of brine shall be three thousand gallons per mile on a twelve-foot-wide road or three gallons per sixty square feet on unpaved lots.

(6) The applicator vehicle discharge valve shall be closed between the brine collection point and the specific surfaces that have been approved for brine application.

(7) Any valves that provide for tank draining other than through the spreader bar shall be closed during the brine application and transport.

(8) The angle of discharge from the applicator vehicle spreader bar shall not be greater than sixty degrees from the perpendicular to the unpaved surface.

(9) Only the last twenty-five per cent of an applicator vehicle's contents shall be allowed to have a pressure greater than atmospheric pressure; therefore, the first seventy-five per cent of the applicator vehicle's contents shall be discharged under atmospheric pressure.

(10) Only brine that is produced from a well shall be allowed to be spread on a road. Fluids from the drilling of a well, flowback from the stimulation of a well, and other fluids used to treat a well shall not be spread on a road.

If a resolution or guidelines contain only the standards listed in ~~division~~ divisions (B)(1) to (10) of this section, without addition or qualification, the resolution or guidelines shall be deemed effective when submitted to the chief without further action by the chief. All other resolutions and guidelines shall comply with and be no less stringent than this chapter, rules concerning surface application that the chief shall adopt under division (C) of section 1509.22 of the Revised Code, and other rules of the chief. Within fifteen days after receiving such other resolutions and guidelines, the chief shall review them for compliance with the law and rules and disapprove them if they do not comply.

The board, legislative authority, or department, agency, or instrumentality may revise and resubmit any resolutions or guidelines that the chief disapproves after each disapproval, and the chief shall again review and approve or disapprove them within fifteen days after receiving them. The board, legislative authority, or department, agency, or instrumentality may amend any resolutions or guidelines previously approved by the chief and submit them, as amended, to the chief. The chief shall receive, review, and approve or disapprove the amended resolutions or guidelines on the same basis and in the same time as original resolutions or guidelines. The board, legislative authority, or department, agency, or instrumentality shall not implement amended resolutions or guidelines until they are approved by the chief under this division.

(C) Any person, other than a political subdivision required to adopt a resolution under division (A) of this section or a department, agency, or instrumentality of this state or the United States, who owns or has a legal right or obligation to maintain a road, street, highway, or other similar land surface may file with the board of county commissioners a written plan for the application of brine to the road, street, highway, or other surface. The board need not approve any such plans, but if it approves a plan, the plan shall comply with this chapter, rules adopted thereunder, and the board's resolutions, if any. Disapproved plans may be revised and resubmitted for the board's approval. Approved plans may also be revised and submitted to

the board. A plan or revised plan shall do all of the following:

(1) Identify the sources of brine to be used under the plan;

(2) Identify by name, address, and registration certificate, if applicable, any transporters of the brine;

(3) Specifically identify the places to which the brine will be applied;

(4) Specifically describe the method, rate, and frequency of application.

(D) The board may attach terms and conditions to approval of a plan, or revised plan, and may revoke approval for any violation of this chapter, rules adopted thereunder, resolutions adopted by the board, or terms or conditions attached by the board. The board shall conduct at least one public hearing before approving a plan or revised plan, publishing notice of the time and place of each such public hearing in a newspaper of general circulation in the county at least five days before the day on which the hearing is to be held. The board shall record the filings of all plans and revised plans in its journal. The board shall approve, disapprove, or revoke approval of a plan or revised plan by the adoption of a resolution. Upon approval of a plan or revised plan, the board shall send a copy of the plan to the chief. Upon revoking approval of a plan or revised plan, the board shall notify the chief of the revocation.

(E) No person shall:

(1) Apply brine to a water-saturated surface;

(2) Apply brine directly to vegetation adjacent to the surface of roads, streets, highways, and other surfaces to which brine may be applied.

(F) Each political subdivision that adopts a resolution under divisions (A) and (B) of this section, each department, agency, or instrumentality of this state or the United States that submits guidelines under division (B) of this section, and each person who files a plan under divisions (C) and (D) of this section shall, on or before the fifteenth day of April of each year, file a report with the chief concerning brine applied within the person's or governmental entity's jurisdiction, including the quantities transported and the sources and application points during the last preceding calendar year and such other information in such form as the chief requires.

(G) Any political subdivision or department, agency, or instrumentality of this state or the United States that applies brine under this section may do so with its own personnel, vehicles, and equipment without registration under or compliance with section 1509.222 or 1509.223 of the Revised Code and without the necessity for filing the surety bond or other security required by section 1509.225 of the Revised Code. However, each such entity shall legibly identify vehicles used to apply brine with reflective paint in letters no less than four inches in height, indicating the word "brine" and

that the vehicle is a vehicle of the political subdivision, department, agency, or instrumentality. Except as stated in this division, such entities shall transport brine in accordance with sections 1509.22 to 1509.226 of the Revised Code.

(H) A surface application plan filed for approval under division (C) of this section shall be accompanied by a nonrefundable fee of fifty dollars, which shall be credited to the general fund of the county. An approved plan is valid for one year from the date of its approval unless it is revoked before that time. An approved revised plan is valid for the remainder of the term of the plan it supersedes unless it is revoked before that time. Any person who has filed such a plan or revised plan and had it approved may renew it by refiling it in accordance with divisions (C) and (D) of this section within thirty days before any anniversary of the date on which the original plan was approved. The board shall notify the chief of renewals and nonrenewals of plans. Even if a renewed plan is approved under those divisions, the plan is not effective until notice is received by the chief, and until notice is received, the chief shall enforce this chapter and rules adopted thereunder with regard to the affected roads, streets, highways, and other similar land surfaces as if the plan had not been renewed.

(I) A resolution adopted under division (A) of this section by a board or legislative authority shall be effective for one year following the date of its adoption and from month to month thereafter until the board or legislative authority, by resolution, terminates the authority granted in the original resolution. The termination shall be effective not less than seven days after enactment of the resolution, and a copy of the resolution shall be sent to the chief.

Sec. 1509.23. (A) Rules of the chief of the division of ~~mineral~~ oil and gas resources management may specify practices to be followed in the drilling and treatment of wells, production of oil and gas, and plugging of wells for protection of public health or safety or to prevent damage to natural resources, including specification of the following:

(1) Appropriate devices;

(2) Minimum distances that wells and other excavations, structures, and equipment shall be located from water wells, streets, roads, highways, rivers, lakes, streams, ponds, other bodies of water, railroad tracks, public or private recreational areas, zoning districts, and buildings or other structures. Rules adopted under division (A)(2) of this section shall not conflict with section 1509.021 of the Revised Code.

(3) Other methods of operation;

(4) Procedures, methods, and equipment and other requirements for

equipment to prevent and contain discharges of oil and brine from oil production facilities and oil drilling and workover facilities consistent with and equivalent in scope, content, and coverage to section 311(j)(1)(c) of the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended, and regulations adopted under it. In addition, the rules may specify procedures, methods, and equipment and other requirements for equipment to prevent and contain surface and subsurface discharges of fluids, condensates, and gases.

(5) Notifications.

(B) The chief, in consultation with the emergency response commission created in section 3750.02 of the Revised Code, shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the information that shall be included in an electronic database that the chief shall create and host. The information shall be that which the chief considers to be appropriate for the purpose of responding to emergency situations that pose a threat to public health or safety or the environment. At the minimum, the information shall include that which a person who is regulated under this chapter is required to submit under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001, and regulations adopted under it.

In addition, the rules shall specify whether and to what extent the database and the information that it contains will be made accessible to the public. The rules shall ensure that the database will be made available via the internet or a system of computer disks to the emergency response commission and to every local emergency planning committee and fire department in this state.

Sec. 1509.24. (A) The chief of the division of ~~mineral~~ oil and gas resources management, with the approval of the technical advisory council on oil and gas created in section 1509.38 of the Revised Code, may adopt, amend, or rescind rules relative to minimum acreage requirements for drilling units and minimum distances from which a new well may be drilled or an existing well deepened, plugged back, or reopened to a source of supply different from the existing pool from boundaries of tracts, drilling units, and other wells for the purpose of conserving oil and gas reserves. The rules relative to minimum acreage requirements for drilling units shall require a drilling unit to be compact and composed of contiguous land.

(B) Rules adopted under this section and special orders made under section 1509.25 of the Revised Code shall apply only to new wells to be drilled or existing wells to be deepened, plugged back, or reopened to a source of supply different from the existing pool for the purpose of

extracting oil or gas in their natural state.

Sec. 1509.25. The chief of the division of ~~mineral~~ oil and gas resources management, upon the chief's own motion or upon application of an owner, may hold a hearing to consider the need or desirability of adopting a special order for drilling unit requirements in a particular pool different from those established under section 1509.24 of the Revised Code. The chief shall notify every owner of land within the area proposed to be included within the order, of the date, time, and place of the hearing and the nature of the order being considered at least thirty days prior to the date of the hearing. Each application for such an order shall be accompanied by such information as the chief may request. If the chief finds that the pool can be defined with reasonable certainty, that the pool is in the initial state of development, and that the establishment of such different requirements for drilling a well on a tract or drilling unit in ~~such~~ the pool is reasonably necessary to protect correlative rights or to provide effective development, use, or conservation of oil and gas, the chief, with the written approval of the technical advisory council on oil and gas created in section 1509.38 of the Revised Code, shall make a special order designating the area covered by the order, and specifying the acreage requirements for drilling a well on a tract or drilling unit in ~~such~~ the area, which acreage requirements shall be uniform for the entire pool. The order shall specify minimum distances from the boundary of the tract or drilling unit for the drilling of wells and minimum distances from other wells and allow exceptions for wells drilled or drilling in a particular pool at the time of the filing of the application. The chief may exempt the discovery well from minimum acreage and distance requirements in the order. After the date of the notice for a hearing called to make ~~such~~ the order, no additional well shall be commenced in the pool for a period of sixty days or until an order has been made pursuant to the application, whichever is earlier. The chief, upon the chief's own motion or upon application of an owner, after a hearing and with the approval of the technical advisory council on oil and gas, may include additional lands determined to be underlaid by a particular pool or to exclude lands determined not to be underlaid by a particular pool, and may modify the spacing and acreage requirements of the order.

Nothing in this section permits the chief to establish drilling units in a pool by requiring the use of a survey grid coordinate system with fixed or established unit boundaries.

Sec. 1509.26. The owners of adjoining tracts may agree to pool ~~such~~ the tracts to form a drilling unit that conforms to the minimum acreage and distance requirements of the division of ~~mineral~~ oil and gas resources

management under section 1509.24 or 1509.25 of the Revised Code. ~~Such~~ The agreement shall be in writing, a copy of which shall be submitted to the division with the application for a permit required by section 1509.05 of the Revised Code. Parties to the agreement shall designate one of their number as the applicant for ~~such~~ the permit.

Sec. 1509.27. If a tract of land is of insufficient size or shape to meet the requirements for drilling a well thereon as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable, and the owner of the tract who also is the owner of the mineral interest has been unable to form a drilling unit under agreement as provided in section 1509.26 of the Revised Code, on a just and equitable basis, such an owner may make application to the division of ~~mineral~~ oil and gas resources management for a mandatory pooling order.

The application shall include information as shall be reasonably required by the chief of the division of ~~mineral~~ oil and gas resources management and shall be accompanied by an application for a permit as required by section 1509.05 of the Revised Code. The chief shall notify all owners of land within the area proposed to be included within the drilling unit of the filing of the application and of their right to a hearing. After the hearing or after the expiration of thirty days from the date notice of application was mailed to such owners, the chief, if satisfied that the application is proper in form and that mandatory pooling is necessary to protect correlative rights and to provide effective development, use, and conservation of oil and gas, shall issue a drilling permit and a mandatory pooling order complying with the requirements for drilling a well as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable. The mandatory pooling order shall:

(A) Designate the boundaries of the drilling unit within which the well shall be drilled;

(B) Designate the proposed production site;

(C) Describe each separately owned tract or part thereof pooled by the order;

(D) Allocate on a surface acreage basis a pro rata portion of the production to the owner of each tract pooled by the order. The pro rata portion shall be in the same proportion that the percentage of the owner's acreage is to the state minimum acreage requirements established in rules adopted under this chapter for a drilling unit unless the applicant demonstrates to the chief using geological evidence that the geologic structure containing the oil or gas is larger than the minimum acreage requirement in which case the pro rata portion shall be in the same

proportion that the percentage of the owner's acreage is to the geologic structure.

(E) Specify the basis upon which each owner of a tract pooled by the order shall share all reasonable costs and expenses of drilling and producing if the owner elects to participate in the drilling and operation of the well;

(F) Designate the person to whom the permit shall be issued.

A person shall not submit more than five applications for mandatory pooling orders per year under this section unless otherwise approved by the chief.

No surface operations or disturbances to the surface of the land shall occur on a tract pooled by an order without the written consent of or a written agreement with the owner of the tract that approves the operations or disturbances.

If an owner of a tract pooled by the order does not elect to participate in the risk and cost of the drilling and operation of a well, the owner shall be designated as a nonparticipating owner in the drilling and operation of the well on a limited or carried basis and is subject to terms and conditions determined by the chief to be just and reasonable. In addition, if an owner is designated as a nonparticipating owner, the owner is not liable for actions or conditions associated with the drilling or operation of the well. If the applicant bears the costs of drilling, equipping, and operating a well for the benefit of a nonparticipating owner, as provided for in the pooling order, then the applicant shall be entitled to the share of production from the drilling unit accruing to the interest of that nonparticipating owner, exclusive of the nonparticipating owner's proportionate share of the royalty interest until there has been received the share of costs charged to that nonparticipating owner plus such additional percentage of the share of costs as the chief shall determine. The total amount receivable hereunder shall in no event exceed two hundred per cent of the share of costs charged to that nonparticipating owner. After receipt of that share of costs by such an applicant, a nonparticipating owner shall receive a proportionate share of the working interest in the well in addition to a proportionate share of the royalty interest, if any.

If there is a dispute as to costs of drilling, equipping, or operating a well, the chief shall determine those costs.

Sec. 1509.28. (A) The chief of the division of ~~mineral~~ oil and gas resources management, upon the chief's own motion or upon application by the owners of sixty-five per cent of the land area overlying the pool, shall hold a hearing to consider the need for the operation as a unit of an entire pool or part thereof. An application by owners shall be accompanied by such

information as the chief may request.

The chief shall make an order providing for the unit operation of a pool or part thereof if the chief finds that such operation is reasonably necessary to increase substantially the ultimate recovery of oil and gas, and the value of the estimated additional recovery of oil or gas exceeds the estimated additional cost incident to conducting ~~such~~ the operation. The order shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for unit operations that shall include:

(1) A description of the unitized area, termed the unit area;

(2) A statement of the nature of the operations contemplated;

(3) An allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, being the production that is not used in the conduct of operations on the unit area or not unavoidably lost. The allocation shall be in accord with the agreement, if any, of the interested parties. If there is no such agreement, the chief shall determine the value, from the evidence introduced at the hearing, of each separately owned tract in the unit area, exclusive of physical equipment, for development of oil and gas by unit operations, and the production allocated to each tract shall be the proportion that the value of each tract so determined bears to the value of all tracts in the unit area.

(4) A provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials, and equipment contributed to the unit operations;

(5) A provision providing how the expenses of unit operations, including capital investment, shall be determined and charged to the separately owned tracts and how the expenses shall be paid;

(6) A provision, if necessary, for carrying or otherwise financing any person who is unable to meet the person's financial obligations in connection with the unit, allowing a reasonable interest charge for such service;

(7) A provision for the supervision and conduct of the unit operations, in respect to which each person shall have a vote with a value corresponding to the percentage of the expenses of unit operations chargeable against the interest of ~~such~~ that person;

(8) The time when the unit operations shall commence, and the manner in which, and the circumstances under which, the unit operations shall terminate;

(9) Such additional provisions as are found to be appropriate for carrying on the unit operations, and for the protection or adjustment of

correlative rights.

(B) No order of the chief providing for unit operations shall become effective unless and until the plan for unit operations prescribed by the chief has been approved in writing by those owners who, under the chief's order, will be required to pay at least sixty-five per cent of the costs of the unit operation, and also by the royalty or, with respect to unleased acreage, fee owners of sixty-five per cent of the acreage to be included in the unit. If the plan for unit operations has not been so approved by owners and royalty owners at the time the order providing for unit operations is made, the chief shall upon application and notice hold such supplemental hearings as may be required to determine if and when the plan for unit operations has been so approved. If the owners and royalty owners, or either, owning the required percentage of interest in the unit area do not approve the plan for unit operations within a period of six months from the date on which the order providing for unit operations is made, ~~such~~ the order shall cease to be of force and shall be revoked by the chief.

An order providing for unit operations may be amended by an order made by the chief, in the same manner and subject to the same conditions as an original order providing for unit operations, provided that:

(1) If such an amendment affects only the rights and interests of the owners, the approval of the amendment by the royalty owners shall not be required.

(2) No such order of amendment shall change the percentage for allocation of oil and gas as established for any separately owned tract by the original order, except with the consent of all persons owning interest in ~~such~~ the tract.

The chief, by an order, may provide for the unit operation of a pool or a part thereof that embraces a unit area established by a previous order of the chief. Such an order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production so allocated thereto shall then be allocated among the separately owned tracts included in ~~such~~ the previously established unit area in the same proportions as those specified in the previous order.

Oil and gas allocated to a separately owned tract shall be deemed, for all purposes, to have been actually produced from ~~such~~ the tract, and all operations, including, but not limited to, the commencement, drilling, operation of, or production from a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations and production from any lease or contract for lands any portion of which is

included in the unit area. The operations conducted pursuant to the order of the chief shall constitute a fulfillment of all the express or implied obligations of each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the order of the chief.

Oil and gas allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations.

No order of the chief or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to ~~such~~ the tract until terminated in accordance with the provisions thereof.

Except to the extent that the parties affected so agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired for the account of the owners within the unit area shall be the property of such owners in the proportion that the expenses of unit operations are charged.

Sec. 1509.29. Upon application by an owner of a tract for which a drilling permit may not be issued, and a showing by the owner that the owner is unable to enter a voluntary pooling agreement and that the owner would be unable to participate under a mandatory pooling order, the chief of the division of ~~mineral~~ oil and gas resources management shall issue a permit and order establishing the tract as an exception tract if the chief finds that ~~such~~ the owner would otherwise be precluded from producing oil or gas from the owner's tract because of minimum acreage or distance requirements. The order shall set a percentage of the maximum daily potential production at which the well may be produced. The percentage shall be the same as the percentage that the number of acres in the tract bears to the number of acres in the minimum acreage requirement that has been established under section 1509.24 or 1509.25 of the Revised Code, whichever is applicable, but if the well drilled on ~~such~~ the tract is located nearer to the boundary of the tract than the required minimum distance, the percentage may not exceed the percentage determined by dividing the distance from the well to the boundary by the minimum distance requirement. Within ten days after completion of the well, the maximum daily potential production of the well shall be determined by such drill stem,

open flow, or other tests as may be required by the chief. The chief shall require such tests, at least once every three months, as are necessary to determine the maximum daily potential production at that time.

Sec. 1509.31. (A) Whenever the entire interest of an oil and gas lease is assigned or otherwise transferred, the assignor or transferor shall notify the holders of the royalty interests, and, if a well or wells exist on the lease, the division of ~~mineral~~ oil and gas resources management, of the name and address of the assignee or transferee by certified mail, return receipt requested, not later than thirty days after the date of the assignment or transfer. When notice of any such assignment or transfer is required to be provided to the division, it shall be provided on a form prescribed and provided by the division and verified by both the assignor or transferor and by the assignee or transferee and shall be accompanied by a nonrefundable fee of one hundred dollars for each well. The notice form applicable to assignments or transfers of a well to the owner of the surface estate of the tract on which the well is located shall contain a statement informing the landowner that the well may require periodic servicing to maintain its productivity; that, upon assignment or transfer of the well to the landowner, the landowner becomes responsible for compliance with the requirements of this chapter and rules adopted under it, including, without limitation, the proper disposal of brine obtained from the well, the plugging of the well when it becomes incapable of producing oil or gas, and the restoration of the well site; and that, upon assignment or transfer of the well to the landowner, the landowner becomes responsible for the costs of compliance with the requirements of this chapter and rules adopted under it and the costs for operating and servicing the well.

(B) When the entire interest of a well is proposed to be assigned or otherwise transferred to the landowner for use as an exempt domestic well, the owner who has been issued a permit under this chapter for the well shall submit to the chief of the division of oil and gas resources management an application for the assignment or transfer that contains all documents that the chief requires and a nonrefundable fee of one hundred dollars. The application for such an assignment or transfer shall be prescribed and provided by the chief. The chief may approve the application if the application is accompanied by a release of all of the oil and gas leases that are included in the applicable formation of the drilling unit, the release is in a form such that the well ownership merges with the fee simple interest of the surface tract, and the release is in a form that may be recorded. However, if the owner of the well does not release the oil and gas leases associated with the well that is proposed to be assigned or otherwise transferred or if

the fee simple tract that results from the merger of the well ownership with the fee simple interest of the surface tract is less than five acres, the proposed exempt domestic well owner shall post a five thousand dollar bond with the division ~~of mineral resources management~~ prior to the assignment or transfer of the well to ensure that the well will be properly plugged. The chief, for good cause, may modify the requirements of this section governing the assignment or transfer of the interests of a well to the landowner. Upon the assignment or transfer of the well, the owner of an exempt domestic well is not subject to the severance tax levied under section 5749.02 of the Revised Code, but is subject to all applicable fees established in this chapter.

(C) The owner holding a permit under section 1509.05 of the Revised Code is responsible for all obligations and liabilities imposed by this chapter and any rules, orders, and terms and conditions of a permit adopted or issued under it, and no assignment or transfer by the owner relieves the owner of the obligations and liabilities until and unless the assignee or transferee files with the division the information described in divisions (A)(1), (2), (3), (4), (5), (10), (11), and (12) of section 1509.06 of the Revised Code; obtains liability insurance coverage required by section 1509.07 of the Revised Code, except when none is required by that section; and executes and files a surety bond, negotiable certificates of deposit or irrevocable letters of credit, or cash, as described in that section. Instead of a bond, but only upon acceptance by the chief ~~of the division of mineral resources management~~, the assignee or transferee may file proof of financial responsibility, described in section 1509.07 of the Revised Code. Section 1509.071 of the Revised Code applies to the surety bond, cash, and negotiable certificates of deposit and irrevocable letters of credit described in this section. Unless the chief approves a modification, each assignee or transferee shall operate in accordance with the plans and information filed by the permit holder pursuant to section 1509.06 of the Revised Code.

(D) If a mortgaged property that is being foreclosed is subject to an oil or gas lease, pipeline agreement, or other instrument related to the production or sale of oil or natural gas and the lease, agreement, or other instrument was recorded subsequent to the mortgage, and if the lease, agreement, or other instrument is not in default, the oil or gas lease, pipeline agreement, or other instrument, as applicable, has priority over all other liens, claims, or encumbrances on the property so that the oil or gas lease, pipeline agreement, or other instrument is not terminated or extinguished upon the foreclosure sale of the mortgaged property. If the owner of the mortgaged property was entitled to oil and gas royalties before the

foreclosure sale, the oil or gas royalties shall be paid to the purchaser of the foreclosed property.

Sec. 1509.32. Any person adversely affected may file with the chief of the division of ~~mineral~~ oil and gas resources management a written complaint alleging failure to restore disturbed land surfaces in violation of section 1509.072 or 1509.22 of the Revised Code or a rule adopted thereunder.

Upon receipt of a complaint, the chief shall cause an investigation to be made of the lands where the alleged violation has occurred and send copies of the investigation report to the person who filed the complaint and to the owner. Upon finding a violation the chief shall order the owner to eliminate the violation within a specified time. If the owner fails to eliminate the violation within the time specified, the chief may request the prosecuting attorney of the county in which the violation occurs or the attorney general to bring appropriate action to secure compliance with ~~such~~ those sections. If the chief fails to bring an appropriate action to secure compliance with ~~such~~ those sections within twenty days after the time specified, the person filing the complaint may request the prosecuting attorney of the county in which the violation occurs to bring an appropriate action to secure compliance with ~~such~~ those sections. The division of ~~mineral~~ oil and gas resources management may cooperate with any state or local agency to provide technical advice or minimum standards for the restoration of various soils and land surfaces or to assist in any investigation.

Sec. 1509.33. (A) Whoever violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections for which no specific penalty is provided in this section, shall pay a civil penalty of not more than four thousand dollars for each offense.

(B) Whoever violates section 1509.221 of the Revised Code or any rules adopted or orders or terms or conditions of a permit issued thereunder shall pay a civil penalty of not more than two thousand five hundred dollars for each violation.

(C) Whoever violates division (D) of section 1509.22 or division (A)(1) of section 1509.222 of the Revised Code shall pay a civil penalty of not less than two thousand five hundred dollars nor more than twenty thousand dollars for each violation.

(D) Whoever violates division (A) of section 1509.22 of the Revised Code shall pay a civil penalty of not less than two thousand five hundred dollars nor more than ten thousand dollars for each violation.

(E) Whoever violates division (A) of section 1509.223 of the Revised

Code shall pay a civil penalty of not more than ten thousand dollars for each violation.

(F) Whoever violates section 1509.072 of the Revised Code or any rules adopted or orders issued to administer, implement, or enforce that section shall pay a civil penalty of not more than five thousand dollars for each violation.

(G) In addition to any other penalties provided in this chapter, whoever violates division (B) of section 1509.22 or division (A)(1) of section 1509.222 or knowingly violates division (A) of section 1509.223 of the Revised Code is liable for any damage or injury caused by the violation and for the cost of rectifying the violation and conditions caused by the violation. If two or more persons knowingly violate one or more of ~~such~~ those divisions in connection with the same event, activity, or transaction, they are jointly and severally liable under this division.

(H) The attorney general, upon the request of the chief of the division of ~~mineral~~ oil and gas resources management, shall commence an action under this section against any person who violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections. Any action under this section is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions. The remedy provided in this division is cumulative and concurrent with any other remedy provided in this chapter, and the existence or exercise of one remedy does not prevent the exercise of any other, except that no person shall be subject to both a civil penalty under division (A), (B), (C), or (D) of this section and a criminal penalty under section 1509.99 of the Revised Code for the same offense.

Sec. 1509.34. (A)(1) If an owner fails to pay the fees imposed by this chapter, or if the chief of the division of ~~mineral~~ oil and gas resources management incurs costs under division (E) of section 1509.071 of the Revised Code to correct conditions associated with the owner's well that the chief reasonably has determined are causing imminent health or safety risks, the division of ~~mineral~~ oil and gas resources management shall have a priority lien against that owner's interest in the applicable well in front of all other creditors for the amount of any such unpaid fees and costs incurred. The chief shall file a statement in the office of the county recorder of the county in which the applicable well is located of the amount of the unpaid fees and costs incurred as described in this division. The statement shall constitute a lien on the owner's interest in the well as of the date of the filing. The lien shall remain in force so long as any portion of the lien

remains unpaid or until the chief issues a certificate of release of the lien. If the chief issues a certificate of release of the lien, the chief shall file the certificate of release in the office of the applicable county recorder.

(2) A lien imposed under division (A)(1) of this section shall be in addition to any lien imposed by the attorney general for failure to pay the assessment imposed by section 1509.50 of the Revised Code or the tax levied under division (A)(5) or (6) of section 5749.02 of the Revised Code, as applicable.

(3) If the attorney general cannot collect from a severer or an owner for an outstanding balance of amounts due under section 1509.50 of the Revised Code or of unpaid taxes levied under division (A)(5) or (6) of section 5749.02 of the Revised Code, as applicable, the tax commissioner may request the chief to impose a priority lien against the owner's interest in the applicable well. Such a lien has priority in front of all other creditors.

(B) The chief promptly shall issue a certificate of release of a lien under either of the following circumstances:

(1) Upon the repayment in full of the amount of unpaid fees imposed by this chapter or costs incurred by the chief under division (E) of section 1509.071 of the Revised Code to correct conditions associated with the owner's well that the chief reasonably has determined are causing imminent health or safety risks;

(2) Any other circumstance that the chief determines to be in the best interests of the state.

(C) The chief may modify the amount of a lien under this section. If the chief modifies a lien, the chief shall file a statement in the office of the county recorder of the applicable county of the new amount of the lien.

(D) An owner regarding which the division has recorded a lien against the owner's interest in a well in accordance with this section shall not transfer a well, lease, or mineral rights to another owner or person until the chief issues a certificate of release for each lien against the owner's interest in the well.

(E) All money from the collection of liens under this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.

Sec. 1509.36. Any person adversely affected by an order by the chief of the division of ~~mineral~~ oil and gas resources management may appeal to the oil and gas commission for an order vacating or modifying the order.

The person so appealing to the commission shall be known as appellant and the chief shall be known as appellee. Appellant and appellee shall be deemed to be parties to the appeal.

The appeal shall be in writing and shall set forth the order complained of and the grounds upon which the appeal is based. The appeal shall be filed with the commission within thirty days after the date upon which the appellant received notice by certified mail and, for all other persons adversely affected by the order, within thirty days after the date of the order complained of. Notice of the filing of the appeal shall be filed with the chief within three days after the appeal is filed with the commission.

Upon the filing of the appeal the commission promptly shall fix the time and place at which the hearing on the appeal will be held, and shall give the appellant and the chief at least ten days' written notice thereof by mail. The commission may postpone or continue any hearing upon its own motion or upon application of the appellant or of the chief.

The filing of an appeal provided for in this section does not automatically suspend or stay execution of the order appealed from, but upon application by the appellant the commission may suspend or stay the execution pending determination of the appeal upon such terms as the commission considers proper.

Either party to the appeal or any interested person who, pursuant to commission rules has been granted permission to appear, may submit such evidence as the commission considers admissible.

For the purpose of conducting a hearing on an appeal, the commission may require the attendance of witnesses and the production of books, records, and papers, and it may, and at the request of any party it shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the sheriffs of the counties where the witnesses are found. The subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Such fees and mileage expenses incurred at the request of appellant shall be paid in advance by the appellant, and the remainder of those expenses shall be paid out of funds appropriated for the expenses of the division of ~~mineral~~ oil and gas resources management.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge thereof, on application of the commission or any member thereof, shall compel obedience by attachment proceedings for contempt as in the case of

disobedience of the requirements of a subpoena issued from that court or a refusal to testify therein. Witnesses at such hearings shall testify under oath, and any member of the commission may administer oaths or affirmations to persons who so testify.

At the request of any party to the appeal, a stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter at the expense of the party making the request therefor. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The commission shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the rulings of the commission thereon, and if the commission refuses to admit evidence the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of the hearing.

If upon completion of the hearing the commission finds that the order appealed from was lawful and reasonable, it shall make a written order affirming the order appealed from; if the commission finds that the order was unreasonable or unlawful, it shall make a written order vacating the order appealed from and making the order that it finds the chief should have made. Every order made by the commission shall contain a written finding by the commission of the facts upon which the order is based.

Notice of the making of the order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each such party by certified mail.

The order of the commission is final unless vacated by the court of common pleas of Franklin county in an appeal as provided for in section 1509.37 of the Revised Code. Sections 1509.01 to 1509.37 of the Revised Code, providing for appeals relating to orders by the chief or by the commission, or relating to rules adopted by the chief, do not constitute the exclusive procedure that any person who believes the person's rights to be unlawfully affected by those sections or any official action taken thereunder must pursue in order to protect and preserve those rights, nor do those sections constitute a procedure that that person must pursue before that person may lawfully appeal to the courts to protect and preserve those rights.

Sec. 1509.38. There is hereby created in the division of ~~mineral~~ oil and gas resources management a technical advisory council on oil and gas, which shall consist of eight members to be appointed by the governor with the advice and consent of the senate. Three members shall be independent oil or gas producers, operators, or their representatives, operating and

producing primarily in this state, three members shall be oil or gas producers, operators, or their representatives having substantial oil and gas producing operations in this state and at least one other state, one member shall represent the public, and one member shall represent persons having landowners' royalty interests in oil and gas production. All members shall be residents of this state, and all members, except the members representing the public and persons having landowners' royalty interests, shall have at least five years of practical or technical experience in oil or gas drilling and production. Not more than one member may represent any one company, producer, or operator.

Terms of office shall be for three years, commencing on the first day of February and ending on the thirty-first day of January. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. A vacancy in the office of a member shall be filled by the governor, with the advice and consent of the senate. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The council shall select from among its members a chairperson, a vice-chairperson, and a secretary. All members are entitled to their actual and necessary expenses incurred in the performance of their duties as members, payable from the appropriations for the division.

The governor may remove any member for inefficiency, neglect of duty, or malfeasance in office.

The council shall hold at least one regular meeting in each quarter of a calendar year and shall keep a record of its proceedings. Special meetings may be called by the chairperson and shall be called by the chairperson upon receipt of a written request signed by two or more members of the council. A written notice of the time and place of each meeting shall be sent to each member of the council. Five members constitute a quorum, and no action of the council is valid unless five members concur.

The council, when requested by the chief of the division of ~~mineral~~ oil and gas resources management, shall consult with and advise the chief and perform other duties that may be lawfully delegated to it by the chief. The council may participate in hearings held by the chief under this chapter and has powers of approval as provided in sections 1509.24 and 1509.25 of the Revised Code. The council shall conduct the activities required, and

exercise the authority granted, under Chapter 1510. of the Revised Code.

The council, upon receiving a request from the chairperson of the oil and gas commission under division (C) of section 1509.35 of the Revised Code, immediately shall prepare and provide to the chairperson a list of its members who may serve as temporary members of the oil and gas commission as provided in that division.

Sec. 1509.40. Except as provided in section 1509.29 of the Revised Code, no authority granted in this chapter shall be construed as authorizing a limitation on the amount that any well, leasehold, or field is permitted to produce under proration orders of the division of ~~mineral~~ oil and gas resources management.

Sec. 1509.50. (A) An oil and gas regulatory cost recovery assessment is hereby imposed by this section on an owner. An owner shall pay the assessment in the same manner as a severer who is required to file a return under section 5749.06 of the Revised Code. However, an owner may designate a severer who shall pay the owner's assessment on behalf of the owner on the return that the severer is required to file under that section. If a severer so pays an owner's assessment, the severer may recoup from the owner the amount of the assessment. Except for an exempt domestic well, the assessment imposed shall be in addition to the taxes levied on the severance of oil and gas under section 5749.02 of the Revised Code.

(B)(1) Except for an exempt domestic well, the oil and gas regulatory cost recovery assessment shall be calculated on a quarterly basis and shall be one of the following:

(a) If the sum of ten cents per barrel of oil for all of the wells of the owner, one-half of one cent per one thousand cubic feet of natural gas for all of the wells of the owner, and the amount of the severance tax levied on each severer for all of the wells of the owner under divisions (A)(5) and (6) of section 5749.02 of the Revised Code, as applicable, is greater than the sum of fifteen dollars for each well owned by the owner, the amount of the assessment is the sum of ten cents per barrel of oil for all of the wells of the owner and one-half of one cent per one thousand cubic feet of natural gas for all of the wells of the owner.

(b) If the sum of ten cents per barrel of oil for all of the wells of the owner, one-half of one cent per one thousand cubic feet of natural gas for all of the wells of the owner, and the amount of the severance tax levied on each severer for all of the wells of the owner under divisions (A)(5) and (6) of section 5749.02 of the Revised Code, as applicable, is less than the sum of fifteen dollars for each well owned by the owner, the amount of the assessment is the sum of fifteen dollars for each well owned by the owner

less the amount of the tax levied on each severer for all of the wells of the owner under divisions (A)(5) and (6) of section 5749.02 of the Revised Code, as applicable.

(2) The oil and gas regulatory cost recovery assessment for a well that becomes an exempt domestic well on and after ~~the effective date of this section~~ June 30, 2010, shall be sixty dollars to be paid to the division of ~~mineral~~ oil and gas resources management on the first day of July of each year.

(C) All money collected pursuant to this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.

(D) Except for purposes of revenue distribution as specified in division (B) of section 5749.02 of the Revised Code, the oil and gas regulatory cost recovery assessment imposed by this section shall be treated the same and equivalent for all purposes as the taxes levied on the severance of oil and gas under that section. However, the assessment imposed by this section is not a tax under Chapter 5749. of the Revised Code.

Sec. 1510.01. As used in this chapter:

(A) "First purchaser" means:

(1) With regard to crude oil, the person to whom title first is transferred beyond the gathering tank or tanks, beyond the facility from which the crude oil was first produced, or both;

(2) With regard to natural gas, the person to whom title first is transferred beyond the inlet side of the measurement station from which the natural gas was first produced.

(B) "Independent producer" means a person who complies with both of the following:

(1) Produces oil or natural gas and is not engaged in refining either product;

(2) Derives a majority of income from ownership in properties producing oil or natural gas.

(C) "Qualified independent producer association" means an association that complies with all of the following:

(1) It is in existence on December 18, 1997.

(2) It is organized and operating within this state.

(3) A majority of the members of its governing body are independent producers.

(D) "Technical advisory council" or "council" means the technical advisory council created in the division of ~~mineral~~ oil and gas resources management under section 1509.38 of the Revised Code.

Sec. 1510.08. (A)(1) Except as provided in division (A)(2) of this section, an operating committee may levy assessments on the production of oil and natural gas in this state for the purposes of a marketing program established under this chapter.

(2) An operating committee shall not levy an assessment that was not approved by independent producers or that exceeds the amount authorized under division (B)(1) of section 1510.04 of the Revised Code. An operating committee shall not levy an assessment against an independent producer who is not eligible to vote in a referendum for the marketing program that the operating committee administers, as determined under division (C) of section 1510.02 of the Revised Code.

(B) The technical advisory council may require a first purchaser to withhold assessments from any amounts that the first purchaser owes to independent producers and, notwithstanding division (A)(2) of this section, to remit them to the chairperson of the council at the office of the division of ~~mineral~~ oil and gas resources management. A first purchaser who pays an assessment that is levied pursuant to this section for an independent producer may deduct the amount of the assessment from any moneys that the first purchaser owes the independent producer.

(C) A marketing program shall require a refund of assessments collected under this section after receiving an application for a refund from an independent producer. An application for a refund shall be made on a form furnished by the council. The operating committee shall ensure that refund forms are available where assessments for its program are withheld.

An independent producer who desires a refund shall submit a request for a refund not later than the thirty-first day of March of the year in which the request is submitted. The council shall refund the assessment to the independent producer not later than the thirtieth day of June of the year in which the request for the refund is submitted.

(D) An operating committee shall not use moneys from any assessments that it levies for any political or legislative purpose or for preferential treatment of one person to the detriment of another person who is affected by the marketing program that the operating committee administers.

Sec. 1515.08. The supervisors of a soil and water conservation district have the following powers in addition to their other powers:

(A) To conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and the preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water needed within the district, and to publish the results of those surveys,

investigations, or research, provided that no district shall initiate any research program except in cooperation or after consultation with the Ohio agricultural research and development center;

(B) To develop plans for the conservation of soil resources, for the control and prevention of soil erosion, and for works of improvement for flood prevention and the conservation, development, utilization, and disposal of water within the district, and to publish those plans and information;

(C) To implement, construct, repair, maintain, and operate preventive and control measures and other works of improvement for natural resource conservation and development and flood prevention, and the conservation, development, utilization, and disposal of water within the district on lands owned or controlled by this state or any of its agencies and on any other lands within the district, which works may include any facilities authorized under state or federal programs, and to acquire, by purchase or gift, to hold, encumber, or dispose of, and to lease real and personal property or interests in such property for those purposes;

(D) To cooperate or enter into agreements with any occupier of lands within the district in the carrying on of natural resource conservation operations and works of improvement for flood prevention and the conservation, development, utilization, and management of natural resources within the district, subject to such conditions as the supervisors consider necessary;

(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;

(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;

(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 1515.081 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;

(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:

(1) Except as provided in section 307.86 of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any

such contract, lease, or agreement, other than compensation for personal services or rental of office space, involves an expenditure of more than the amount established in that section regarding expenditures by boards of county commissioners, the supervisors shall make a written contract with the lowest and best bidder after advertisement, for not less than two nor more than four consecutive weeks preceding the day of the opening of bids, in a newspaper of general circulation within the district or as provided in section 7.16 of the Revised Code and in such other publications as the supervisors determine. The notice shall state the general character of the work and materials to be furnished, the place where plans and specifications may be examined, and the time and place of receiving bids.

(2) Each bid for a contract shall contain the full name of every person interested in it.

(3) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code.

(4) Each bid for a contract, other than a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, at the discretion of the supervisors, may be accompanied by a bond or certified check on a solvent bank in an amount not to exceed five per cent of the bid, conditioned that, if the bid is accepted, a contract shall be entered into.

(5) The supervisors may reject any and all bids.

(I) To make agreements with the department of natural resources giving it control over lands of the district for the purpose of construction of improvements by the department under section 1501.011 of the Revised Code;

(J) To charge, alter, and collect rentals and other charges for the use or services of any works of the district;

(K) To enter, either in person or by designated representatives, upon lands, private or public, in the necessary discharge of their duties;

(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water resources to implement the required program;

(M) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation,

development, and utilization;

(N) To enter into contracts or agreements with the chief of the division of soil and water resources to implement and administer a program for urban sediment pollution abatement and to receive and expend moneys provided by the chief for that purpose;

(O) To develop operation and management plans, as defined in section 1511.01 of the Revised Code, as necessary;

(P) To determine whether operation and management plans developed under division (A) of section 1511.021 of the Revised Code comply with the standards established under division (E)(1) of section 1511.02 of the Revised Code and to approve or disapprove the plans, based on such compliance. If an operation and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that any person operating or owning agricultural land or a concentrated animal feeding operation in accordance with an approved operation and management plan who, in good faith, is following that plan, causes agricultural pollution, the plan shall be revised in a fashion necessary to mitigate the agricultural pollution, as determined and approved by the board of supervisors of the soil and water conservation district.

(Q) With regard to composting conducted in conjunction with agricultural operations, to do all of the following:

(1) Upon request or upon their own initiative, inspect composting at any such operation to determine whether the composting is being conducted in accordance with section 1511.022 of the Revised Code;

(2) If the board determines that composting is not being so conducted, request the chief to issue an order under division (G) of section 1511.02 of the Revised Code requiring the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)(8)(c) of that section and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E)(8)(c) of section 1511.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

As used in division (Q) of this section, "composting" has the same meaning as in section 1511.01 of the Revised Code.

(R) With regard to conservation activities that are conducted in conjunction with agricultural operations, to assist the county auditor, upon request, in determining whether a conservation activity is a conservation practice for purposes of Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

As used in this division, "conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

(S) To do all acts necessary or proper to carry out the powers granted in this chapter.

The director of natural resources shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 1515.16 of the Revised Code and shall disapprove any such project that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.

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

Sec. 1515.14. Within the limits of funds appropriated to the department of natural resources and the soil and water conservation district assistance fund created in this section, there shall be paid in each calendar year to each local soil and water conservation district an amount not to exceed one dollar for each one dollar received in accordance with section 1515.10 of the Revised Code, received from tax levies in excess of the ten-mill levy limitation approved for the benefit of local soil and water conservation districts, or received from an appropriation by a municipal corporation or a township to a maximum of eight thousand dollars, provided that the Ohio soil and water conservation commission may approve payment to a district in an amount in excess of eight thousand dollars in any calendar year upon receipt of a request and justification from the district. The county auditor shall credit such payments to the special fund established pursuant to section 1515.10 of the Revised Code for the local soil and water conservation district. The department may make advances at least quarterly to each district on the basis of the estimated contribution of the state to each district.

Moneys received by each district shall be expended for the purposes of the district.

For the purpose of providing money to soil and water conservation districts under this section, there is hereby created in the state treasury the soil and water conservation district assistance fund consisting of money credited to it under sections 3714.073 and 3734.901 and division (A)~~(5)~~(4) of section 3734.57 of the Revised Code.

Sec. 1515.24. (A) Following receipt of a certification made by the supervisors of a soil and water conservation district pursuant to section 1515.19 of the Revised Code together with receipt of all plans, specifications, and estimates submitted under that section and upon completion of a schedule of estimated assessments in accordance with section 1515.211 of the Revised Code, the board of county commissioners may adopt a resolution levying upon the property within the project area an assessment at a uniform or varied rate based upon the benefit to the area certified by the supervisors, as necessary to pay the cost of construction of the improvement not otherwise funded and to repay advances made for purposes of the improvement from the fund created by section 1515.15 of the Revised Code. The board of county commissioners shall direct the person or authority preparing assessments to give primary consideration, in determining a parcel's estimated assessments relating to the disposal of water, to the potential increase in productivity that the parcel may experience as a result of the improvement and also to give consideration to the amount of water disposed of, the location of the property relative to the project, the value of the project to the watershed, and benefits. The part of the assessment that is found to benefit state, county, or township roads or highways or municipal streets shall be assessed against the state, county, township, or municipal corporation, respectively, payable from motor vehicle revenues. The part of the assessment that is found to benefit property owned by any public corporation, any political subdivision of the state, or the state shall be assessed against the public corporation, the political subdivision, or the state and shall be paid out of the general funds or motor vehicle revenues of the public corporation, the political subdivision of the state, or the state, except as otherwise provided by law.

(B) The assessment shall be certified to the county auditor and by the county auditor to the county treasurer. The collection of the assessment shall conform in all matters to Chapter 323. of the Revised Code.

(C) Any land owned and managed by the department of natural resources for wildlife, recreation, nature preserve, or forestry purposes is exempt from assessments if the director of natural resources determines that

the land derives no benefit from the improvement. In making such a determination, the director shall consider the purposes for which the land is owned and managed and any relevant articles of dedication or existing management plans for the land. If the director determines that the land derives no benefit from the improvement, the director shall notify the board of county commissioners, within thirty days after receiving the assessment notification required by this section, indicating that the director has determined that the land is to be exempt and explaining the specific reason for making this determination. The board of county commissioners, within thirty days after receiving the director's exemption notification, may appeal the determination to the court of common pleas. If the court of common pleas finds in favor of the board of county commissioners, the department of natural resources shall pay all court costs and legal fees.

(D)(1) The board shall give notice by first class mail to every public and private property owner whose property is subject to assessment, at the tax mailing or other known address of the owner. The notice shall contain a statement of the amount to be assessed against the property of the addressee, a description of the method used to determine the necessity for and the amount of the proposed assessment, a description of any easement on the property that is necessary for purposes of the improvement, and a statement that the addressee may file an objection in writing at the office of the board of county commissioners within thirty days after the mailing of notice. If the residence of any owner cannot be ascertained, or if any mailed notice is returned undelivered, the board shall publish the notice to all such owners in a newspaper of general circulation within the project area, ~~at least~~ once each week for three weeks~~, which~~ or as provided in section 7.16 of the Revised Code. The notice shall include the information contained in the mailed notice, but shall state that the owner may file an objection in writing at the office of the board of county commissioners within thirty days after the last publication of the notice.

(2) Upon receipt of objections as provided in this section, the board shall proceed within thirty days to hold a final hearing on the objections by fixing a date and giving notice by first class mail to the objectors at the address provided in filing the objection. If any mailed notice is returned undelivered, the board shall give due notice to the objectors in a newspaper of general circulation in the project area or as provided in section 7.16 of the Revised Code, stating the time, place, and purpose of the hearing. Upon hearing the objectors, the board may adopt a resolution amending and approving the final schedule of assessments and shall enter it in the journal.

(3) Any owner whose objection is not allowed may appeal within thirty

days to the court of common pleas of the county in which the property is located.

(4) The board of county commissioners shall make an order approving the levying of the assessment and shall proceed under section 6131.23 of the Revised Code after one of the following has occurred, as applicable:

(a) Final notice is provided by mail or publication.

(b) The imposition of assessments is upheld in the final disposition of an appeal that is filed pursuant to division (D)(3) of this section.

(c) The resolution levying the assessments is approved in a referendum that is held pursuant to section 305.31 of the Revised Code.

(5) The county treasurer shall deposit the proceeds of the assessment in the fund designated by the board and shall report to the county auditor the amount of money from the assessment that is collected by the treasurer. Moneys shall be expended from the fund for purposes of the improvement.

(E) Any moneys collected in excess of the amount needed for construction of the improvement and the subsequent first year's maintenance may be maintained in a fund to be used for maintenance of the improvement. In any year subsequent to a year in which an assessment for construction of an improvement levied under this section has been collected, and upon determination by the board of county commissioners that funds are not otherwise available for maintenance or repair of the improvement, the board shall levy on the property within the project area an assessment for maintenance at a uniform percentage of all construction costs based upon the assessment schedule used in determining the construction assessment. The assessment is not subject to the provisions concerning notice and petition contained in this section. An assessment for maintenance shall not be levied in any year in which the unencumbered balance of funds available for maintenance of the improvement exceeds twenty per cent of the cost of construction of the improvement, except that the board may adjust the level of assessment within the twenty per cent limitation, or suspend temporarily the levying of an assessment, for maintenance purposes as maintenance funds are needed.

For the purpose of levying an assessment for maintenance of an improvement, a board may use the procedures established in Chapter 6137. of the Revised Code regarding maintenance of improvements as defined in section 6131.01 of the Revised Code in lieu of using the procedures established under this section.

(F) The board of county commissioners may issue bonds and notes as authorized by section 131.23 or 133.17 of the Revised Code.

Sec. 1517.02. There is hereby created in the department of natural

resources the division of natural areas and preserves, which shall be administered by the chief of the division of natural areas and preserves. The chief shall take an oath of office and shall file in the office of the secretary of state a bond signed by the chief and by a surety approved by the governor for a sum fixed pursuant to section 121.11 of the Revised Code.

The chief shall administer a system of nature preserves. The chief shall establish a system of nature preserves through acquisition and dedication of natural areas of state or national significance, which shall include, but not be limited to, areas that represent characteristic examples of Ohio's natural landscape types and its natural vegetation and geological history. The chief shall encourage landowners to dedicate areas of unusual significance as nature preserves, and shall establish and maintain a registry of natural areas of unusual significance.

The chief may participate in watershed planning activities with other states or federal agencies.

The chief shall do the following:

(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves;

(B) Formulate policies for the selection of areas suitable for registration;

(C) Formulate policies for the dedication of areas as nature preserves;

(D) Prepare and maintain surveys and inventories of natural areas, rare and endangered species of plants and animals, and other unique natural features. The information shall be ~~stored~~ entered in the Ohio natural heritage database, established ~~pursuant to this division, and may be made available to any individual or private or public agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1518.01 of the Revised Code and of unique natural features that are included in the Ohio natural heritage database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or unique natural feature~~ under section 1531.04 of the Revised Code.

(E) Adopt rules for the use, visitation, and protection of nature preserves and natural areas owned or managed through easement, license, or lease by the department and administered by the division in accordance with Chapter 119. of the Revised Code;

(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character;

(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;

(H) Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;

(I) Establish an appropriate system for marking nature preserves;

(J) Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.

Sec. 1517.03. (A) There is hereby created the Ohio natural areas council to advise the ~~chief of the division~~ director of natural ~~areas and preserves~~ resources or the director's designee on the administration of nature preserves and the preservation of natural areas.

(B) The council shall ~~have no fewer than five members as determined by the director of natural resources. The members shall be appointed by the director.~~

~~Not later than thirty days after the effective date of this section, the director shall make initial appointments to the council. The director shall establish the terms of office of the members of the council~~ be composed of the following members appointed by the governor with the advice and consent of the senate:

(1) One member representing natural history museums;

(2) One member representing metropolitan park districts;

(3) One member representing colleges and universities;

(4) One member representing outdoor education programs in primary and secondary education;

(5) One member representing nature centers;

(6) Two members representing the public.

Each appointed member shall be active or interested in natural area preservation. Not more than four of the appointed members shall belong to the same political party.

The director or the director's designee shall be a nonvoting ex officio member of the council.

(C) Not later than thirty days after the effective date of this amendment, the governor shall make appointments to the council. Of the initial appointments, two shall be for terms ending on the first Monday in February 2012, two shall be for terms ending on the first Monday in February 2013, two shall be for terms ending on the first Monday in February 2014, and one shall be for a term ending on the first Monday in February 2015. Thereafter,

terms of office shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. A member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. A member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(D) The council annually shall select from among its members a chairperson and a secretary. ~~Members~~ The department of natural resources shall furnish clerical, technical, legal, and other services required by the council in the performance of its duties.

Members of the council shall receive no compensation and shall not be reimbursed for expenses incurred as members of the council.

(E) The council shall hold at least one regular meeting ~~in each calendar year~~ every three months. Special meetings may be called by the chairperson and shall be called by the chairperson upon written request by two or more members of the council. A written notice of the time and place of each meeting shall be sent to each member and to the director. A majority of the members of the council constitutes a quorum. The council shall keep a record of its proceedings at each meeting and shall send a copy of the record to the director. The record shall be open to the public for inspection.

Sec. 1531.04. The division of wildlife, at the direction of the chief of the division, shall do all of the following:

(A) Plan, develop, and institute programs and policies based on the best available information, including biological information derived from professionally accepted practices in wildlife and fisheries management, with the approval of the director of natural resources;

(B) Have and take the general care, protection, and supervision of the wildlife in the state parks known as Lake St. Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, Guilford Lake, such part of Pymatuning reservoir as lies in this state, and all other state parks and lands owned by the state or in which it is interested or may acquire or become interested, except lands and lakes the care and supervision of which are vested in some other officer, body, board, association, or organization;

(C) Enforce by proper legal action or proceeding the laws of the state and division rules for the protection, preservation, propagation, and management of wild animals and sanctuaries and refuges for the

propagation of those wild animals, and adopt and carry into effect such measures as it considers necessary in the performance of its duties;

(D) Promote, educate, and inform the citizens of the state about conservation and the values of fishing, hunting, and trapping, with the approval of the director;

(E) Prepare and maintain surveys and inventories of rare and endangered species of plants and animals and other unique natural features. The information shall be stored in the Ohio natural heritage database, established pursuant to this division, and may be made available to any individual or private or public agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1518.01 of the Revised Code and of unique natural features that are included in the Ohio natural heritage database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or unique natural feature.

Sec. 1533.10. Except as provided in this section or division (A)(2) of section 1533.12 of the Revised Code, no person shall hunt any wild bird or wild quadruped without a hunting license. Each day that any person hunts within the state without procuring such a license constitutes a separate offense. Except as otherwise provided in this section, every applicant for a hunting license who is a resident of the state and eighteen years of age or more shall procure a resident hunting license or an apprentice resident hunting license, the fee for which shall be eighteen dollars unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident hunting license to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior hunting license, the fee for which shall be one-half of the regular hunting license fee. Every applicant who is under the age of eighteen years shall procure a special youth hunting license or an apprentice youth hunting license, the fee for which shall be one-half of the regular hunting license fee. ~~The owner of~~

A resident of this state who owns lands in the state and the owner's children of any age and grandchildren under eighteen years of age may hunt on the lands without a hunting license. If the owner of land in this state is a limited liability company or a limited liability partnership that consists of

three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's children of any age and grandchildren under eighteen years of age may hunt on the land owned by the limited liability company or limited liability partnership without a hunting license. In addition, if the owner of land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's children of any age and grandchildren under eighteen years of age may hunt on the land owned by the trust without a hunting license. The tenant and children of the tenant, residing on lands in the state, may hunt on them without a hunting license. ~~Except~~

Except as otherwise provided in division (A)(1) of section 1533.12 of the Revised Code, every applicant for a hunting license who is a nonresident of the state and who is eighteen years of age or older shall procure a nonresident hunting license or an apprentice nonresident hunting license, the fee for which shall be one hundred twenty-four dollars unless the applicant is a resident of a state that is a party to an agreement under section 1533.91 of the Revised Code, in which case the fee shall be eighteen dollars. Apprentice resident hunting licenses, apprentice youth hunting licenses, and apprentice nonresident hunting licenses are subject to the requirements established under section 1533.102 of the Revised Code and rules adopted pursuant to it.

The chief of the division of wildlife may issue a small game hunting license expiring three days from the effective date of the license to a nonresident of the state, the fee for which shall be thirty-nine dollars. No person shall take or possess deer, wild turkeys, fur-bearing animals, ducks, geese, brant, or any nongame animal while possessing only a small game hunting license. A small game hunting license or an apprentice nonresident hunting license does not authorize the taking or possessing of ducks, geese, or brant without having obtained, in addition to the small game hunting license or the apprentice nonresident hunting license, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code. A small game hunting license or an apprentice nonresident hunting license does not authorize the taking or possessing of deer, wild turkeys, or fur-bearing animals. A nonresident of the state who wishes to take or possess deer, wild turkeys, or fur-bearing animals in this state shall procure, respectively, a deer or wild turkey permit as provided in section 1533.11 of the Revised Code or a fur taker permit as provided in section 1533.111 of the Revised Code in addition to a nonresident hunting license, an apprentice nonresident

hunting license, a special youth hunting license, or an apprentice youth hunting license, as applicable, as provided in this section.

No person shall procure or attempt to procure a hunting license by fraud, deceit, misrepresentation, or any false statement.

This section does not authorize the taking and possessing of deer or wild turkeys without first having obtained, in addition to the hunting license required by this section, a deer or wild turkey permit as provided in section 1533.11 of the Revised Code or the taking and possessing of ducks, geese, or brant without first having obtained, in addition to the hunting license required by this section, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code.

This section does not authorize the hunting or trapping of fur-bearing animals without first having obtained, in addition to a hunting license required by this section, a fur taker permit as provided in section 1533.111 of the Revised Code.

No hunting license shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No hunting license, other than an apprentice hunting license, shall be issued unless the applicant presents to the agent authorized to issue the license a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief. A previously held apprentice hunting license does not satisfy the requirement concerning the presentation of a previously held hunting license or evidence of it.

No person shall issue a hunting license, except an apprentice hunting license, to any person who fails to present the evidence required by this section. No person shall purchase or obtain a hunting license, other than an apprentice hunting license, without presenting to the issuing agent the evidence required by this section. Issuance of a hunting license in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained hunting license and the clerk or agent who issued the hunting license. Any hunting license issued in violation of this section is void.

The chief, with approval of the wildlife council, shall adopt rules prescribing a hunter education and conservation course for first-time hunting license buyers, other than buyers of apprentice hunting licenses, and for

volunteer instructors. The course shall consist of subjects including, but not limited to, hunter safety and health, use of hunting implements, hunting tradition and ethics, the hunter and conservation, the law in section 1533.17 of the Revised Code along with the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed, and other law relating to hunting. Authorized personnel of the division or volunteer instructors approved by the chief shall conduct such courses with such frequency and at such locations throughout the state as to reasonably meet the needs of license applicants. The chief shall issue a certificate of completion to each person who successfully completes the course and passes an examination prescribed by the chief.

Sec. 1533.11. (A) Except as provided in this section, no person shall hunt deer on lands of another without first obtaining an annual deer permit. Except as provided in this section, no person shall hunt wild turkeys on lands of another without first obtaining an annual wild turkey permit. Each applicant for a deer or wild turkey permit shall pay an annual fee of twenty-three dollars for each permit unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a deer or wild turkey permit to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a senior deer or wild turkey permit, the fee for which shall be one-half of the regular deer or wild turkey permit fee. Each applicant who is under the age of eighteen years shall procure a youth deer or wild turkey permit, the fee for which shall be one-half of the regular deer or wild turkey permit fee. Except as provided in division (A)(2) of section 1533.12 of the Revised Code, a deer or wild turkey permit shall run concurrently with the hunting license. The money received shall be paid into the state treasury to the credit of the wildlife fund, created in section 1531.17 of the Revised Code, exclusively for the use of the division of wildlife in the acquisition and development of land for deer or wild turkey management, for investigating deer or wild turkey problems, and for the stocking, management, and protection of deer or wild turkey. Every person, while hunting deer or wild turkey on lands of another, shall carry the person's deer or wild turkey permit and exhibit it to any enforcement officer so requesting. Failure to so carry and exhibit such a permit constitutes an offense under this section. The chief of the division of wildlife shall adopt any additional rules the chief considers necessary to carry out this section and section 1533.10 of the Revised Code.

~~The~~ An owner who is a resident of this state and the children of the

owner of lands in this state may hunt deer or wild turkey thereon without a deer or wild turkey permit. If the owner of land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's children of any age may hunt deer or wild turkey on the land owned by the limited liability company or limited liability partnership without a deer or wild turkey permit. In addition, if the owner of land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's children of any age may hunt deer or wild turkey on the land owned by the trust without a deer or wild turkey permit. The tenant and children of the tenant may hunt deer or wild turkey on lands where they reside without a deer or wild turkey permit.

(B) A deer or wild turkey permit is not transferable. No person shall carry a deer or wild turkey permit issued in the name of another person.

(C) The wildlife refunds fund is hereby created in the state treasury. The fund shall consist of money received from application fees for deer permits that are not issued. Money in the fund shall be used to make refunds of such application fees.

(D) If the division establishes a system for the electronic submission of information regarding deer or wild turkey that are taken, the division shall allow the owner and the children of the owner of lands in this state to use the owner's name or address for purposes of submitting that information electronically via that system.

Sec. 1533.111. Except as provided in this section or division (A)(2) of section 1533.12 of the Revised Code, no person shall hunt or trap fur-bearing animals on land of another without first obtaining some type of an annual fur taker permit. Each applicant for a fur taker permit or an apprentice fur taker permit shall pay an annual fee of fourteen dollars for the permit, except as otherwise provided in this section or unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a fur taker permit to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior fur taker permit, the fee for which shall be one-half of the regular fur taker permit fee. Each applicant under the age of eighteen years shall procure a special youth fur taker permit or an apprentice youth fur taker permit, the fee for which shall be one-half of the regular fur taker permit fee. Each type of fur taker permit

shall run concurrently with the hunting license. The money received shall be paid into the state treasury to the credit of the fund established in section 1533.15 of the Revised Code. Apprentice fur taker permits and apprentice youth fur taker permits are subject to the requirements established under section 1533.102 of the Revised Code and rules adopted pursuant to it.

No fur taker permit shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No fur taker permit, other than an apprentice fur taker permit or an apprentice youth fur taker permit, shall be issued unless the applicant presents to the agent authorized to issue a fur taker permit a previously held hunting license or trapping or fur taker permit or evidence of having held such a license or permit in content and manner approved by the chief of the division of wildlife, a certificate of completion issued upon completion of a trapper education course approved by the chief, or evidence of equivalent training in content and manner approved by the chief. A previously held apprentice hunting license, apprentice fur taker permit, or apprentice youth fur taker permit does not satisfy the requirement concerning the presentation of a previously held hunting license or fur taker permit or evidence of such a license or permit.

No person shall issue a fur taker permit, other than an apprentice fur taker permit or an apprentice youth fur taker permit, to any person who fails to present the evidence required by this section. No person shall purchase or obtain a fur taker permit, other than an apprentice fur taker permit or an apprentice youth fur taker permit, without presenting to the issuing agent the evidence required by this section. Issuance of a fur taker permit in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained permit and the clerk or agent who issued the permit. Any fur taker permit issued in violation of this section is void.

The chief, with approval of the wildlife council, shall adopt rules prescribing a trapper education course for first-time fur taker permit buyers, other than buyers of apprentice fur taker permits or apprentice youth fur taker permits, and for volunteer instructors. The course shall consist of subjects that include, but are not limited to, trapping techniques, animal habits and identification, trapping tradition and ethics, the trapper and conservation, the law in section 1533.17 of the Revised Code along with the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed, and other law relating to trapping. Authorized personnel of the division of wildlife or volunteer instructors

approved by the chief shall conduct the courses with such frequency and at such locations throughout the state as to reasonably meet the needs of permit applicants. The chief shall issue a certificate of completion to each person who successfully completes the course and passes an examination prescribed by the chief.

Every person, while hunting or trapping fur-bearing animals on lands of another, shall carry the person's fur taker permit with the person's signature written on the permit. Failure to carry such a signed permit constitutes an offense under this section. The chief shall adopt any additional rules the chief considers necessary to carry out this section.

~~The~~ An owner who is a resident of this state and the children of the owner of lands in this state may hunt or trap fur-bearing animals thereon without a fur taker permit. If the owner of land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's children of any age may hunt or trap fur-bearing animals on the land owned by the limited liability company or limited liability partnership without a fur taker permit. In addition, if the owner of land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's children of any age may hunt or trap fur-bearing animals on the land owned by the trust without a fur taker permit. The tenant and children of the tenant may hunt or trap fur-bearing animals on lands where they reside without a fur taker permit.

A fur taker permit is not transferable. No person shall carry a fur taker permit issued in the name of another person.

A fur taker permit entitles a nonresident to take from this state fur-bearing animals taken and possessed by the nonresident as provided by law or division rule.

Sec. 1533.32. Except as provided in this section or division (A)(2) or (C) of section 1533.12 of the Revised Code, no person, including nonresidents, shall take or catch any fish by angling in any of the waters in the state or engage in fishing in those waters without a license. No person shall take or catch frogs or turtles without a valid fishing license, except as provided in this section. Persons fishing in privately owned ponds, lakes, or reservoirs to or from which fish are not accustomed to migrate are exempt from the license requirements set forth in this section. Persons fishing in privately owned ponds, lakes, or reservoirs that are open to public fishing through an agreement or lease with the division of wildlife shall comply

with the license requirements set forth in this section.

The fee for an annual license shall be thirty-nine dollars for a resident of a state that is not a party to an agreement under section 1533.91 of the Revised Code. The fee for an annual license shall be eighteen dollars for a resident of a state that is a party to such an agreement. The fee for an annual license for residents of this state shall be eighteen dollars unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident fishing license to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior fishing license, the fee for which shall be one-half of the annual resident fishing license fee.

Any person under the age of sixteen years may take or catch frogs and turtles and take or catch fish by angling without a license.

The chief of the division of wildlife may issue a tourist's license expiring three days from the effective date of the license to a resident of a state that is not a party to an agreement under section 1533.91 of the Revised Code. The fee for a tourist's license shall be eighteen dollars.

The chief shall adopt rules under section 1531.10 of the Revised Code providing for the issuance of a one-day fishing license to a resident of this state or of any other state. The fee for such a license shall be fifty-five per cent of the amount established under this section for a tourist's license, rounded up to the nearest whole dollar. A one-day fishing license shall allow the holder to take or catch fish by angling in the waters in the state, engage in fishing in those waters, or take or catch frogs or turtles in those waters for one day without obtaining an annual license or a tourist's license under this section. At the request of a holder of a one-day fishing license who wishes to obtain an annual license, a clerk or agent authorized to issue licenses under section 1533.13 of the Revised Code, not later than the last day on which the one-day license would be valid if it were an annual license, shall credit the amount of the fee paid for the one-day license toward the fee charged for the annual license if so authorized by the chief. The clerk or agent shall issue the annual license upon presentation of the one-day license and payment of a fee in an amount equal to the difference between the fee for the annual license and the fee for the one-day license.

Unless otherwise provided by division rule, each annual license shall begin on the first day of March of the current year and expire on the last day of February of the following year.

No person shall alter a fishing license or possess a fishing license that

has been altered.

No person shall procure or attempt to procure a fishing license by fraud, deceit, misrepresentation, or any false statement.

~~Owners of~~ A resident of this state who owns land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the immediate families of such owners, may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. This exemption extends to tenants actually residing upon such lands and to the members of the immediate families of the tenants. If the owner of such land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's children of any age may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. In addition, if the owner of such land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's children of any age may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. Residents of state or county institutions, charitable institutions, and military homes in this state may take frogs and turtles without procuring the required license, provided that a member of the institution or home has an identification card, which shall be carried on that person when fishing.

Every fisher required to be licensed, while fishing or taking or attempting to take frogs or turtles, shall carry the license and exhibit it to any person. Failure to so carry and exhibit the license constitutes an offense under this section.

Sec. 1533.731. (A) No wild animal hunting preserve shall be less than eighty acres in area. Each such preserve shall be in one continuous block of land, except that the block of land may be intersected by highways or roads. No wild animal hunting preserve shall be located within ~~three~~ one thousand five hundred feet of another such preserve or of a commercial bird shooting preserve licensed under section 1533.72 of the Revised Code.

The boundaries of each wild animal hunting preserve shall be clearly defined by posting, at intervals of not more than ~~two~~ four hundred feet, with signs prescribed by the division of wildlife. Each wild animal hunting preserve shall be surrounded by a fence at least six feet in height that is

constructed of a woven wire mesh, or such other enclosure approved by the chief of the division of wildlife.

(B)(1) Except as provided in divisions (B)(2) and (3) of this section, game and nonnative wildlife that have been approved by the chief for such use, that have been legally acquired or propagated under the authority of a propagating license issued under section 1533.71 of the Revised Code, and that are marked and tagged as provided in division (C) of this section may be released and hunted within the confines of the licensed wild animal hunting preserve between sunrise and sunset, without regard to sex, bag limit, or open season, by licensed hunters authorized by the holder of the wild animal hunting preserve license to hunt on those lands. The chief shall establish, by rule, the allowable methods of taking game and nonnative wildlife in a wild animal hunting preserve.

(2) No game or nonnative wildlife on the federal endangered species list established in accordance with the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1531, as amended, or the state endangered species list established in rules adopted under section 1531.25 of the Revised Code, no bears native to North America, and no large carnivores of the family Felidae shall be released for hunting or hunted in any wild animal hunting preserve in this state.

(3) No person shall release for hunting or hunt within a wild animal hunting preserve any game or nonnative wildlife not listed in the application for a license for that preserve.

(C) All game and nonnative wildlife released on a wild animal hunting preserve shall be identified with a tag that shall bear upon it a symbol identifying the preserve.

(D) For the purposes of division (B) of section 1533.02 of the Revised Code, the owner or operator of a wild animal hunting preserve shall furnish each person who takes any game or nonnative wildlife from the preserve a certificate bearing a description of the animal, the date the animal was taken, and the name of the preserve.

(E) The chief shall adopt rules under section 1531.10 of the Revised Code that provide for the safety of the public and for the protection of the game and nonnative wildlife to be hunted in a wild animal hunting preserve prior to their release in the preserve.

(F) No holder of a wild animal hunting preserve license shall violate Chapter 1531. or this chapter of the Revised Code or any division rule.

(G) This section does not authorize the hunting of game birds in a licensed wild animal hunting preserve.

Sec. 1533.83. As used in sections 1533.83 to 1533.85 of the Revised

Code:

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

(B) "Shooting range" means a facility operated for the purpose of shooting with firearms or archery equipment, whether publicly or privately owned and whether or not operated for profit, including, but not limited to, commercial bird shooting preserves and wild animal hunting preserves established pursuant to this chapter. "Shooting range" does not include a facility owned or operated by a municipal corporation, county, ~~or~~ township police district, or joint police district.

(C) "Harm" means injury, death, or loss to person or property.

(D) "The chief's noise rules" means the rules of the chief of the division of wildlife that are adopted pursuant to section 1533.84 of the Revised Code and that pertain to the limitation or suppression of noise at a shooting range or to the hours of operation of shooting ranges.

(E) "The chief's public safety rules" means the rules of the chief of the division of wildlife that are adopted pursuant to section 1533.84 of the Revised Code and that pertain to public safety, including standards for the reconstruction, enlargement, remodeling, or repair of any structure or facility that is part of a shooting range.

Sec. 1541.03. All lands and waters dedicated and set apart for state park purposes shall be under the control and management of the division of parks and recreation, which shall protect, maintain, and keep them in repair. The division shall have the following powers over all such lands and waters:

(A) To make alterations and improvements;

(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works;

(C) To construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public;

(D) Except as otherwise provided in this section, to adopt, amend, and rescind, in accordance with Chapter 119. of the Revised Code, rules necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and control, including the following:

(1) Governing opening and closing times and dates of the parks;

(2) Establishing fees and charges for use of facilities in state parks;

(3) Governing camps, camping, and fees for camps and camping;

(4) Governing the application for and rental of, rental fees for, and the

use of cottages;

(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;

(6) Governing all advertising within state parks and the requirements for the operation of places selling tangible personal property and control of food service sales on lands and waters under the control of the division, which rules shall establish uniform requirements;

(7) Providing uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft, as those terms are defined in section 1547.01 of the Revised Code, over waters under the control of the division and establishing reasonable fees for the construction of and annual use permits for those structures and devices;

(8) Governing state beaches, swimming, inflatable devices, and fees for them;

(9) Governing the removal and disposition of any watercraft, rowboat, sailboat, or powercraft, as those terms are defined in section 1547.01 of the Revised Code, left unattended for more than seven days on any lands or waters under the control of the division;

(10) Governing the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason.

(E) To coordinate and plan trails in accordance with section 1519.03 of the Revised Code;

(F) To cooperate with the United States and agencies of it and with political subdivisions in administering federal recreation moneys under the "Land and Water Conservation Fund Act of 1965," 78 Stat. 897, 16 U.S.C. 4601-8, as amended; prepare and distribute the statewide comprehensive outdoor recreation plan; and administer the state recreational vehicle fund created in section 4519.11 of the Revised Code;

(G) To administer any state or federally funded grant program that is related to natural resources and recreation as considered necessary by the director of natural resources;

(H) To assist the department of natural resources and its divisions by providing department-wide planning, capital improvements planning, and special purpose planning.

~~With the approval of the director, the chief of the division of parks and recreation may enter into contracts or agreements with any agency of the United States government, any other public agency, or any private entity or organization for the performance of the duties of the division.~~

The division shall adopt rules under this section establishing a discount program for all persons who are issued a golden buckeye card under section 173.06 of the Revised Code. The discount program shall provide a discount for all park services and rentals, but shall not provide a discount for the purchase of merchandise.

The division shall not adopt rules establishing fees or charges for parking a motor vehicle in a state park or for admission to a state park.

Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be exempt from the fees for camping, provided that the resident or veteran carries in the state park such evidence of the resident's or veteran's disability as the chief prescribes by rule.

Unless otherwise provided by division rule, every resident of this state who is sixty-five years of age or older or who is permanently and totally disabled and who furnishes evidence of that age or disability in a manner prescribed by division rule shall be charged one-half of the regular fee for camping, except on the weekends and holidays designated by the division, and shall not be charged more than ninety per cent of the regular charges for state recreational facilities, equipment, services, and food service operations utilized by the person at any time of year, whether maintained or operated by the state or leased for operation by another entity.

As used in this section, "food service operations" means restaurants that are owned by the department of natural resources at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state parks or are part of a state park lodge. "Food service operations" does not include automatic vending machines, concession stands, or snack bars.

As used in this section, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States. Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state is exempt from the fees for camping. To claim this exemption, the person shall present written evidence in the form of a record of separation, a letter from one of the military forces of the United States, or such other evidence as the chief prescribes by rule that satisfies the eligibility criteria established by this section.

Sec. 1541.05. (A) The chief of the division of parks and recreation, with the approval of the director of natural resources, may dispose of any of the following by sale, donation, trade, trade-in, recycling, or any other lawful means, in a manner that will benefit the division:

(1) Standing timber that as a result of wind, storm, pestilence, or any other natural occurrence may present a hazard to life or property, timber that has weakened or fallen on lands under the control and management of the division, or any timber or other forest products that ~~requires~~ require management to improve wildlife habitat, protect against wildfires, provide access to recreational facilities, implement sustainable forestry practices, or improve the safety, quality, or appearance of any state park area;

(2) Spoils of a dredging operation conducted by the division in waters under the control and management of the division. Prior to the disposition of any spoils under this division, the chief shall notify the director of environmental protection of the chief's intent so that the director may determine if the spoils constitute solid wastes or hazardous waste, as those terms are defined in section 3734.01 of the Revised Code, that must be disposed of in accordance with Chapter 3734. of the Revised Code. If the director does not notify the chief within thirty days after receiving notice of the disposition that the spoils must be disposed of in accordance with Chapter 3734. of the Revised Code, the chief may proceed with the disposition.

(3) Notwithstanding sections 125.12 to 125.14 of the Revised Code, excess supplies and surplus supplies, as those terms are defined in section 125.12 of the Revised Code;

(4) Agricultural products that are grown or raised by the division. As used in this division, "agricultural products" includes products of apiculture, animal husbandry, or poultry husbandry, field crops, fruits, and vegetables.

(5) Abandoned personal property, including golf balls that are found on property under the control and management of the division.

(B) In accordance with Chapter 119. of the Revised Code, the chief shall adopt, and may amend and rescind, such rules as are necessary to administer this section.

(C) ~~Proceeds~~ Except as provided in division (D) of this section, proceeds from the disposition of items under this section shall be deposited in the state treasury to the credit of the state park fund created in section 1541.22 of the Revised Code.

(D) The chief of the division of parks and recreation may enter into a memorandum of understanding with the chief of the division of forestry to allow the division of forestry to administer the sale of timber and forest

products on lands that are owned or controlled by the division of parks and recreation. Proceeds from the sale of timber or forest products pursuant to the memorandum of understanding shall be apportioned as follows:

(1) Seventy-five per cent of the proceeds shall be deposited in the state treasury to the credit of the state park fund.

(2) Twenty-five per cent of the proceeds shall be deposited in the state treasury to the credit of the state forest fund created in section 1503.05 of the Revised Code.

Sec. 1545.071. The following applies until the department of administrative services implements for park districts the health care plans under section 9.901 of the Revised Code. If those plans do not include or address any benefits listed in this section, the following provisions continue in effect for those benefits.

The board of park commissioners of any park district may procure and pay all or any part of the cost of group insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs, or sickness and accident insurance or a combination of any of the foregoing types of insurance or coverage for park district officers and employees and their immediate dependents issued by an insurance company duly authorized to do business in this state.

The board may procure and pay all or any part of the cost of group life insurance to insure the lives of park district employees.

The board also may contract for group health care services with health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code provided that each officer or employee is permitted to:

(A) Choose between a plan offered by an insurance company and a plan offered by a health insuring corporation and provided further that the officer or employee pays any amount by which the cost of the plan chosen by the officer or employee exceeds the cost of the plan offered by the board under this section;

(B) Change the choice made under division (A) of this section at a time each year as determined in advance by the board.

Any appointed member of the board of park commissioners and the spouse and dependent children of the member may be covered, at the option and expense of the member, as a noncompensated employee of the park district under any benefit plan described in division (A) of this section. The member shall pay to the park district the amount certified to it by the benefit provider as the provider's charge for the coverage the member has chosen under division (A) of this section. Payments for coverage shall be made, in

advance, in a manner prescribed by the board. The member's exercise of an option to be covered under this section shall be in writing, announced at a regular public meeting of the board, and recorded as a public record in the minutes of the board.

The board may provide the benefits authorized in this section by contributing to a health and welfare trust fund administered through or in conjunction with a collective bargaining representative of the park district employees.

The board may provide the benefits described in this section through an individual self-insurance program or a joint self-insurance program as provided in section 9.833 of the Revised Code.

Sec. 1545.09. (A) The board of park commissioners shall adopt such bylaws and rules as the board considers advisable for the preservation of good order within and adjacent to parks and reservations of land, and for the protection and preservation of the parks, parkways, and other reservations of land under its jurisdiction and control and of property and natural life therein. The board shall also adopt bylaws or rules establishing a procedure for contracting for professional, technical, consulting, and other special services. Any competitive bidding procedures of the board do not apply to the purchase of benefits for park district officers or employees when such benefits are provided through a health and welfare trust fund administered through or in conjunction with a collective bargaining representative of the park district employees, as authorized in section 1545.071 of the Revised Code. ~~The~~ Summaries of the bylaws and rules shall be published as provided in the case of ordinances of municipal corporations under section 731.21 of the Revised Code before taking effect.

(B)(1) As used in division (B)(2) of this section, "similar violation under state law" means a violation of any section of the Revised Code, other than division (C) of this section, that is similar to a violation of a bylaw or rule adopted under division (A) of this section.

(2) The board of park commissioners may adopt by bylaw a penalty for a violation of any bylaw or rule adopted under division (A) of this section, and any penalty so adopted shall not exceed in severity whichever of the following is applicable:

(a) The penalty designated under the Revised Code for a violation of the state law that is similar to the bylaw or rule for which the board adopted the penalty;

(b) For a violation of a bylaw or rule adopted under division (A) of this section for which the similar violation under state law does not bear a penalty or for which there is no similar violation under state law, a fine of

not more than one hundred fifty dollars for a first offense and not more than one thousand dollars for each subsequent offense.

(3) ~~Any~~ A summary of any bylaw adopted under division (B)(2) of this section shall be published as provided in the case of ordinances of municipal corporations under section 731.21 of the Revised Code before taking effect.

(C) No person shall violate any bylaws or rules adopted under division (A) of this section. All fines collected for any violation of this section shall be paid into the treasury of such park board.

Sec. 1545.12. (A) Except as provided in division (B) of this section, if the board of park commissioners finds that any lands that it has acquired are not necessary for the purposes for which they were acquired by the board, it may sell and dispose of the lands upon terms the board considers advisable. The board also may lease or permit the use of any lands for purposes not inconsistent with the purposes for which the lands were acquired, and upon terms the board considers advisable. No lands shall be sold pursuant to this division without first giving notice of the board's intention to sell the lands by publication once a week for four consecutive weeks in ~~not less than two English newspapers~~ a newspaper of general circulation in the district or as provided in section 7.16 of the Revised Code. The notice shall contain an accurate description of the lands and shall state the time and place at which sealed bids will be received for the purchase of the lands, and the lands shall not thereafter be sold at private sale for less than the best and highest bid received without giving further notice as specified in this division.

(B)(1) After compliance with division (B)(2) of this section, the board of park commissioners may sell land upon terms the board considers advisable to any park district established under section 511.18 or Chapter 1545. of the Revised Code, any political subdivision of the state, the state or any department or agency of the state, or any department or agency of the federal government for conservation uses or for park or recreation purposes without the necessity of having to comply with division (A) of this section.

(2) Before the board of park commissioners may sell land under division (B)(1) of this section, the board shall offer the land for sale to each of the following public agencies that is authorized to acquire, develop, and maintain land for conservation uses or for park or recreation purposes: each park district established under section 511.18 or Chapter 1545. of the Revised Code or political subdivision in which the land is located, each park district that is so established and that adjoins or each political subdivision that adjoins a park district so established or political subdivision in which the land is located, and each agency or department of the state or of the federal government that operates parks or conservation or recreation areas

near the land. The board shall make the offer by giving a written notice that the land is available for sale, by first class mail, to these public agencies. A failure of delivery of the written notice to any of these public agencies does not invalidate any proceedings for the sale of land under this division. Any public agency that is so notified and that wishes to purchase the land shall make an offer to the board in writing not later than sixty days after receiving the written notice.

If there is only one offer to purchase the land made in that sixty-day period, the board need not hold a public hearing on the offer. The board shall accept the offer only if it determines that acceptance of the offer will result in the best public use of the land.

If there is more than one offer to purchase the land made in that sixty-day period, the board shall not accept any offer until the board holds a public hearing on the offers. If, after the hearing, the board decides to accept an offer, it shall accept the offer that it determines will result in the best public use of the land.

(C) No lands shall be sold under this section at either public or private sale without the approval of the probate court of the county in which the lands are situated.

Sec. 1545.131. The board of park commissioners of a park district may enter into contracts with one or more townships, township police districts, joint police districts, municipal corporations, or county sheriffs of this state, with one or more township park districts created pursuant to section 511.18 of the Revised Code or other park districts, with one or more state universities or colleges, as defined in section 3345.12 of the Revised Code, or with a contiguous political subdivision of an adjoining state, and a township, township police district, joint police district, municipal corporation, county sheriff, township park district, other park district, or state university or college may enter into a contract with a park district upon any terms that are agreed to by them, to allow the use of the park district police or law enforcement officers designated under section 1545.13 of the Revised Code to perform any police function, exercise any police power, or render any police service on behalf of the contracting entity that the entity may perform, exercise, or render.

Chapter 2744. of the Revised Code, insofar as it applies to the operation of police departments, applies to the contracting entities and to the members of the police force or law enforcement department when they are rendering service outside their own subdivisions pursuant to that contract.

Members of the police force or law enforcement department acting outside the political subdivision in which they are employed, pursuant to

that contract, shall be entitled to participate in any indemnity fund established by their employer to the same extent as while acting within the employing subdivision. Those members shall be entitled to all the rights and benefits of Chapter 4123. of the Revised Code, to the same extent as while performing service within the subdivision.

The contracts entered into pursuant to this section may provide for the following:

(A) A fixed annual charge to be paid at the times agreed upon and stipulated in the contract;

(B) Compensation based upon the following:

(1) A stipulated price for each call or emergency;

(2) The number of members or pieces of equipment employed;

(3) The elapsed time of service required in each call or emergency.

(C) Compensation for loss or damage to equipment while engaged in rendering police services outside the limits of the subdivision that owns and furnishes the equipment;

(D) Reimbursement of the subdivision in which the police force or law enforcement department members are employed for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death of its police force or law enforcement department members occurring while engaged in rendering police services pursuant to the contract.

Sec. 1545.132. The police force or law enforcement department of any park district may provide police protection to any county, municipal corporation, township, ~~or~~ township police district, or joint police district of this state, to any other park district or any township park district created pursuant to section 511.18 of the Revised Code, or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the board of park commissioners of the park district in which the police force or law enforcement department is located and upon authorization by an officer or employee of the police force or department providing the police protection who is designated by title of office or position, pursuant to the resolution of the board of park commissioners, to give the authorization.

Chapter 2744. of the Revised Code, insofar as it applies to the operation of police departments, shall apply to any park district and to members of its police force or law enforcement department when those members are rendering police services pursuant to this section outside the park district by which they are employed.

Police force or law enforcement department members acting, as

provided in this section, outside the park district by which they are employed shall be entitled to participate in any pension or indemnity fund established by their employer to the same extent as while acting within the park district by which they are employed. Those members shall be entitled to all rights and benefits of Chapter 4123. of the Revised Code to the same extent as while performing services within the park district by which they are employed.

Sec. 1547.01. (A) As used in sections 1541.03, 1547.26, 1547.39, 1547.40, 1547.53, 1547.54, 1547.541, 1547.542, 1547.543, 1547.56, 1547.57, 1547.66, ~~3733.21,~~ and 5311.01 of the Revised Code, "watercraft" means any of the following when used or capable of being used for transportation on the water:

(1) A vessel operated by machinery either permanently or temporarily affixed;

(2) A sailboat other than a sailboard;

(3) An inflatable, manually propelled boat that is required by federal law to have a hull identification number meeting the requirements of the United States coast guard;

(4) A canoe or rowboat.

"Watercraft" does not include ferries as referred to in Chapter 4583. of the Revised Code.

Watercraft subject to section 1547.54 of the Revised Code shall be divided into five classes as follows:

Class A: Less than sixteen feet in length;

Class 1: At least sixteen feet, but less than twenty-six feet in length;

Class 2: At least twenty-six feet, but less than forty feet in length;

Class 3: At least forty feet, but less than sixty-five feet in length;

Class 4: At least sixty-five feet in length.

(B) As used in this chapter:

(1) "Vessel" includes every description of craft, including nondisplacement craft and seaplanes, designed to be used as a means of transportation on water.

(2) "Rowboat" means any vessel, except a canoe, that is designed to be rowed and that is propelled by human muscular effort by oars or paddles and upon which no mechanical propulsion device, electric motor, internal combustion engine, or sail has been affixed or is used for the operation of the vessel.

(3) "Sailboat" means any vessel, equipped with mast and sails, dependent upon the wind to propel it in the normal course of operation.

(a) Any sailboat equipped with an inboard engine is deemed a

powercraft with auxiliary sail.

(b) Any sailboat equipped with a detachable motor is deemed a sailboat with auxiliary power.

(c) Any sailboat being propelled by mechanical power, whether under sail or not, is deemed a powercraft and subject to all laws and rules governing powercraft operation.

(4) "Powercraft" means any vessel propelled by machinery, fuel, rockets, or similar device.

(5) "Person" includes any legal entity defined as a person in section 1.59 of the Revised Code and any body politic, except the United States and this state, and includes any agent, trustee, executor, receiver, assignee, or other representative thereof.

(6) "Owner" includes any person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein that entitled the person to that possession.

(7) "Operator" includes any person who navigates or has under the person's control a vessel, or vessel and detachable motor, on the waters in this state.

(8) "Visible" means visible on a dark night with clear atmosphere.

(9) "Waters in this state" means all streams, rivers, lakes, ponds, marshes, watercourses, waterways, and other bodies of water, natural or humanmade, that are situated wholly or partially within this state or within its jurisdiction and are used for recreational boating.

(10) "Navigable waters" means waters that come under the jurisdiction of the department of the army of the United States and any waterways within or adjacent to this state, except inland lakes having neither a navigable inlet nor outlet.

(11) "In operation" in reference to a vessel means that the vessel is being navigated or otherwise used on the waters in this state.

(12) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

(13) "Canoe" means a narrow vessel of shallow draft, pointed at both ends and propelled by human muscular effort, and includes kayaks, racing shells, and rowing sculls.

(14) "Coast guard approved" means bearing an approval number assigned by the United States coast guard.

(15) "Type one personal flotation device" means a device that is designed to turn an unconscious person floating in water from a face downward position to a vertical or slightly face upward position and that has at least nine kilograms, approximately twenty pounds, of buoyancy.

(16) "Type two personal flotation device" means a device that is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

(17) "Type three personal flotation device" means a device that is designed to keep a conscious person in a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

(18) "Type four personal flotation device" means a device that is designed to be thrown to a person in the water and not worn and that has at least seven and five-tenths kilograms, approximately sixteen and five-tenths pounds, of buoyancy.

(19) "Type five personal flotation device" means a device that, unlike other personal flotation devices, has limitations on its approval by the United States coast guard, including, without limitation, all of the following:

(a) The approval label on the type five personal flotation device indicates that the device is approved for the activity in which the vessel is being used or as a substitute for a personal flotation device of the type required on the vessel in use.

(b) The personal flotation device is used in accordance with any requirements on the approval label.

(c) The personal flotation device is used in accordance with requirements in its owner's manual if the approval label refers to such a manual.

(20) "Inflatable watercraft" means any vessel constructed of rubber, canvas, or other material that is designed to be inflated with any gaseous substance, constructed with two or more air cells, and operated as a vessel. Inflatable watercraft propelled by a motor shall be classified as powercraft and shall be registered by length. Inflatable watercraft propelled by a sail shall be classified as a sailboat and shall be registered by length.

(21) "Idle speed" means the slowest possible speed needed to maintain steerage or maneuverability.

(22) "Diver's flag" means a red flag not less than one foot square having a diagonal white stripe extending from the masthead to the opposite lower corner that when displayed indicates that divers are in the water.

(23) "Muffler" means an acoustical suppression device or system that is designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

(24) "Law enforcement vessel" means any vessel used in law

enforcement and under the command of a law enforcement officer.

(25) "Personal watercraft" means a vessel, less than sixteen feet in length, that is propelled by machinery and designed to be operated by an individual sitting, standing, or kneeling on the vessel rather than by an individual sitting or standing inside the vessel.

(26) "No wake" has the same meaning as "idle speed."

(27) "Watercraft dealer" means any person who is regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in vessels at an established place of business. "Watercraft dealer" does not include a person who is a marine salvage dealer or any other person who dismantles, salvages, or rebuilds vessels using used parts.

(28) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(29) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(30) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(31) "Drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(32) "Watercourse" means a substantially natural channel with recognized banks and bottom in which a flow of water occurs, with an average of at least ten feet mean surface water width and at least five miles of length.

(33) "Impoundment" means the reservoir created by a dam or other artificial barrier across a watercourse that causes water to be stored deeper than and generally beyond the banks of the natural channel of the watercourse during periods of normal flow, but does not include water stored behind rock piles, rock riffle dams, and low channel dams where the depth of water is less than ten feet above the channel bottom and is essentially confined within the banks of the natural channel during periods of normal stream flow.

(34) "Wild river area" means an area declared a wild river area by the director of natural resources under this chapter and includes those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted, representing vestiges of primitive America.

(35) "Scenic river area" means an area declared a scenic river area by the director under this chapter and includes those rivers or sections of rivers

that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(36) "Recreational river area" means an area declared a recreational river area by the director under this chapter and includes those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

Sec. 1547.30. (A) As used in this section and sections 1547.301, 1547.302, and 1547.304 of the Revised Code:

(1) "Vessel or outboard motor" excludes an abandoned junk vessel or outboard motor, as defined in section 1547.303 of the Revised Code, or any watercraft or outboard motor under section 4585.31 of the Revised Code.

(2) "Law enforcement agency" means any organization or unit comprised of law enforcement officers, as defined in section 2901.01 of the Revised Code.

(B)(1) The sheriff of a county, chief of police of a municipal corporation, township, ~~or~~ township police district, or joint police district, or other chief of a law enforcement agency, within the sheriff's or chief's respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any vessel or outboard motor that has been left on private property, other than a private dock or mooring facility or structure, for at least seventy-two hours without the permission of the person having the right to the possession of the property. The sheriff or chief, upon complaint of the owner of a marine repair facility or place of storage, may order into storage any vessel or outboard motor that has been left at the facility or place of storage for a longer period than that agreed upon. The place of storage shall be designated by the sheriff or chief. When ordering a vessel or motor into storage under division (B)(1) of this section, a sheriff or chief, whenever possible, shall arrange for the removal of the vessel or motor by a private tow truck operator or towing company.

(2)(a) Except as provided in division (B)(2)(d) of this section, no person, without the consent of the owner or other person authorized to give consent, shall moor, anchor, or tie a vessel or outboard motor at a private dock or mooring facility or structure owned by another person if the owner has posted, in a conspicuous manner, a prohibition against the mooring, anchoring, or tying of vessels or outboard motors at the dock, facility, or structure by any person not having the consent of the owner or other person authorized to give consent.

(b) If the owner of a private dock or mooring facility or structure has

posted at the dock, facility, or structure, in a conspicuous manner, conditions and regulations under which the mooring, anchoring, or tying of vessels or outboard motors is permitted at the dock, facility, or structure, no person, except as provided in division (B)(2)(d) of this section, shall moor, anchor, or tie a vessel or outboard motor at the dock, facility, or structure in violation of the posted conditions and regulations.

(c) The owner of a private dock or mooring facility or structure may order towed into storage any vessel or outboard motor found moored, anchored, or tied in violation of division (B)(2)(a) or (b) of this section, provided that the owner of the dock, facility, or structure posts on it a sign that states that the dock, facility, or structure is private, is visible from all entrances to the dock, facility, or structure, and contains all of the following information:

(i) The information specified in division (B)(2)(a) or (b) of this section, as applicable;

(ii) A notice that violators will be towed and that violators are responsible for paying the cost of the towing;

(iii) The telephone number of the person from whom a towed vessel or outboard motor may be recovered, and the address of the place to which the vessel or outboard motor will be taken and the place from which it may be recovered.

(d) Divisions (B)(2)(a) and (b) of this section do not prohibit a person from mooring, anchoring, or tying a vessel or outboard motor at a private dock or mooring facility or structure if either of the following applies:

(i) The vessel or outboard motor is disabled due to a mechanical or structural malfunction, provided that the person immediately removes the vessel or outboard motor from the dock, facility, or structure when the malfunction is corrected or when a reasonable attempt has been made to correct it;

(ii) Weather conditions are creating an imminent threat to safe operation of the vessel or outboard motor, provided that the person immediately removes the vessel or outboard motor from the dock, facility, or structure when the weather conditions permit safe operation of the vessel or outboard motor.

(e) A person whose vessel or outboard motor is towed into storage under division (B)(2)(c) of this section either shall pay the costs of the towing of the vessel or outboard motor or shall reimburse the owner of the dock or mooring facility or structure for the costs that the owner incurs in towing the vessel or outboard motor.

(3) Subject to division (C) of this section, the owner of a vessel or motor

that has been removed under division (B) of this section may recover the vessel or motor only in accordance with division (F) of this section.

(C) If the owner or operator of a vessel or outboard motor that has been ordered into storage under division (B) of this section arrives after the vessel or motor has been prepared for removal, but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of vessels or motors under division (B) of this section that normally is assessed by the person who has prepared the vessel or motor for removal, in order to obtain release of the vessel or motor. Upon payment of that fee, the vessel or motor shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that it is not on the private property without the permission of the person having the right to possession of the property, or is not at the facility or place of storage without the permission of the owner, whichever is applicable.

(D) Each county sheriff, each chief of police of a municipal corporation, township, ~~or~~ township police district, or joint police district, and each other chief of a law enforcement agency shall maintain a record of vessels or outboard motors that are ordered into storage under division (B)(1) of this section. The record shall include an entry for each such vessel or motor that identifies the vessel's hull identification number or serial number, if any, the vessel's or motor's make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. Any information in the record that pertains to a particular vessel or motor shall be provided to any person who, pursuant to a statement the person makes either in person or by telephone, is identified as the owner or operator of the vessel or motor and requests information pertaining to its location.

(E) Any person who registers a complaint that is the basis of a sheriff's or chief's order for the removal and storage of a vessel or outboard motor under division (B)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who, pursuant to a statement the person makes, is identified as the owner or operator of the vessel or motor and requests information pertaining to its location.

(F)(1) The owner of a vessel or outboard motor that is ordered into storage under division (B) of this section may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed two hundred dollars, and storage, in an amount not to exceed five dollars per

twenty-four-hour period, and upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vessel or motor, certificate of United States coast guard documentation, or certificate of registration if the vessel or motor is not subject to titling under section 1548.01 of the Revised Code.

(2) If a vessel or outboard motor that is ordered into storage under division (B)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by sections 1547.301 and 1547.302 of the Revised Code shall apply.

(3) If a vessel or outboard motor ordered into storage under division (B)(2) of this section remains unclaimed for seventy-two hours after being stored, the tow truck operator or towing company that removed the vessel or outboard motor shall provide notice of the removal and storage to the sheriff of a county, chief of police of a municipal corporation, township, ~~or~~ township police district, or joint police district, or other chief of a law enforcement agency within whose territorial jurisdiction the vessel or outboard motor had been moored, anchored, or tied in violation of division (B)(2) of this section. The notice shall be in writing and include the vessel's hull identification number or serial number, if any, the vessel's or outboard motor's make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered.

Upon receipt of the notice, the sheriff or chief immediately shall cause a search to be made of the records of the division of watercraft to ascertain the owner and any lienholder of the vessel or outboard motor, and, if known, shall send notice to the owner and lienholder, if any, at the owner's and lienholder's last known address by certified mail, return receipt requested, that the vessel or outboard motor will be declared a nuisance and disposed of if not claimed not later than thirty days after the date of the mailing of the notice.

If the owner or lienholder makes no claim to the vessel or outboard motor within thirty days of the date of the mailing of the notice, the sheriff or chief shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of division (F)(3) of this section, and the vessel or outboard motor shall be disposed of in accordance with section 1547.302 of the Revised Code.

(G) No person shall remove, or cause the removal of, any vessel or outboard motor from private property other than in accordance with division (B) of this section or section 1547.301 of the Revised Code.

Sec. 1547.301. The sheriff of a county, chief of police of a municipal corporation, township, ~~or~~ township police district, or joint police district, or other chief of a law enforcement agency, within ~~his~~ the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of such action and of the location of the place of storage, may order into storage any vessel or outboard motor that has been left in a sunken, beached, or drifting condition for any period of time, or in a docked condition, on a public street or other property open to the public, or upon or within the right-of-way of any waterway, road, or highway, for forty-eight hours or longer without notification to the sheriff or chief of the reasons for leaving the vessel or motor in any such place or condition. The sheriff or chief shall designate the place of storage of any vessel or motor ordered removed by ~~him~~ the sheriff or chief.

The sheriff or chief shall immediately cause a search to be made of the records of the division of watercraft to ascertain the owner and any lienholder of a vessel or outboard motor ordered into storage by the sheriff or chief, and, if known, shall send notice to the owner and lienholder, if any, at ~~his~~ the owner's or lienholder's last known address by certified mail, return receipt requested, that the vessel or motor will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder of the vessel or motor may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the vessel or motor, certificate of United States coast guard documentation, or certificate of registration if the vessel or motor is not subject to titling under section 1548.01 of the Revised Code.

If the owner or lienholder makes no claim to the vessel or outboard motor within ten days of the date of mailing of the notice, and if the vessel or motor is to be disposed of at public auction as provided in section 1547.302 of the Revised Code, the sheriff or chief shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the clerk of courts shall without charge issue a salvage certificate of title, free and clear of all liens and encumbrances, to the sheriff or chief and shall send a copy of the affidavit to the chief of the division of watercraft. If the vessel or motor is to be disposed of to a marine salvage dealer or other facility as provided in section 1547.302 of the Revised Code, the sheriff or chief shall execute in triplicate an affidavit, as prescribed by the chief of the division of watercraft, describing the vessel or motor and the manner in which it was disposed of, and that all requirements

of this section have been complied with. The sheriff or chief shall retain the original of the affidavit for ~~his~~ the sheriff's or chief's records and shall furnish two copies to the marine salvage dealer or other facility. Upon presentation of a copy of the affidavit by the marine salvage dealer or other facility, the clerk of courts shall issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances.

Whenever the marine salvage dealer or other facility receives an affidavit for the disposal of a vessel or outboard motor as provided in this section, such owner shall not be required to obtain an Ohio certificate of title to the vessel or motor in ~~his~~ the owner's own name if the vessel or motor is dismantled or destroyed and both copies of the affidavit are delivered to the clerk of courts. Upon receipt of such an affidavit, the clerk of courts shall send one copy of it to the chief of the division of watercraft.

Sec. 1547.302. (A) Unclaimed vessels or outboard motors ordered into storage under division (B) of section 1547.30 or section 1547.301 of the Revised Code shall be disposed of at the order of the sheriff of the county, the chief of police of the municipal corporation, township, or township police district, or another chief of a law enforcement agency in any of the following ways:

(1) To a marine salvage dealer;

(2) To any other facility owned, operated, or under contract with the state or the county, municipal corporation, township, or other political subdivision;

(3) To a charitable organization, religious organization, or similar organization not used and operated for profit;

(4) By sale at public auction by the sheriff, the chief, or an auctioneer licensed under Chapter 4707. of the Revised Code, after giving notice of the auction by advertisement, published once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code.

(B) Any moneys accruing from the disposition of an unclaimed vessel or motor that are in excess of the expenses resulting from the removal and storage of the vessel or motor shall be credited to the general revenue fund or to the general fund of the county, municipal corporation, township, or other political subdivision, as appropriate.

(C) As used in this section, "charitable organization" has the same meaning as in section 1716.01 of the Revised Code.

Sec. 1547.303. (A) As used in this section and section 1547.304 of the Revised Code:

(1) "Abandoned junk vessel or outboard motor" means any vessel or

outboard motor meeting all of the following requirements:

(a) It has been left on private property for at least seventy-two hours without the permission of the person having the right to the possession of the property; left in a sunken, beached, or drifting condition for any period of time; or left in a docked condition, on a public street or other property open to the public, or upon or within the right-of-way of any waterway, road, or highway, for forty-eight hours or longer without notification to the sheriff of the county, the chief of police of the municipal corporation, township, ~~or~~ township police district, or joint police district, or other chief of a law enforcement agency, having territorial jurisdiction with respect to the location of the vessel or motor, of the reasons for leaving the vessel or motor in any such place or condition;

(b) It is three years old, or older;

(c) It is extensively damaged, such damage including but not limited to any of the following: missing deck, hull, transom, gunwales, motor, or outdrive;

(d) It is apparently inoperable;

(e) It has a fair market value of two hundred dollars or less.

(2) "Law enforcement agency" means any organization or unit comprised of law enforcement officers, as defined in section 2901.01 of the Revised Code.

(B) The sheriff of a county, chief of police of a municipal corporation, township, ~~or~~ township police district, or joint police district, or other chief of a law enforcement agency, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of such action, shall order any abandoned junk vessel or outboard motor to be photographed by a law enforcement officer. The officer shall record the make of vessel or motor, the hull identification number or serial number when available, and shall also detail the damage or missing equipment to substantiate the value of two hundred dollars or less. The sheriff or chief shall thereupon immediately dispose of the abandoned junk vessel or outboard motor to a marine salvage dealer or other facility owned, operated, or under contract to the state, the county, township, or municipal corporation for the destruction of such vessels or motors. The records and photographs relating to the abandoned junk vessel or outboard motor shall be retained by the law enforcement agency ordering the disposition of the vessel or motor for a period of at least two years. The law enforcement agency shall execute in quadruplicate an affidavit, as prescribed by the chief of the division of watercraft, describing the vessel or motor and the manner in which it was disposed of, and that all requirements

of this section have been complied with, and shall sign and file the same with the clerk of courts of the county in which the vessel or motor was abandoned. The clerk of courts shall retain the original of the affidavit for the clerk's files, shall furnish one copy thereof to the chief of the division of watercraft, one copy to the marine salvage dealer or other facility handling the disposal of the vessel or motor, and one copy to the law enforcement agency ordering the disposal, who shall file such copy with the records and photographs relating to the disposal. Any moneys arising from the disposal of an abandoned junk vessel or outboard motor shall be credited to the general revenue fund, or to the general fund of the county, township, municipal corporation, or other political subdivision, as appropriate.

Notwithstanding section 1547.301 of the Revised Code, any vessel or outboard motor meeting the requirements of divisions (A)(1)(c) to (e) of this section which has remained unclaimed by the owner or lienholder for a period of ten days or longer following notification as provided in section 1547.301 of the Revised Code may be disposed of as provided in this section.

Sec. 1547.304. No person shall purposely leave an abandoned junk vessel or outboard motor on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property; in a sunken, beached, or drifting condition for any period of time; or in a docked condition, on a public street or other property open to the public, or upon or within the right-of-way of any waterway, road, or highway, for forty-eight hours or longer without notification to the sheriff of the county, chief of police of the municipal corporation, township, ~~or~~ township police district, or joint police district, or other chief of a law enforcement agency, having territorial jurisdiction with respect to the location of the vessel or motor, of the reasons for leaving the vessel or motor in any such place or condition.

For purposes of this section, the fact that an abandoned junk vessel or outboard motor has been so left without permission or notification is prima-facie evidence of abandonment.

Nothing in sections 1547.30, 1547.301, and 1547.303 of the Revised Code invalidates the provisions of any ordinance of a municipal corporation regulating or prohibiting the abandonment of vessels or outboard motors on waterways, beaches, docks, streets, highways, public property, or private property within the boundaries of the municipal corporation.

Sec. 1551.311. The general assembly hereby finds and declares that the future of the Ohio coal industry lies in the development of clean coal technology and that the disproportionate economic impact on the state under

Title IV of the "Clean Air Act Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, warrants maximum federal assistance to this state for such development. It is therefore imperative that the ~~Ohio air quality~~ department of development ~~authority created under Chapter 3706. of the Revised Code~~, its Ohio coal development office, the Ohio coal industry, the Ohio Washington office in the office of the governor, and the state's congressional delegation make every effort to acquire any federal assistance available for the development of clean coal technology, including assisting entities eligible for grants in their acquisition. The Ohio coal development agenda required by section 1551.34 of the Revised Code shall include, in addition to the other information required by that section, a description of such efforts and a description of the current status of the development of clean coal technology in this state and elsewhere.

Sec. 1551.32. (A) There is hereby established within the ~~Ohio air quality~~ department of development ~~authority~~ the Ohio coal development office whose purposes are to do all of the following:

(1) Encourage, promote, and support siting, financing, construction, and operation of commercially available or scaled facilities and technologies, including, without limitation, commercial-scale demonstration facilities and, when necessary or appropriate to demonstrate the commercial acceptability of a specific technology, up to three installations within this state utilizing the specific technology, to more efficiently produce, beneficiate, market, or use Ohio coal;

(2) Encourage, promote, and support the market acceptance and increased market use of Ohio coal through technology and market development;

(3) Assist in the financing of coal development facilities;

(4) Encourage, promote, and support, in state-owned buildings, facilities, and operations, use of Ohio coal and electricity sold by utilities and others in this state that use Ohio coal for generation;

(5) Improve environmental quality, particularly through cleaner use of Ohio coal;

(6) Assist and cooperate with governmental agencies, universities and colleges, coal producers, coal miners, electric utilities and other coal users, public and private sector coal development interests, and others in achieving these purposes.

(B) The office shall give priority to improvement or reconstruction of existing facilities and equipment when economically feasible, to construction and operation of commercial-scale facilities, and to technologies, equipment, and other techniques that enable maximum use of

Ohio coal in an environmentally acceptable, cost-effective manner.

Sec. 1551.33. (A) The ~~Ohio air quality~~ director of development ~~authority, by the affirmative vote of a majority of its members,~~ shall appoint and fix the compensation of the director of the Ohio coal development office. The director shall serve at the pleasure of the ~~authority~~ director of development.

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

(1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code;

(2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda;

(3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda;

(4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person;

(5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office. Any such employees shall be in the unclassified service and shall serve at the pleasure of the ~~authority~~ director of development.

(6) Appoint specified members of and convene the technical advisory committee established under section 1551.35 of the Revised Code;

(7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is environmentally sound, the director shall submit to the public utilities commission a report recommending that the commission allow the recovery of costs associated with the facility or project under section 4905.304 of the Revised Code and including the reasons for the recommendation.

(8) Establish such policies, procedures, and guidelines as are necessary to achieve the office's purposes.

(C) ~~By the affirmative vote of a majority of the members of the Ohio air quality development authority, the~~ The director of the office may exercise

any of the powers and duties ~~of the director of development as the authority and~~ that the director of the office ~~consider~~ considers appropriate or desirable to achieve the office's purposes, including, but not limited to, the powers and duties enumerated in sections 1551.11, 1551.12, ~~1551.13,~~ and 1551.15 of the Revised Code.

Additionally, the director of the office may make loans to governmental agencies or persons for projects to carry out the office's purposes. Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of the loans shall be such as the director of the office determines to be appropriate and in furtherance of the purposes for which the loans are made. The mortgage lien securing any moneys lent by the director of the office may be subordinate to the mortgage lien securing any moneys lent or invested by a financial institution, but shall be superior to that securing any moneys lent or expended by any other person. The moneys used in making the loans shall be disbursed upon order of the director of the office.

Sec. 1551.35. (A) There is hereby established a technical advisory committee to assist the director of the Ohio coal development office in achieving the office's purposes. The director shall appoint to the committee one member of the public utilities commission and one representative each of coal production companies, the united mine workers of America, electric utilities, manufacturers that use Ohio coal, and environmental organizations, as well as two people with a background in coal research and development technology, one of whom is employed at the time of the member's appointment by a state university, as defined in section 3345.011 of the Revised Code. In addition, the committee shall include four legislative members. The speaker and minority leader of the house of representatives each shall appoint one member of the house of representatives, and the president and minority leader of the senate each shall appoint one member of the senate, to the committee. The director of environmental protection ~~and the director of development~~ shall serve on the committee as an ex officio ~~members~~ member. Any member of the committee may designate in writing a substitute to serve in the member's absence on the committee. The director of environmental protection may designate in writing the chief of the air pollution control division of the agency to represent the agency. Members shall serve on the committee at the pleasure of their appointing authority. Members of the committee appointed by the director of the office and, notwithstanding section 101.26 of the Revised Code, legislative members of the committee, when engaged in their official duties as members of the committee, shall be compensated on a per diem basis in

accordance with division (J) of section 124.15 of the Revised Code, except that the member of the public utilities commission and, while employed by a state university, the member with a background in coal research, shall not be so compensated. Members shall receive their actual and necessary expenses incurred in the performance of their duties.

(B) The technical advisory committee shall review and make recommendations concerning the Ohio coal development agenda required under section 1551.34 of the Revised Code, project proposals, research and development projects submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code, proposals for grants, loans, and loan guarantees for purposes of sections 1555.01 to 1555.06 of the Revised Code, and such other topics as the director of the office considers appropriate.

(C) The technical advisory committee may hold an executive session at any regular or special meeting for the purpose of considering research and development project proposals or applications for assistance submitted to the Ohio coal development office under section 1551.33, or sections 1555.01 to 1555.06, of the Revised Code, to the extent that the proposals or applications consist of trade secrets or other proprietary information.

Any materials or data submitted to, made available to, or received by the ~~Ohio air quality~~ department of development ~~authority~~ or the director of the Ohio coal development office in connection with agreements for assistance entered into under this chapter or Chapter 1555. of the Revised Code, or any information taken from those materials or data for any purpose, to the extent that the materials or data consist of trade secrets or other proprietary information, are not public records for the purposes of section 149.43 of the Revised Code.

As used in this division, "trade secrets" has the same meaning as in section 1333.61 of the Revised Code.

Sec. 1555.02. It is hereby declared to be the public policy of this state through the operations of the Ohio coal development office under this chapter to contribute toward one or more of the following: to provide for the comfort, health, safety, and general welfare of all employees and other inhabitants of this state through research and development directed toward the discovery of new technologies or the demonstration or application of existing technologies to enable the conversion or use of Ohio coal as a fuel or chemical feedstock in an environmentally acceptable manner thereby enhancing the marketability and fostering the use of this state's vast reserves of coal, to assist in the financing of coal research and development and coal research and development projects or facilities for persons doing business in

this state and educational and scientific institutions located in this state, to create or preserve jobs and employment opportunities or improve the economic welfare of the people of this state, or to assist and cooperate with such persons and educational and scientific institutions in conducting coal research and development. In furtherance of this public policy, the Ohio coal development office, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code ~~and the affirmative vote of a majority of the members of the Ohio air quality development authority~~, may make loans, guarantee loans, and make grants to persons doing business in this state or to educational or scientific institutions located in this state for coal research and development projects by such persons or educational or scientific institutions; may, with the advice of the technical advisory committee ~~and the affirmative vote of a majority of the members of the Ohio air quality development authority~~, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code to provide funds for making such loans, loan guarantees, and grants; and may, with the advice of the technical advisory committee ~~and the affirmative vote of a majority of the members of the Ohio air quality development authority~~, expend moneys credited to the coal research and development fund created in section 1555.15 of the Revised Code for the purpose of making such loans, loan guarantees, and grants. Determinations by the director of the Ohio coal development office that coal research and development or a coal research and development facility is a coal research and development project under this chapter and is consistent with the purposes of Section 15 of Article VIII, Ohio Constitution, and this chapter shall be conclusive as to the validity and enforceability of the coal research and development general obligations issued to finance such project and of the authorizations, trust agreements or indentures, loan agreements, loan guarantee agreements, or grant agreements, and other agreements made in connection therewith, all in accordance with their terms.

Sec. 1555.03. For the purposes of this chapter, the director of the Ohio coal development office may:

(A) With the advice of the technical advisory committee created in section 1551.35 of the Revised Code ~~and the affirmative vote of a majority of the members of the Ohio air quality development authority~~, make loans, guarantee loans, and make grants to persons doing business in this state or to educational or scientific institutions located in this state for coal research and development projects by any such person or educational or scientific institution and adopt rules under Chapter 119. of the Revised Code for making such loans, guarantees, and grants.

(B) In making loans, loan guarantees, and grants under division (A) of this section and section 1555.04 of the Revised Code, the director of the office shall ensure that an adequate portion of the total amount of those loans, loan guarantees, and grants, as determined by the director with the advice of the technical advisory committee, is used for conducting research on fundamental scientific problems related to the utilization of Ohio coal and shall ensure, to the maximum feasible extent, joint financial participation by the federal government or other investors or interested parties in conjunction with any such loan, loan guarantee, or grant. The director, in each grant agreement or contract under division (A) of this section, loan contract or agreement under this division or section 1555.04 of the Revised Code, and contract of guarantee under section 1555.05 of the Revised Code, shall require that the facility or project be maintained and kept in good condition and repair by the person or educational or scientific institution to whom the grant or loan was made or for whom the guarantee was made.

(C) From time to time, with the advice of the technical advisory committee ~~and the affirmative vote of a majority of the members of the Ohio air quality development authority~~, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code, for any of the purposes set forth in Section 15 of Article VIII, Ohio Constitution, and subject to the limitations therein upon the aggregate total amount of obligations that may be outstanding at any time.

(D) Include as a condition of any loan, loan guarantee, or grant contract or agreement with any such person or educational or scientific institution that the director of the office receive, in addition to payments of principal and interest on any such loan or service charges for any such guarantee, as appropriate, as authorized by Section 15, Article VIII, Ohio Constitution, a reasonable royalty or portion of the income or profits arising out of the developments, discoveries, or inventions, including patents or copyrights, that result in whole or in part from coal research and development projects conducted under any such contract or agreement, in such amounts and for such period of years as may be negotiated and provided by the contract or agreement in advance of the making of the grant, loan, or loan guarantee. Moneys received by the director of the office under this section may be credited to the coal research and development bond service fund or used to make additional loans, loan guarantees, grants, or agreements under this section.

(E) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting

experts, architects, and such other consultants and independent contractors as are necessary in the judgment of the director of the office to carry out this chapter, and fix the compensation thereof.

(F) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction or operation of any coal research and development project or for coal research and development, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made.

(G) Purchase fire and extended coverage and liability insurance for any coal research and development project, insurance protecting the office and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the director of the office determines necessary or proper under this chapter. Any moneys received by the director from the proceeds of any such insurance with respect to a coal research and development project and any moneys received by the director from the proceeds of any settlement, judgment, foreclosure, or other insurance with respect to a coal research and development project or facility shall be credited to the coal research and development bond service fund.

(H) In the exercise of the powers of the director of the office under this chapter, call to the director's assistance, temporarily, from time to time, any engineers, technical experts, financial experts, and other employees in any state department, agency, or commission, or in the Ohio state university, or other educational institutions financed wholly or partially by this state for purposes of assisting the director of the office with reviewing and evaluating applications for financial assistance under this chapter, monitoring performance of coal research and development projects receiving financial assistance under this chapter, and reviewing and evaluating the progress and findings of those projects. Such engineers, experts, and employees shall not receive any additional compensation over that which they receive from the department, agency, commission, or educational institution by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the director.

(I) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 1555.04. (A) With respect to coal research and development projects financed wholly or partially from a loan or loan guarantee under this chapter, the director of the Ohio coal development office, in addition to other powers under this chapter, with the advice of the technical advisory

committee created in section 1551.35 of the Revised Code ~~and the affirmative vote of a majority of the members of the Ohio air quality development authority~~, may enter into loan agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take such actions as the director of the office considers appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale.

(B) The authority granted by this section is cumulative and supplementary to all other authority granted in this chapter. The authority granted by this section does not alter or impair any similar authority granted elsewhere in this chapter with respect to other projects.

Sec. 1555.05. (A) Subject to any limitations as to aggregate amounts thereof that may from time to time be prescribed by the general assembly and to other applicable provisions of this chapter, and subject to the one-hundred-million-dollar limitation provided in Section 15 of Article VIII, Ohio Constitution, the director of the Ohio coal development office, on behalf of this state, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code ~~and the affirmative vote of a majority of the members of the Ohio air quality development authority~~, may enter into contracts to guarantee the repayment or payment of the unpaid principal amount of loans made to pay the costs of coal research and development projects.

(B) The contract of guarantee may make provision for the conditions of, time for, and manner of fulfillment of the guarantee commitment, subrogation of this state to the rights of the parties guaranteed and exercise of such parties' rights by the state, giving the state the option of making payment of the principal amount guaranteed in one or more installments and, if deferred, to pay interest thereon from the source specified in division (A) of this section, and any other terms or conditions customary to such guarantees and as the director of the office may approve, and may contain provisions for securing the guarantee in the manner consistent with this section, covenants on behalf of this state to issue obligations under section 1555.08 of the Revised Code to provide moneys to fulfill such guarantees and covenants, and covenants restricting the aggregate amount of guarantees that may be contracted under this section and obligations that may be issued under section 151.07 of the Revised Code, and terms pertinent to either, to

better secure the parties guaranteed.

(C) The director of the office may fix service charges for making a guarantee. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director. Moneys received from such charges shall be credited to the coal research and development bond service fund.

(D) Any guaranteed parties under this section, by any suitable form of legal proceedings and except to the extent that their rights are restricted by the guarantee documents, may protect and enforce any rights under the laws of this state or granted by such guarantee or guarantee documents. Such rights include the right to compel the performance of all duties of the office required by this section or the guarantee or guarantee documents; and in the event of default with respect to the payment of any guarantees, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged to such guarantee with full power to pay, and to provide for payment of, such guarantee, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge or apply additional revenues or receipts or other income or moneys of this state. Each duty of the office and its director and employees required or undertaken under this section or a guarantee made under this section is hereby established as a duty of the office and of its director and each such employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the director of the office, or its employees, are not liable in their personal capacities on any guarantees or contracts to make guarantees by the director.

Sec. 1555.06. Upon application by the director of the Ohio coal development office ~~with the affirmative vote of a majority of the members of the Ohio air quality development authority~~, the controlling board, from appropriations available to the board, may provide funds for surveys or studies by the office of any proposed coal research and development project subject to repayment by the office from funds available to it, within the time fixed by the board. Funds to be repaid shall be charged by the office to the appropriate coal research and development project and the amount thereof shall be a cost of the project. This section does not abrogate the authority of the controlling board to otherwise provide funds for use by the office in the exercise of the powers granted to it by this chapter.

Sec. 1555.08. (A) Subject to the limitations provided in Section 15 of Article VIII, Ohio Constitution, the commissioners of the sinking fund, upon

certification by the director of the Ohio coal development office of the amount of moneys or additional moneys needed in the coal research and development fund for the purpose of making grants or loans for allowable costs, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section, or providing moneys for loan guarantees, shall issue obligations of the state under this section in amounts authorized by the general assembly; provided that such obligations may be issued to the extent necessary to satisfy the covenants in contracts of guarantee made under section 1555.05 of the Revised Code to issue obligations to meet such guarantees, notwithstanding limitations otherwise applicable to the issuance of obligations under this section except the one-hundred-million-dollar limitation provided in Section 15 of Article VIII, Ohio Constitution. The proceeds of such obligations, except for the portion to be deposited in the coal research and development bond service fund as may be provided in the bond proceedings, shall as provided in the bond proceedings be deposited in the coal research and development fund. The commissioners of the sinking fund may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in their judgment to carry out this section.

(B) The full faith and credit of the state of Ohio is hereby pledged to obligations issued under this section. The right of the holders and owners to payment of bond service charges is limited to all or that portion of the moneys pledged thereto pursuant to the bond proceedings in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(C) Obligations shall be authorized by resolution of the commissioners of the sinking fund on request of the director of the Ohio coal development office as provided in section 1555.02 of the Revised Code and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner or agency for

determining the principal maturity or maturities, not exceeding forty years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code apply to obligations issued under this section. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings shall also provide, subject to the provisions of any other applicable bond proceedings, for the pledge of all, or such part as the commissioners of the sinking fund may determine, of the moneys credited to the coal research and development bond service fund to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments and may be made to secure the obligations on a parity with obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The moneys so pledged and thereafter received by the state are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledges is valid and binding against all parties having claims of any kind against the state or any governmental agency of the state, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such moneys is effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge, and every covenant and agreement made with respect thereto, made in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(D) The bond proceedings may contain additional provisions as to:

(1) The redemption of obligations prior to maturity at the option of the commissioners of the sinking fund at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

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

(5) The deposit, investment, and application of the coal research and development bond service fund, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this chapter, with respect to particular moneys; provided, that any bank or trust company which acts as depository of any moneys in the fund may furnish such indemnifying bonds or may pledge such securities as required by the commissioners of the sinking fund;

(6) Any other provision of the bond proceedings being binding upon the commissioners of the sinking fund, or such other body or person as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(7) Any provision which may be made in a trust agreement or indenture;

(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security obtained or to be obtained for loans under this chapter.

(E) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations shall be signed by such members of the commissioners of the sinking fund as are designated in the resolution authorizing the obligations or bear the facsimile signatures of such members. Any coupons attached to the obligations shall bear the facsimile signature of the treasurer of state. Any obligations may be executed by the persons who, on the date of execution, are the commissioners although on the date of such bonds the persons were not the commissioners. Any coupons may be executed by the person who, on the date of execution, is the treasurer of state although on the date of such coupons the person was not the treasurer of state. In case any officer or commissioner whose signature or a facsimile of whose signature appears on any such obligations or any coupons ceases to be such officer or commissioner before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the individual had remained such officer or commissioner until such delivery; and in case the seal to be affixed to obligations has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal shall continue to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

(F) All obligations except loan guarantees are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may

be issued in coupon or in registered form, or both, as the commissioners of the sinking fund determine. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(G) Obligations may be sold at public sale or at private sale, as determined in the bond proceedings.

(H) Pending preparation of definitive obligations, the commissioners of the sinking fund may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(I) In the discretion of the commissioners of the sinking fund, obligations may be secured additionally by a trust agreement or indenture between the commissioners and a corporate trustee, which may be any trust company or bank having a place of business within the state. Any such agreement or indenture may contain the resolution authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions that are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

(1) Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the commissioners of the sinking fund made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

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

(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the commissioners of the sinking fund agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(J) Any holder of obligations or a trustee under the bond proceedings,

except to the extent that the holder's rights are restricted by the bond proceedings, may by any suitable form of legal proceedings protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the commissioners of the sinking fund, the ~~Ohio air quality~~ department of development ~~authority~~, or the Ohio coal development office required by this chapter and Chapter 1551. of the Revised Code or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the commissioners, the ~~authority~~ department, or the office in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged, other than those in the custody of the treasurer of state, that are pledged to the payment of the bond service charges on such obligations or that are the subject of the covenant or agreement, with full power to pay, and to provide for payment of bond service charges on, such obligations, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the commissioners of the sinking fund or the state or governmental agencies of the state to the payment of such principal and interest and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project.

Each duty of the commissioners of the sinking fund and their employees, and of each governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any grant, loan, or loan guarantee agreement made under authority of this chapter, and in every agreement by or with the commissioners, is hereby established as a duty of the commissioners, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The persons who are at the time the commissioners of the sinking fund, or their employees, are not liable in their personal capacities on any obligations issued by the commissioners or any agreements of or with the commissioners.

(K) Obligations issued under this section are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other

officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund of the state, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any governmental agency of the state with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(L) If the law or the instrument creating a trust pursuant to division (I) of this section expressly permits investment in direct obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or an agency of the United States; and in collective investment funds established in accordance with section 1111.14 of the Revised Code and consisting exclusively of any such securities, notwithstanding division (A)(1)(c) of that section. The income from such investments shall be credited to such funds as the commissioners of the sinking fund determine, and such investments may be sold at such times as the commissioners determine or authorize.

(M) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Moneys to the credit of the bond service fund shall be disbursed on the order of the treasurer of state; provided, that no such order is required for the payment from the bond service fund when due of bond service charges on obligations.

(N) The commissioners of the sinking fund may pledge all, or such portion as they determine, of the receipts of the bond service fund to the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized by this chapter, which provisions control notwithstanding any other provisions of law pertaining thereto.

(O) The commissioners of the sinking fund may covenant in the bond

proceedings, and any such covenants control notwithstanding any other provision of law, that the state and applicable officers and governmental agencies of the state, including the general assembly, so long as any obligations are outstanding, shall:

(1) Maintain statutory authority for and cause to be levied and collected taxes so that the pledged receipts are sufficient in amount to meet bond service charges, and the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings, and, as necessary, to meet covenants contained in any loan guarantees made under this chapter;

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

(P) All moneys received by or on account of the state and required by the applicable bond proceedings, consistent with this section, to be deposited, transferred, or credited to the coal research and development bond service fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be credited to such fund and to any separate accounts therein, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during such time as any such obligations are outstanding, and so long as moneys in the bond service fund are insufficient to pay all bond service charges on such obligations becoming due in each year, a sufficient amount of moneys of the state are committed and shall be paid to the bond service fund in each year for the purpose of paying the bond service charges becoming due in that year without necessity for further act of appropriation for such purpose. The bond service fund is a trust fund and is hereby pledged to the payment of bond service charges to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation. All investment earnings of the fund shall be credited to the fund.

(Q) For purposes of establishing the limitations contained in Section 15 of Article VIII, Ohio Constitution, the "principal amount" refers to the aggregate of the offering price of the bonds or notes. "Principal amount" does not refer to the aggregate value at maturity or redemption of the bonds or notes.

(R) This section applies only with respect to obligations issued and delivered prior to September 30, 2000.

Sec. 1555.17. All final actions of the director of the Ohio coal

development office shall be journalized and such journal shall be open to inspection of the public at all reasonable times. Any materials or data, to the extent that they consist of trade secrets, as defined in section 1333.61 of the Revised Code, or other proprietary information, that are submitted or made available to, or received by, the ~~Ohio air quality~~ department of development ~~authority~~ or the director of the Ohio coal development office, in connection with agreements for assistance entered into under this chapter or Chapter 1551. of the Revised Code, or any information taken from those materials or data, are not public records for the purposes of section 149.43 of the Revised Code.

Sec. 1561.06. The chief of the division of mineral resources management shall designate the townships in which mineable or quarryable coal or other mineral is or may be mined or quarried, which townships shall be considered coal or mineral bearing townships. The chief shall divide the coal or other mineral bearing townships into such districts as the chief deems best for inspection purposes, and the chief may change such districts whenever, in the chief's judgment, the best interests of the service require.

The chief shall designate as provided in this section as coal or mineral bearing townships those townships in which coal is being mined or in which coal is found in such thickness as to make the mining of ~~such~~ the coal or mineral probable at some future time, and shall designate ~~such~~ the township as a unit. As used in this chapter and Chapters 1563., 1565., and 1567. of the Revised Code, "coal or mineral bearing township" means a township that has been so designated by the chief under this section.

The chief shall also designate the townships in which coal is being mined or in which coal is found in such thickness as to make the mining of ~~such~~ the coal probable at some future time as "coal bearing townships" as ~~such~~ that term is used in Chapter 1509. of the Revised Code. The chief shall certify to the chief of the division of oil and gas resources management the townships that are designated as coal bearing townships.

Sec. 1561.12. An applicant for any examination or certificate under this section shall, before being examined, register the applicant's name with the chief of the division of mineral resources management and file with the chief an affidavit as to all matters of fact establishing the applicant's right to receive the examination, a certificate of good character and temperate habits signed by at least three reputable citizens of the community in which the applicant resides, and a certificate from a reputable and disinterested physician as to the physical condition of ~~such~~ the applicant showing that the applicant is physically capable of performing the duties of the office or position.

Each applicant for examination for any of the following positions shall present evidence satisfactory to the chief that the applicant has been a resident and citizen of this state for two years next preceding the date of application:

(A) An applicant for the position of deputy mine inspector of underground mines shall have had actual practical experience of not less than six years, at least two of which shall have been in the underground workings of mines in this state. In the case of an applicant who would inspect underground coal mines, the two years shall consist of actual practical experience in underground coal mines. In the case of an applicant who would inspect noncoal mines, the two years shall consist of actual practical experience in noncoal mines. In lieu of two years of the actual practical experience required, the chief may accept as the equivalent thereof a certificate evidencing graduation from an accredited school of mines or mining, after a four-year course of study, but such credit shall not apply as to the two years' actual practical experience required in the mines in this state.

The applicant shall pass an examination as to the applicant's practical and technological knowledge of mine surveying, mining machinery, and appliances; the proper development and operation of mines; the best methods of working and ventilating mines; the nature, properties, and powers of noxious, poisonous, and explosive gases, particularly methane; the best means and methods of detecting, preventing, and removing the accumulation of such gases; the use and operation of gas detecting devices and appliances; first aid to the injured; and the uses and dangers of electricity as applied and used in, at, and around mines. ~~Such~~ The applicant shall also hold a certificate for foreperson of gaseous mines issued by the chief.

(B) An applicant for the position of deputy mine inspector of surface mines shall have had actual practical mining experience of not less than six years, at least two of which shall have been in surface mines in this state. In lieu of two years of the actual practical experience required, the chief may accept as the equivalent thereof a certificate evidencing graduation from an accredited school of mines or mining, after a four-year course of study, but that credit shall not apply as to the two years' actual practical experience required in the mines in this state. The applicant shall pass an examination as to the applicant's practical and technological knowledge of surface mine surveying, machinery, and appliances; the proper development and operations of surface mines; first aid to the injured; and the use and dangers of explosives and electricity as applied and used in, at, and around surface

mines. The applicant shall also hold a surface mine foreperson certificate issued by the chief.

(C) An applicant for the position of electrical inspector shall have had at least five years' practical experience in the installation and maintenance of electrical circuits and equipment in mines, and the applicant shall be thoroughly familiar with the principles underlying the safety features of permissible and approved equipment as authorized and used in mines.

The applicant shall be required to pass the examination required for deputy mine inspectors and an examination testing and determining the applicant's qualification and ability to competently inspect and administer the mining law that relates to electricity used in and around mines and mining in this state.

(D) An applicant for the position of superintendent or assistant superintendent of rescue stations shall possess the same qualifications as those required for a deputy mine inspector. In addition, the applicant shall present evidence satisfactory to the chief that the applicant is sufficiently qualified and trained to organize, supervise, and conduct group training classes in first aid, safety, and rescue work.

The applicant shall pass the examination required for deputy mine inspectors and shall be tested as to the applicant's practical and technological experience and training in first aid, safety, and mine rescue work.

(E) An applicant for the position of mine chemist shall have such educational training as is represented by the degree MS in chemistry from a university of recognized standing, and at least five years of actual practical experience in research work in chemistry or as an assistant chemist. The chief may provide that an equivalent combination of education and experience together with a wide knowledge of the methods of and skill in chemical analysis and research may be accepted in lieu of the above qualifications. It is preferred that ~~such~~ the chemist shall have had actual experience in mineralogy and metallurgy.

~~(F) An applicant for the position of gas storage well inspector shall possess the same qualifications as an applicant for the position of deputy mine inspector and shall have a practical knowledge and experience of and in the operation, location, drilling, maintenance, and abandonment of oil and gas wells, especially in coal or mineral bearing townships, and shall have a thorough knowledge of the latest and best method of plugging and sealing abandoned oil and gas wells.~~

~~Such applicant for gas storage well inspector shall pass an examination conducted by the chief to determine the applicant's fitness to act as a gas~~

~~storage well inspector before being eligible for appointment.~~

Sec. 1561.13. The chief of the division of mineral resources management shall conduct examinations for offices and positions in the division of mineral resources management, and for mine forepersons, mine electricians, shot firers, surface mine blasters, and fire bosses, as follows:

(A) Division of mineral resources management:

(1) Deputy mine inspectors of underground mines;

(2) Deputy mine inspectors of surface mines;

(3) Electrical inspectors;

(4) Superintendent of rescue stations;

(5) Assistant superintendents of rescue stations;

(6) Mine chemists at a division laboratory if the chief chooses to operate a laboratory~~;~~

~~(7) Gas storage well inspector~~.

(B) Mine forepersons:

(1) Mine foreperson of gaseous mines;

(2) Mine foreperson of nongaseous mines;

(3) Mine foreperson of surface mines.

(C) Forepersons:

(1) Foreperson of gaseous mines;

(2) Foreperson of nongaseous mines;

(3) Foreperson of surface maintenance facilities at underground or surface mines;

(4) Foreperson of surface mines.

(D) Fire bosses.

(E) Mine electricians.

(F) Surface mine blasters.

(G) Shot firers.

The chief annually shall provide for the examination of candidates for appointment or promotion as deputy mine inspectors and such other positions and offices set forth in division (A) of this section as are necessary. Special examinations may be held whenever it becomes necessary to make appointments to any of those positions.

The chief shall provide for the examination of persons seeking certificates of competency as mine forepersons, forepersons, mine electricians, shot firers, surface mine blasters, and fire bosses quarterly or more often as required, at such times and places within the state as shall, in the judgment of the chief, afford the best facilities to the greatest number of applicants. Public notice shall be given through the press or otherwise, not less than ten days in advance, announcing the time and place at which

examinations under this section are to be held.

The examinations provided for in this section shall be conducted under rules adopted under section 1561.05 of the Revised Code and conditions prescribed by the chief. Any rules that relate to particular candidates shall, upon application of any candidate, be furnished to the candidate by the chief; they shall also be of uniform application to all candidates in the several groups.

Sec. 1561.35. If the deputy mine inspector finds that any matter, thing, or practice connected with any mine and not prohibited specifically by law is dangerous or hazardous, or that from a rigid enforcement of this chapter and Chapters ~~1509.,~~ 1563., 1565., and 1567. and applicable provisions of Chapter 1509. of the Revised Code, the matter, thing, or practice would become dangerous and hazardous so as to tend to the bodily injury of any person, the deputy mine inspector forthwith shall give notice in writing to the owner, lessee, or agent of the mine of the particulars in which the deputy mine inspector considers the mine or any matter, thing, or practice connected therewith is dangerous or hazardous and recommend changes that the conditions require, and forthwith shall mail a copy of the report and the deputy mine inspector's recommendations to the chief of the division of mineral resources management. Upon receipt of the report and recommendations, the chief forthwith shall make a finding thereon and mail a copy to the owner, operator, lessee, or agent of the mine, and to the deputy mine inspector; a copy of the finding of the chief shall be posted upon the bulletin board of the mine. Where the miners have a mine safety committee, one additional copy shall be posted on the bulletin board for the use and possession of the committee.

The owner, operator, lessee, or agent of the mine, or the authorized representative of the workers of the mine, within ten days may appeal to the reclamation commission for a review and redetermination of the finding of the chief in the matter in accordance with section 1513.13 of the Revised Code, notwithstanding division (A)(1) of that section, which provides for appeals within thirty days. A copy of the decision of the commission shall be mailed as required by this section for the mailing of the finding by the chief on the deputy mine inspector's report.

Sec. 1561.49. The chief of the division of mineral resources management may designate not more than thirty deputy mine inspectors, at least one of whom shall be classified and appointed as electrical inspector provided for in division (B) of section 1561.12 of the Revised Code; ~~one gas storage well inspector;~~ one superintendent of rescue stations; three assistant superintendents of rescue stations; three chemists; and such clerks,

stenographers, and other employees as are necessary for the administration of this chapter and Chapters 1563., 1565., and 1567.~~,~~ and applicable provisions of Chapter 1509. of the Revised Code.

Such officers, employees, and personnel shall be appointed and employed under such conditions and qualifications as set forth in ~~such~~ those chapters.

Sec. 1563.06. For the purpose of making the examinations provided for in this chapter and Chapters ~~1509.,~~ 1561., 1565., and 1567. and applicable provisions of Chapter 1509. of the Revised Code, the chief of the division of mineral resources management, and each deputy mine inspector, may enter any mine at a reasonable time, by day or by night, but in such manner as will not necessarily impede the working of the mine, and the owner, lessee, or agent thereof shall furnish the means necessary for such entry and examination.

Sec. 1563.24. In all mines generating methane in such quantities as to be considered a gaseous mine under section 1563.02 of the Revised Code, the mine foreperson of such a mine shall:

(A) Employ a sufficient number of competent persons holding foreperson of gaseous mines or fire boss certificates, except as provided in section 1565.02 of the Revised Code, to examine the working places whether they are in actual course of working or not, and the traveling ways and entrances to old workings with approved flame safety lamps, all of which shall be done not more than three hours prior to the time fixed for the employees to enter ~~such~~ the mine;

(B) Have all old parts of the mine not in the actual course of working, but that are open and safe to travel, examined not less than once each three days by a competent person who holds a foreperson of gaseous mines or a fire boss certificate;

(C) See that all parts of the mine not sealed off as provided in section 1563.41 of the Revised Code are kept free from standing gas, and upon the discovery of any standing gas, see that the entrance to the place where the gas is so discovered is fenced off and marked with a sign upon which is written the word "danger," and ~~such~~ the sign shall so remain until ~~such~~ the gas has been removed;

(D) Have the mine examined on all idle days, holidays, and Sundays on which employees are required to work therein;

(E) If more than three hours elapse between shifts, have the places in which the succeeding shift works examined by a competent person who holds a foreperson of gaseous mines or fire boss certificate;

(F) See that this chapter and Chapters ~~1509.,~~ 1561., 1565., and 1567.

and applicable provisions of Chapter 1509. of the Revised Code, with regard to examination of working places, removal of standing gas, and fencing off of dangerous places, are complied with before the employees employed by the mine foreperson for this particular work are permitted to do any other work;

(G) Have a report made on the blackboard provided for in section 1567.06 of the Revised Code, which report shall show the condition of the mine as to the presence of gas and the place where such gas is present, if there is any, before the mine foreperson permits the employees to enter the mine;

(H) Have reports of the duties and activities enumerated in this section signed by the person who makes ~~such~~ the examination. The reports so signed shall be sent once each week to the deputy mine inspector of the district in which the mine is located on blanks furnished by the division of mineral resources management for that purpose, and a copy of ~~such~~ the report shall be kept on file at the mine.

(I) Have the fire boss record a report after each examination, in ink, in the fire boss' record book, which book shall show the time taken in making the examination and also clearly state the nature and location of any danger that was discovered in any room, entry, or other place in the mine, and, if any danger was discovered, the fire boss shall immediately report the location thereof to the mine foreperson.

No person shall enter the mine until the fire bosses return to the mine office on the surface, or to a station located in the mine, where a record book as provided for in this section shall be kept and signed by the person making the examination, and report to the oncoming mine foreperson that the mine is in safe condition for the employees to enter. When a station is located in any mine, the fire bosses shall sign also the report entered in the record book in the mine office on the surface. The record books of the fire bosses shall at all times during working hours be accessible to the deputy mine inspector and the employees of the mine.

In every mine generating explosive gas in quantities sufficient to be detected by an approved flame safety lamp, when the working portions are one mile or more from the entrance to the mine or from the bottom of the shaft or slope, a permanent station of suitable dimensions may be erected by the mine foreperson, provided that the location is approved by the deputy mine inspector, for the use of the fire bosses, and a fireproof vault of ample strength shall be erected in ~~such~~ the station of brick, stone, or concrete, in which the temporary record book of the fire bosses, as described in this section, shall be kept. No person, except a mine foreperson of gaseous

mines, and in case of necessity such other persons as are designated by the mine foreperson, shall pass beyond the permanent station and danger signal until the mine has been examined by a fire boss, and the mine or certain portions thereof reported by the fire boss to be safe.

This section does not prevent a mine foreperson or foreperson of gaseous mines from being qualified to act and acting in the capacity of fire boss. The record book shall be supplied by the division and purchased by the operator.

No mine foreperson or person delegated by the mine foreperson, or any operator of a mine, or other person, shall refuse or neglect to comply with this section.

Sec. 1563.28. The ~~man~~ worker performing the duties of fire boss shall, in an approved manner, use a flame safety lamp when making examinations under this chapter and Chapters ~~1509.,~~ 1561., 1565., and 1567. and applicable provisions of Chapter 1509. of the Revised Code. As evidence of such examinations ~~he~~ the fire boss shall mark with chalk, upon the face of the coal or in some other conspicuous place, ~~his~~ the fire boss's initials and the date of the month that ~~such~~ the examination is made, and shall fully comply with all the law relating to gas and ~~his~~ the fire boss's duties as to making such examinations. After making ~~his~~ such an examination and report, prior to employees entering the mine for the oncoming shift, ~~he~~ the fire boss who made the examination or another fire boss shall return to the working places with the employees at the starting time of the oncoming shift.

No person shall refuse or neglect to comply with this section.

Sec. 1571.01. As used in this chapter, unless other meaning is clearly indicated in the context:

(A) "Gas storage reservoir" or "storage reservoir" or "reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata, any part of which or of the protective area of which, is within a coal bearing township, into which gas is or may be injected for the purpose of storing it therein and removing it therefrom, or for the purpose of testing whether such stratum is suitable for such storage purposes.

(B) "Gas" means any natural, manufactured, or by-product gas or any mixture thereof.

(C) "Reservoir operator" or "operator," when used in referring to the operator of a gas storage reservoir, means a person who is engaged in the work of preparing to inject, or who injects gas into, or who stores gas in, or who removes gas from, a gas storage reservoir, and who owns the right to do so.

(D)(1) "Boundary," when used in referring to the boundary of a gas storage reservoir, means the boundary of such reservoir as shown on the map or maps thereof on file in the division of ~~mineral~~ oil and gas resources management as required by this chapter.

(2) "Boundary," when used in referring to the boundary of a reservoir protective area, means the boundary of such reservoir protective area as shown on the map or maps thereof on file in the division as required by this chapter.

(E) "Reservoir protective area" or "reservoir's protective area" means the area of land outside the boundary of a gas storage reservoir shown as such on the map or maps thereof on file in the division as required by this chapter. The area of land shown on such map or maps as such reservoir protective area shall be outside the boundary of such reservoir, and shall encircle such reservoir and touch all parts of the boundary of such reservoir, and no part of the outside boundary of such protective area shall be less than two thousand nor more than five thousand linear feet distant from the boundary of such reservoir.

(F) "Coal bearing township" means a township designated as a coal bearing township by the chief of the division of mineral resources management as required by section 1561.06 of the Revised Code.

(G) "Coal mine" means the underground excavations of a mine that are being used or are usable or are being developed for use in connection with the extraction of coal from its natural deposit in the earth. "Underground excavations," when used in referring to the underground excavations of a coal mine, includes the abandoned underground excavations of such mine. It also includes the underground excavations of an abandoned coal mine if such abandoned mine is connected with underground excavations of a coal mine. "Coal mine" does not mean or include:

(1) A mine in which coal is extracted from its natural deposit in the earth by strip or open pit mining methods or by other methods by which individuals are not required to go underground in connection with the extraction of coal from its natural deposit in the earth;

(2) A mine in which not more than fourteen individuals are regularly employed underground.

(H) "Operator," when used in referring to the operator of a coal mine, means a person who engages in the work of developing such mine for use in extracting coal from its natural deposit in the earth, or who so uses such mine, and who owns the right to do so.

(I) "Boundary," when used in referring to the boundary of a coal mine, means the boundary of the underground excavations of such mine as shown

on the maps of such mine on file in the division of mineral resources management as required by sections 1563.03 to 1563.05 and 1571.03 of the Revised Code.

(J) "Mine protective area" or "mine's protective area" means the area of land that the operator of a coal mine designates and shows as such on the map or maps of such coal mine filed with the division as required by sections 1563.03 to 1563.05 and 1571.03 of the Revised Code. Such area of land shall be outside of the boundary of such coal mine, but some part of the boundary of such area of land shall abut upon a part of the boundary of such coal mine. Such area of land shall be comprised of such tracts of land in which such coal mine operator owns the right to extract coal therefrom by underground mining methods and in which underground excavations of such coal mine are likely to be made within the ensuing year for use in connection with the extraction of coal therefrom.

(K) "Pillar" means a solid block of coal or other material left unmined to support the overlying strata in a coal mine, or to protect a well.

(L) "Retreat mining" means the removal of pillars and ribs and stumps and other coal remaining in a section of a coal mine after the development mining has been completed in such section.

(M) "Linear feet," when used to indicate distance between two points that are not in the same plane, means the length in feet of the shortest horizontal line that connects two lines projected vertically upward or downward from the two points.

(N) "Map" means a graphic representation of the location and size of the existing or proposed items it is made to represent, accurately drawn according to a given scale.

(O) "Well" means any hole, drilled or bored, or being drilled or bored, into the earth, whether for the purpose of, or whether used for:

(1) Producing or extracting any gas or liquid mineral, or natural or artificial brines, or oil field waters;

(2) Injecting gas into or removing gas from an underground gas storage reservoir;

(3) Introducing water or other liquid pressure into an oil bearing sand to recover oil contained in such sand, provided that "well" does not mean a hole drilled or bored, or being drilled or bored, into the earth, whether for the purpose of, or whether used for, producing or extracting potable water to be used as such.

(P) "Testing" means injecting gas into, or storing gas in or removing gas from, a gas storage reservoir for the sole purpose of determining whether such reservoir is suitable for use as a gas storage reservoir.

(Q) "Casing" means a string or strings of pipe commonly placed in a well.

(R) "Inactivate" means to shut off temporarily all flow of gas from a well at a point below the horizon of the coal mine that might be affected by such flow of gas, by means of a plug or other suitable device or by injecting water, bentonite, or some other equally nonporous material into the well, or any other method approved by ~~the mineral~~ an oil and gas resources inspector.

(S) "Gas storage well inspector" means the gas storage well inspector in the division.

(T) The verb "open" or the noun "opening," when used in clauses relating to the time when a coal mine operator intends to open a new coal mine, or the time when a new coal mine is opened, or the time of the opening of a new coal mine, or when used in other similar clauses to convey like meanings, means that time and condition in the initial development of a new coal mine when the second opening required by section 1563.14 of the Revised Code is completed in such mine.

Sec. 1571.012. An applicant for the position of gas storage well inspector shall register the applicant's name with the chief of the division of oil and gas resources management and file with the chief an affidavit as to all matters of fact establishing the applicant's right to take the examination for that position, a certificate of good character and temperate habits signed by at least three reputable citizens of the community in which the applicant resides, and a certificate from a reputable and disinterested physician as to the physical condition of the applicant showing that the applicant is physically capable of performing the duties of the position. The applicant also shall present evidence satisfactory to the chief that the applicant has been a resident and citizen of this state for at least two years next preceding the date of application.

An applicant shall possess the same qualifications as an applicant for the position of deputy mine inspector established in section 1561.12 of the Revised Code. In addition, the applicant shall have practical knowledge and experience of and in the operation, location, drilling, maintenance, and abandonment of oil and gas wells, especially in coal or mineral bearing townships, and shall have a thorough knowledge of the latest and best method of plugging and sealing abandoned oil and gas wells.

An applicant for gas storage well inspector shall pass an examination conducted by the chief to determine the applicant's fitness to act as gas storage well inspector before being eligible for appointment.

Sec. 1571.013. (A) The chief of the division of oil and gas resources

management shall conduct examinations for the position of gas storage well inspector. The chief annually shall provide for the examination of candidates for appointment as gas storage well inspector. Special examinations may be held whenever it becomes necessary to make an appointment of gas storage well inspector.

(B) Public notice shall be given through the press or otherwise, not less than ten days in advance, announcing the time and place at which examinations under this section are to be held.

(C) The examinations provided for in this section shall be conducted in accordance with rules adopted under section 1571.014 of the Revised Code and conditions prescribed by the chief.

Sec. 1571.014. The chief of the division of oil and gas resources management shall appoint a gas storage well inspector from the eligible list of candidates for that position that is prepared under section 124.24 of the Revised Code. If a vacancy occurs in the position of gas storage well inspector, the chief shall fill the position by selecting a person from that list.

The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for conducting examinations for the position of gas storage well inspector.

Sec. 1571.02. (A) Any reservoir operator who, on September 9, 1957, is injecting gas into, storing gas in, or removing gas from a reservoir shall within sixty days after such date file with the division of ~~mineral~~ oil and gas resources management a map thereof as described in division (C) of this section, provided that if a reservoir operator is, on September 9, 1957, injecting gas into or storing gas in a reservoir solely for testing, the reservoir operator shall at once file such map with the division.

(B) If the injection of gas into or storage of gas in a gas storage reservoir is begun after September 9, 1957, the operator of such reservoir shall file with the division a map thereof as described in division (C) of this section, on the same day and not less than three months prior to beginning such injection or storage.

(C) Each map filed with the division pursuant to this section shall be prepared by a registered surveyor, registered engineer, or competent geologist. It shall show both of the following:

(1) The location of the boundary of such reservoir and the boundary of such reservoir's protective area, and the known fixed monuments, corner stones, or other permanent markers in such boundary lines;

(2) The boundary lines of the counties, townships, and sections or lots that are within the limits of such map, and the name of each such county and township and the number of each such section or lot clearly indicated

thereon. The legend of the map shall indicate the stratum or strata in which the gas storage reservoir is located.

The location of the boundary of the gas storage reservoir as shown on the map shall be defined by the location of those wells around the periphery of such reservoir that had no gas production when drilled into the storage stratum of such reservoir, provided that if the operator of such reservoir, upon taking into consideration the number and nature of such wells, the geological and production knowledge of the storage stratum, its character, permeability, and distribution, and operating experience, determines that the location of the boundary of such reservoir should be differently defined, the reservoir operator may, on such map, show the boundary of such reservoir to be located at a location different than the location defined by the location of those wells around the periphery of such reservoir that had no gas production when drilled into the storage stratum.

Whenever the operator of a gas storage reservoir determines that the location of the boundary of such reservoir as shown on the most recent map thereof on file in the division pursuant to this section is incorrect, the reservoir operator shall file with the division an amended map showing the boundary of such reservoir to be located at the location that the reservoir operator then considers to be correct.

(D) Each operator of a gas storage reservoir who files with the division a map as required by this section shall, at the end of each six-month period following the date of such filing, file with the division an amended map showing changes, if any, in the boundary line of such reservoir or of such reservoir's protective area that have occurred in the six-month period. Nothing in this division shall be construed to require such a reservoir operator to file an amended map at the end of any such six-month period if no such boundary changes have occurred in such period.

An operator of a gas storage reservoir who is required by this section to file an amended map with the division shall not be required to so file such an amended map after such time when the reservoir operator files with the division a map pertaining to such reservoir, as provided in section 1571.04 of the Revised Code.

Sec. 1571.03. (A) Every operator of a coal mine who is required by sections 1563.03 to 1563.05 of the Revised Code, to file maps of such mine, shall cause to be shown on each of such maps, in addition to the boundary lines of each tract under which excavations are likely to be made during the ensuing year, as referred to in section 1563.03 of the Revised Code:

(1) The boundary of such coal mine in accordance with the meaning of the term "boundary" ~~when used in referring to the boundary of a coal mine,~~

~~and the term "coal mine" as those terms are defined~~ in section 1571.01 of the Revised Code;

(2) The boundary of the mine protective area of such mine.

This division shall not be construed to amend or repeal any provisions of sections 1563.03 to 1563.05 of the Revised Code, either by implication or otherwise.

This division is intended only to add to existing statutory requirements pertaining to the filing of coal mine maps with the division of mineral resources management, the requirements established in this division.

(B) Every operator of a coal mine who believes that any part of the boundary of such mine is within two thousand linear feet of a well that is drilled through the horizon of such coal mine and into or through the storage stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall at once send notice to that effect by registered mail to the operator of such reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management.

(C) Every operator of a coal mine who expects that any part of the boundary of such mine will, on a date after September 9, 1957, be extended beyond its location on such date to a point within two thousand linear feet of a well that is drilled through the horizon of such mine and into or through the stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall send at least nine months' notice of such date and of the location of such well by registered mail to the operator of such reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management. If at the end of three years after the date stated in the notice by an operator of a coal mine to an operator of a storage reservoir as the date upon which part of the boundary of such coal mine is expected to be extended to a point within two thousand linear feet of such well, no part of such coal mine is so extended, the operator of such coal mine shall be liable to the operator of such storage reservoir for all expenses incurred by such reservoir operator in doing the plugging or reconditioning of such well as the reservoir operator is required to do in such cases as provided in section 1571.05 of the Revised Code. Such mine operator shall in no event be liable to such reservoir operator:

(1) For expenses of plugging or reconditioning such well incurred prior to receipt by such reservoir operator from such mine operator of a notice as provided for in this division;

(2) For any expenses of plugging or reconditioning such well if any part of the work of plugging or reconditioning was commenced prior to receipt

by such reservoir operator from such mine operator of a notice as provided for in this division.

(D) If a person intends to open a new coal mine after September 9, 1957, and if at the time of its opening any part of the boundary of such mine will be within two thousand linear feet of a well that is drilled through the horizon of such mine and into or through the storage stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, such person shall send by registered mail to the operator of such storage reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management at least nine months' notice of the date upon which the person intends to open such mine, and of the location of such well. If at the end of nine months after the date stated in the notice by an operator of a coal mine to an operator of a storage reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management, as the date upon which such coal mine operator intends to open such new mine, such new mine is not opened, the operator of such coal mine shall be liable to the operator of such storage reservoir for all expenses incurred by such reservoir operator in doing the plugging or reconditioning of such well as the reservoir operator is required to do in such cases as provided in section 1571.05 of the Revised Code, provided:

(1) That such mine operator may, prior to the end of nine months after the date stated in such mine operator's notice to such reservoir operator, the division of mineral resources management, and the division of oil and gas resources management as the date upon which the mine operator intended to open such new mine, notify such reservoir operator, the division of mineral resources management, and the division of oil and gas resources management in writing by registered mail, that the opening of such new mine will be delayed beyond the end of such nine-month period of time, and that the mine operator requests that a conference be held as provided in section 1571.10 of the Revised Code for the purpose of endeavoring to reach an agreement establishing a date subsequent to the end of such nine-month period of time, on or before which such mine operator may open such new mine without being liable to pay such reservoir operator expenses incurred by such reservoir operator in plugging or reconditioning such well as in this division provided;

(2) That if such mine operator sends to such reservoir operator, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management a notice and request for a conference as provided in division (D)(1) of this section, such mine operator shall not be liable to pay such reservoir operator for expenses incurred by such reservoir operator in

plugging and reconditioning such well, unless such mine operator fails to open such new mine within the period of time fixed by an approved agreement reached in such conference, or fixed by an order by the chief of the division of ~~mineral~~ oil and gas resources management upon a hearing held in the matter in the event of failure to reach an approved agreement in the conference~~;~~. After issuing an order under this division, the chief shall notify the chief of the division of mineral resources management and send a copy of the order to the chief.

(3) That such mine operator shall in no event be liable to such reservoir operator:

(a) For expense of plugging or reconditioning such well incurred prior to the receipt by such reservoir operator from such mine operator of the notice of the date upon which such mine operator intends to open such new mine;

(b) For any expense of plugging or reconditioning such well if any part of the work of plugging or reconditioning was commenced prior to receipt by such reservoir operator from such mine operator of such notice.

Sec. 1571.04. (A) Upon the filing of each map or amended map with the division of ~~mineral~~ oil and gas resources management by operators of gas storage reservoirs as required by this chapter, and each coal mine map with the division of mineral resources management as required by sections 1563.03 to 1563.05 and division (A) of section 1571.03 of the Revised Code, the gas storage well inspector shall cause an examination to be made of all maps on file in ~~the division~~ those divisions as the gas storage well inspector may deem necessary to ascertain whether any part of a reservoir protective area as shown on any such map is within ten thousand linear feet of any part of the boundary of a coal mine as shown on any such map. If, upon making that examination, the gas storage well inspector finds that any part of such a reservoir protective area is within ten thousand linear feet of any part of the boundary of such a coal mine, the gas storage well inspector shall promptly send by registered mail notice to that effect to the operator of the reservoir and to the operator of the coal mine.

(B) Within sixty days after receipt by an operator of a gas storage reservoir of a notice from the gas storage well inspector under division (A) of this section, such operator shall file on the same day with both the division ~~a map~~ of mineral resources management and the division of oil and gas resources management identical maps prepared by a registered surveyor, registered engineer, or competent geologist, which shall do all of the following:

(1) Indicate the stratum or strata in which such gas storage reservoir is

located;

(2) Show the location of the boundary of the reservoir and the boundary of its protective area, and the known fixed monuments, corner stones, or other permanent markers in such boundary lines;

(3) Show the boundary lines of the counties, townships, and sections or lots that are within the limits of such maps, and the name of each such county and township and the number of each such section or lot clearly indicated thereon;

(4) Show the location of all oil or gas wells known to the operator of such reservoir that have been drilled within the boundary of the reservoir or within its protective area, and indicate which of such wells, if any, have been or are to be plugged or reconditioned for use in the operation of such reservoir.

The location of the boundary of the gas storage reservoir as shown on the maps shall be defined by the location of those wells around the periphery of the reservoir that had no gas production when drilled into the storage stratum of the reservoir, provided that, if the operator of the reservoir, upon taking into consideration the number and nature of such wells, the geological and production knowledge of the storage stratum, its character, permeability, and distribution, and operating experience, determines that the location of the boundary of the reservoir should be differently defined, the reservoir operator may, on the maps, show the boundary of the reservoir to be located at a location different from the location defined by the location of those wells around the periphery of the reservoir that had no gas production when drilled into the storage stratum.

(C) Any coal mine operator who receives from the gas storage well inspector a copy of a map as provided by division (E) of this section may request the gas storage well inspector to furnish the coal mine operator with:

(1) The name of the original operator of any well shown on such map;

(2) The date drilling of such well was completed;

(3) The total depth of such well;

(4) The depth at which oil or gas was encountered in such well if it was productive of oil or gas;

(5) The initial rock pressure of such well;

(6) A copy of the log of the driller of such well or other similar data;

(7) The location of such well in respect to the property lines of the tract of land on which it is located;

(8) A statement as to whether the well is inactive or active:

(a) If inactive, the date of plugging and other pertinent data;

(b) If active, whether it is being used for test purposes or storage

purposes~~;~~.

(9) A statement of the maximum injection pressure contemplated by the operator of the reservoir shown on such map.

Upon receipt of such a request, the gas storage well inspector shall promptly furnish the coal mine operator the information requested. If the information is not ascertainable from the files in the division of oil and gas resources management, the gas storage well inspector shall request the reservoir operator to furnish the division with such information to the extent that the reservoir operator has knowledge thereof. Upon receipt of such a request, the reservoir operator shall promptly furnish such information to the division. Thereupon the gas storage well inspector shall promptly transmit such information to the mine operator who requested it.

Whenever the operator of a gas storage reservoir determines that the location of the boundary of the reservoir as shown on the most recent map thereof on file in the division pursuant to this section is incorrect, the reservoir operator shall file with the division an amended map showing the boundary of the reservoir to be located at the location that the reservoir operator then considers to be correct.

(D) Each operator of a gas storage reservoir who files ~~a map~~ with the division of mineral resources management and the division of oil and gas resources management maps as required by this section shall, at the end of each six-month period following the date of such filing, file with ~~the~~ each division ~~an~~ identical amended ~~map~~ maps showing changes in the boundary line of the reservoir or of the reservoir's protective area that have occurred in the six-month period, and further showing or describing any other occurrences within that six-month period that cause the most recent ~~map~~ maps on file and pertaining to the reservoir to no longer be correct. Nothing in this division shall be construed to require such a reservoir operator to file an amended map at the end of any such six-month period if no boundary changes or other occurrences have occurred in that period. The operator of the reservoir shall also file with the division of mineral resources management and the division of oil and gas resources management, subsequent to the filing of ~~a map~~ maps as provided for in division (B) of this section, a statement whenever changing the maximum injection pressure is contemplated, stating for each affected well within the boundary of the reservoir or its protective area, the amount of change of injection pressure contemplated. The location or drilling of new wells or the abandonment or reconditioning of wells shall not be considered to be occurrences requiring the filing of an amended map or statement.

(E) Promptly upon the filing with the division of oil and gas resources

management of a map or an amended map pertaining to a gas storage reservoir under this section, the gas storage well inspector shall send by registered mail to the operator of the coal mine a part of the boundary of which is within ten thousand linear feet of any part of the boundary of the reservoir or of the outside boundary of the reservoir's protective area, notice of the filing together with a copy of the map.

(F) When the operator of a gas storage reservoir files with the division ~~a map~~ of mineral resources management and the division of oil and gas resources management maps or ~~an~~ amended ~~map~~ maps under this section, the reservoir operator shall file as many copies of the ~~map~~ maps as ~~the~~ each division may require for its files and as are needed for sending a copy to each coal mine operator under division (E) of this section.

Sec. 1571.05. (A) Whenever any part of a gas storage reservoir or any part of its protective area underlies any part of a coal mine, or is, or within nine months is expected or intended to be, within two thousand linear feet of the boundary of a coal mine that is operating in a coal seam any part of which extends over any part of the storage reservoir or its protective area, the operator of the reservoir, if the reservoir operator or some other reservoir operator has not theretofore done so, shall:

(1) Use every known method that is reasonable under the circumstance for discovering and locating all wells drilled within the area of the reservoir or its protective area that underlie any part of the coal mine or its protective area;

(2) Plug or recondition all known wells drilled within the area of the reservoir or its protective area that underlie any part of the coal mine.

(B) Whenever an operator of a gas storage reservoir is notified by the operator of a coal mine, as provided in division (B) of section 1571.03 of the Revised Code, that the coal mine operator believes that part of the boundary of the mine is within two thousand linear feet of a well that is drilled through the horizon of the coal mine and into or through the storage stratum or strata of the reservoir within the boundary of the reservoir or within its protective area, the reservoir operator shall plug or recondition the well as in this section prescribed, unless it is agreed in a conference or is ordered by the chief of the division of ~~mineral~~ oil and gas resources management after a hearing, as provided in section 1571.10 of the Revised Code, that the well referred to in the notice is not such a well as is described in division (B) of section 1571.03 of the Revised Code.

Whenever an operator of a gas storage reservoir is notified by the operator of a coal mine as provided in division (C) or (D) of section 1571.03 of the Revised Code, that part of the boundary of the mine is, or within nine

months is intended or expected to be, within two thousand linear feet of a well that is drilled through the horizon of the mine and into or through the storage stratum or strata of the reservoir within the boundary of the reservoir or within its protective area, the reservoir operator shall plug or recondition the well as in this section prescribed.

Whenever the operator of a coal mine considers that the use of a well such as in this section described, if used for injecting gas into, or storing gas in, or removing gas from, a gas storage reservoir, would be hazardous to the safety of persons or property on or in the vicinity of the premises of the coal mine or the reservoir or well, the coal mine operator may file with the division objections to the use of the well for such purposes, and a request that a conference be held as provided in section 1571.10 of the Revised Code, to discuss and endeavor to resolve by mutual agreement whether or not the well shall or shall not be used for such purposes, and whether or not the well shall be reconditioned, inactivated, or plugged. The request shall set forth the mine operator's reasons for such objections. If no approved agreement is reached in the conference, the gas storage well inspector shall within ten days after the termination of the conference, file with the chief a request that the chief hear and determine the matters considered at the conference as provided in section 1571.10 of the Revised Code. Upon conclusion of the hearing, the chief shall find and determine whether or not the safety of persons or of the property on or in the vicinity of the premises of the coal mine, or the reservoir, or the well requires that the well be reconditioned, inactivated, or plugged, and shall make an order consistent with that determination, provided that the chief shall not order a well plugged unless the chief first finds that there is underground leakage of gas therefrom.

The plugging or reconditioning of each well described in a notice from a coal mine operator to a reservoir operator as provided in division (B) of section 1571.03 of the Revised Code, which must be plugged or reconditioned, shall be completed within such time as the gas storage well inspector may fix in the case of each such well. The plugging or reconditioning of each well described in a notice from a coal mine operator to a reservoir operator as provided in division (C) of section 1571.03 of the Revised Code, which must be plugged or reconditioned, shall be completed by the time the well, by reason of the extension of the boundary of the coal mine, is within two thousand linear feet of any part of the boundary of the mine. The plugging or reconditioning of each well described in a notice from a coal mine operator to a reservoir operator, as provided in division (D) of section 1571.03 of the Revised Code, which must be plugged or

reconditioned, shall be completed by the time the well, by reason of the opening of the new mine, is within two thousand linear feet of any part of the boundary of the new mine. A reservoir operator who is required to complete the plugging or reconditioning of a well within a period of time fixed as in this division prescribed, may prior to the end of that period of time, notify the division and the mine operator from whom the reservoir operator received a notice as provided in division (B), (C), or (D) of section 1571.03 of the Revised Code, in writing by registered mail, that the completion of the plugging or reconditioning of the well referred to in the notice will be delayed beyond the end of the period of time fixed therefor as in this section provided, and that the reservoir operator requests that a conference be held for the purpose of endeavoring to reach an agreement establishing a date subsequent to the end of that period of time, on or before which the reservoir operator may complete the plugging or reconditioning without incurring any penalties for failure to do so as provided in this chapter. If such a reservoir operator sends to such a mine operator and to the division a notice and request for a conference as in this division provided, the reservoir operator shall not incur any penalties for failure to complete the plugging or reconditioning of the well within the period of time fixed as in this division prescribed, unless the reservoir operator fails to complete the plugging or reconditioning of the well within the period of time fixed by an approved agreement reached in the conference, or fixed by an order by the chief upon a hearing held in the matter in the event of failure to reach an approved agreement in the conference.

Whenever, in compliance with this division, a well is to be plugged by a reservoir operator, the operator shall give to the division notice thereof, as many days in advance as will be necessary for the gas storage well inspector or a deputy mine inspector to be present at the plugging. The notification shall be made on blanks furnished by the division and shall show the following information:

(1) Name and address of the applicant;

(2) The location of the well identified by section or lot number, city or village, and township and county;

(3) The well name and number of each well to be plugged.

(C) The operator shall give written notice at the same time to the owner of the land upon which the well is located, the owners or agents of the adjoining land, and adjoining well owners or agents of the operator's intention to abandon the well, and of the time when the operator will be prepared to commence plugging and filling the same. In addition to giving such notices, the reservoir operator shall also at the same time send a copy

of the notice by registered mail to the coal mine operator, if any, who sent to the reservoir operator the notice as provided in division (B), (C), or (D) of section 1571.03 of the Revised Code, in order that the coal mine operator or the coal mine operator's designated representative may attend and observe the manner in which the plugging of the well is done.

If the reservoir operator plugs the well without ~~an~~ the gas storage well inspector ~~from the division~~ or a deputy mine inspector being present to supervise the plugging, the reservoir operator shall send to the division and to the coal mine operator a copy of the report of the plugging of the well, including in the report:

(1) The date of abandonment;

(2) The name of the owner or operator of the well at the time of abandonment and the well owner's or operator's post office address;

(3) The location of the well as to township and county and the name of the owner of the surface upon which the well is drilled, with the address thereof;

(4) The date of the permit to drill;

(5) The date when drilled;

(6) Whether the well has been mapped;

(7) The depth of the well;

(8) The depth of the top of the sand to which the well was drilled;

(9) The depth of each seam of coal drilled through;

(10) A detailed report as to how the well was plugged, giving in particular the manner in which the coal and various sands were plugged, and the date of the plugging of the well, including therein the names of those who witnessed the plugging of the well.

The report shall be signed by the operator or the operator's agent who plugged the well and verified by the oath of the party so signing. For the purposes of this section, a deputy mine inspector may take acknowledgements and administer oaths to the parties signing the report.

Whenever, in compliance with this division, a well is to be reconditioned by a reservoir operator, the operator shall give to the division notice thereof as many days before the reconditioning is begun as will be necessary for the gas storage well inspector, or a deputy mine inspector, to be present at the reconditioning. No well shall be reconditioned if an inspector of the division is not present unless permission to do so has been granted by the chief. The reservoir operator, at the time of giving notice to the division as in this section required, also shall send a copy of the notice by registered mail to the coal mine operator, if any, who sent to the reservoir operator the notice as provided in division (B), (C), or (D) of section

1571.03 of the Revised Code, in order that the coal mine operator or the coal mine operator's designated representative may attend and observe the manner in which the reconditioning of the well is done.

If the reservoir operator reconditions the well when ~~no~~ the gas storage well inspector ~~of the division~~ or a deputy mine inspector is not present to supervise the reconditioning, the reservoir operator shall make written report to the division describing the manner in which the reconditioning was done, and shall send to the coal mine operator a copy of the report by registered mail.

(D) Wells that are required by this section to be plugged shall be plugged in the manner specified in sections 1509.13 to 1509.17 of the Revised Code, and the operator shall give the notifications and reports required by divisions (B) and (C) of this section. No such well shall be plugged or abandoned without the written approval of the division, and no such well shall be mudded, plugged, or abandoned without the gas storage well inspector or a deputy mine inspector present unless written permission has been granted by the chief or the gas storage well inspector. For purposes of this section, the chief of the division of mineral resources management has the authority given the chief of the division of oil and gas resources management in sections 1509.15 and 1509.17 of the Revised Code. If such a well has been plugged prior to the time plugging thereof is required by this section, and, on the basis of the data, information, and other evidence available it is determined that the plugging was done in the manner required by this section, or was done in accordance with statutes prescribing the manner of plugging wells in effect at the time the plugging was done, and that there is no evidence of leakage of gas from the well either at or below the surface, and that the plugging is sufficiently effective to prevent the leakage of gas from the well, the obligations imposed upon the reservoir operator by this section as to plugging the well shall be considered fully satisfied. The operator of a coal mine any part of the boundary of which is, or within nine months is expected or intended to be, within two thousand linear feet of the well may at any time raise a question as to whether the plugging of the well is sufficiently effective to prevent the leakage of gas therefrom, and the issue so made shall be determined by a conference or hearing as provided in section 1571.10 of the Revised Code.

(E) Wells that are to be reconditioned as required by this section shall be, or shall be made to be:

(1) Cased in accordance with the statutes of this state in effect at the time the wells were drilled, with the casing being, or made to be, sufficiently effective in that there is no evidence of any leakage of gas therefrom;

(2) Equipped with a producing string and well head composed of new pipe, or pipe as good as new, and fittings designed to operate with safety and to contain the stored gas at maximum pressures contemplated.

When a well that is to be reconditioned as required by this section has been reconditioned for use in the operation of the reservoir prior to the time prescribed in this section, and on the basis of the data, information, and other evidence available it is determined that at the time the well was so reconditioned the requirements prescribed in this division were met, and that there is no evidence of underground leakage of gas from the well, and that the reconditioning is sufficiently effective to prevent underground leakage from the well, the obligations imposed upon the reservoir operator by this section as to reconditioning the well shall be considered fully satisfied. Any operator of a coal mine any part of the boundary of which is, or within nine months is expected or intended to be, within two thousand linear feet of the well may at any time raise a question as to whether the reconditioning of the well is sufficiently effective to prevent underground leakage of gas therefrom, and the issue so made shall be determined by a conference or hearing as provided in section 1571.10 of the Revised Code.

If the gas storage well inspector at any time finds that a well that is drilled through the horizon of a coal mine and into or through the storage stratum or strata of a reservoir within the boundary of the reservoir or within its protective area is located within the boundary of the coal mine or within two thousand linear feet of the mine boundary, and was drilled prior to the time the statutes of this state required that wells be cased, and that the well fails to meet the casing and equipping requirements prescribed in this division, the gas storage well inspector shall promptly notify the operator of the reservoir thereof in writing, and the reservoir operator upon receipt of the notice shall promptly recondition the well in the manner prescribed in this division for reconditioning wells, unless, in a conference or hearing as provided in section 1571.10 of the Revised Code, a different course of action is agreed upon or ordered.

(F)(1) When a well within the boundary of a gas storage reservoir or within the reservoir's protective area penetrates the storage stratum or strata of the reservoir, but does not penetrate the coal seam within the boundary of a coal mine, the gas storage well inspector may, upon application of the operator of the storage reservoir, exempt the well from the requirements of this section. Either party affected by the action of the gas storage well inspector may request a conference and hearing with respect to the exemption.

(2) When a well located within the boundary of a storage reservoir or a

reservoir's protective area is a producing well in a stratum above or below the storage stratum, the obligations imposed by this section shall not begin until the well ceases to be a producing well.

(G) When retreat mining reaches a point in a coal mine when the operator of the mine expects that within ninety days retreat work will be at the location of a pillar surrounding an active storage reservoir well, the operator of the mine shall promptly send by registered mail notice to that effect to the operator of the reservoir. Thereupon the operators may by agreement determine whether it is necessary or advisable to temporarily inactivate the well. If inactivated, the well shall not be reactivated until a reasonable period of time has elapsed, such period of time to be determined by agreement by the operators. In the event that the parties cannot agree upon either of the foregoing matters, the question shall be submitted to the gas storage well inspector for a conference in accordance with section 1571.10 of the Revised Code.

(H)(1) The provisions of this section that require the plugging or reconditioning of wells shall not apply to such wells as are used to inject gas into, store gas in, or remove gas from a gas storage reservoir when the sole purpose of the injection, storage, or removal is testing. The operator of a gas storage reservoir who injects gas into, stores gas in, or removes gas from a reservoir for the sole purpose of testing shall be subject to all other provisions of this chapter that are applicable to operators of reservoirs.

(2) If the injection of gas into, or storage of gas in, a gas storage reservoir any part of which, or of the protective area of which, is within the boundary of a coal mine is begun after September 9, 1957, and if the injection or storage of gas is for the sole purpose of testing, the operator of the reservoir shall send by registered mail to the operator of the coal mine, the division of oil and gas resources management, and ~~to~~ the division of mineral resources management at least sixty days' notice of the date upon which the testing will be begun.

If at any time within the period of time during which testing of a reservoir is in progress, any part of the reservoir or of its protective area comes within any part of the boundary of a coal mine, the operator of the reservoir shall promptly send notice to that effect by registered mail to the operator of the mine, the division of oil and gas resources management, and ~~to~~ the division of mineral resources management.

(3) Any coal mine operator who receives a notice as provided for in division (H)(2) of this section may within thirty days of the receipt thereof file with the division objections to the testing. The gas storage well inspector also may, within the time within which a coal mine operator may file an

objection, place in the files of the division objections to the testing. The reservoir operator shall comply throughout the period of the testing operations with all conditions and requirements agreed upon and approved in the conference on such objections conducted as provided in section 1571.10 of the Revised Code, or in an order made by the chief following a hearing in the matter as provided in section 1571.10 of the Revised Code. If in complying with the agreement or order either the reservoir operator or the coal mine operator encounters or discovers conditions that were not known to exist at the time of the conference or hearing and that materially affect the agreement or order, or the ability of the reservoir operator to comply therewith, either operator may apply for a rehearing or modification of the order.

(I) In addition to complying with all other provisions of this chapter and any lawful orders issued thereunder, the operator of each gas storage reservoir shall keep all wells drilled into or through the storage stratum or strata within the boundary of the operator's reservoir or within the reservoir's protective area in such condition, and operate the same in such manner, as to prevent the escape of gas therefrom into any coal mine, and shall operate and maintain the storage reservoir and its facilities in such manner and at such pressures as will prevent gas from escaping from the reservoir or its facilities into any coal mine.

Sec. 1571.06. (A) Distances between boundaries of gas storage reservoirs, reservoir protective areas, coal mines, coal mine protective areas, and wells, as shown on the most recent maps of storage reservoirs and of coal mines filed with the division of oil and gas resources management or the division of mineral resources management as required by this chapter and sections 1563.03 to 1563.05 of the Revised Code, may be accepted and relied upon as being accurate and correct, by operators of coal mines and operators of reservoirs. Data, statements, and reports filed with ~~the~~ either division as required by this chapter and sections 1563.03 to 1563.05 of the Revised Code may be likewise accepted and relied upon. However, the gas storage well inspector or any reservoir operator or coal mine operator, or any other person having a direct interest in the matter, may at any time question the accuracy or correctness of any map, data, statement, or report so filed, with ~~the~~ either division by notifying ~~the division~~ both divisions thereof in writing. Such notice shall state the reasons why the question is raised. When any such notice is so filed, the gas storage well inspector shall proceed promptly to hold a conference on the question thus raised, as provided in section 1571.10 of the Revised Code.

(B) If, in any proceeding under this chapter, the accuracy or correctness

of any map, data, statement, or report, filed by any person pursuant to the requirements of this chapter is in question, the person so filing the same shall have the burden of proving the accuracy or correctness thereof.

(C) The operator of a gas storage reservoir shall, at all reasonable times, be permitted to inspect the premises and facilities of any coal mine any part of the boundary of which is within any part of the boundary of such gas storage reservoir or within its protective area, and the operator of a coal mine shall, at all reasonable times, be permitted to inspect the premises and facilities of any gas storage reservoir any part of the boundary of which or any part of the protective area of which is within the boundary of such coal mine. In the event that either such reservoir operator or such coal mine operator denies permission to make any such inspection, the chief of the division of ~~mineral~~ oil and gas resources management on the chief's own motion, or on an application by the operator desiring to make such inspection, upon a hearing thereon if requested by either operator, after reasonable notice of such hearing, may make an order providing for such inspection.

Sec. 1571.08. (A) Whenever in this chapter, the method or material to be used in discharging any obligations imposed by this chapter is specified, an alternative method or material may be used if approved by the gas storage well inspector or the chief of the division of ~~mineral~~ oil and gas resources management. A person desiring to use such alternative method or material shall file with the division of ~~mineral~~ oil and gas resources management an application for permission to do so. Such application shall describe such alternative method or material in reasonable detail. The gas storage well inspector shall promptly send by registered mail notice of the filing of such application to any coal mine operator or reservoir operator whose mine or reservoir may be directly affected thereby. Any such coal mine operator or reservoir operator may within ten days following receipt of such notice, file with the division objections to such application. The gas storage well inspector may also file with the division an objection to such application at any time during which coal mine operators or reservoir operators are permitted to file objections. If no objections are filed within the ten-day period of time, the gas storage well inspector shall thereupon issue a permit approving the use of such alternative method or material. If any such objections are filed by any coal mine operator or reservoir operator, or by the gas storage well inspector, the question as to whether or not the use of such alternative method or material, or a modification thereof is approved, shall be determined by a conference or hearing as provided in section 1571.10 of the Revised Code.

(B) Whenever in this chapter, provision is made for the filing of objections with the division, such objections shall be in writing and shall state as definitely as is reasonably possible the reasons for such objections. Upon the filing of any such objection the gas storage well inspector shall promptly fix the time and place for holding a conference for the purpose of discussing and endeavoring to resolve by mutual agreement the issue raised by such objection. The gas storage well inspector shall send written notice thereof by registered mail to each person having a direct interest therein. Thereupon the issue made by such objection shall be determined by a conference or hearing in accordance with the procedures for conferences and hearings as provided in section 1571.10 of the Revised Code.

Sec. 1571.09. (A) The chief of the division of ~~mineral~~ oil and gas resources management or any officer or employee of the division thereunto duly authorized by the chief may investigate, inspect, or examine records and facilities of any coal mine operator or reservoir operator, for the purpose of determining the accuracy or correctness of any map, data, statement, report, or other item or article, filed with or otherwise received by the division pursuant to this chapter. When a material question is raised by any reservoir operator or coal mine operator as to the accuracy or correctness of any such map, data, statement, report, or other item or article, which may directly affect the reservoir operator or coal mine operator, the matter shall be determined by a conference or hearing as provided in section 1571.10 of the Revised Code.

(B) The division of ~~mineral~~ oil and gas resources management shall keep all maps, data, statements, reports, well logs, notices, or other items or articles filed with or otherwise received by it pursuant to this chapter in a safe place and conveniently accessible to persons entitled to examine them. It shall maintain indexes of all such items and articles so that any of them may be promptly located. None of such items or articles shall be open to public inspection, but: (1) any of such items or articles pertaining to a mine may be examined by: the operator, owner, lessee, or agent of such mine; persons financially interested in such mine; owners of land adjoining such mine; the operator, owner, lessee, or agent of a mine adjoining such mine; authorized representatives of the persons employed to work in such mine; the operator of a gas storage reservoir any part of the boundary of which or of the boundary of its protective area is within ten thousand linear feet of the boundary of such mine, or the agent of such reservoir operator thereunto authorized by such reservoir operator; or any employee of the division of geological survey in the department of natural resources thereunto duly authorized by the chief of that division; and (2) any of such items or articles

pertaining to a gas storage reservoir may be examined by: the operator of such reservoir; the operator of a coal mine any part of the boundary of which is within ten thousand linear feet of the boundary of a gas storage reservoir or of the boundary of its protective area, or the agent of such mine operator thereunto authorized by such mine operator, or the authorized representatives of the persons employed to work in such mine; or any employee of the division of geological survey thereunto duly authorized by the chief of that division. The division of ~~mineral~~ oil and gas resources management shall not permit any of such items or articles to be removed from its office, and it shall not furnish copies of any such items or articles to any person other than as provided in this chapter.

The division shall keep a docket of all proceedings arising under this chapter, in which shall be entered the dates of any notice received or issued, the names of all persons to whom it sends a notice, and the address of each, the dates of conferences and hearings, and all findings, determinations, decisions, rulings, and orders, or other actions by the division.

(C) Whenever any provision of this chapter requires the division to give notice to the operator of a coal mine of any proceeding to be held pursuant to this chapter, the division shall simultaneously give a copy of such notice to the authorized representatives of the persons employed to work in such mine.

Sec. 1571.10. (A) The gas storage well inspector or any person having a direct interest in the administration of this chapter may at any time file with the division of ~~mineral~~ oil and gas resources management a written request that a conference be held for the purpose of discussing and endeavoring to resolve by mutual agreement any question or issue relating to the administration of this chapter, or to compliance with its provisions, or to any violation thereof. Such request shall describe the matter concerning which the conference is requested. Thereupon the gas storage well inspector shall promptly fix the time and place for the holding of such conference and shall send written notice thereof to each person having a direct interest therein. At such conference the gas storage well inspector or a representative of the division designated by the gas storage well inspector shall be in attendance, and shall preside at the conference, and the gas storage well inspector or designated representative may make such recommendations as the gas storage well inspector or designated representative deems proper. Any agreement reached at such conference shall be consistent with the requirements of this chapter and, if approved by the gas storage well inspector, it shall be reduced to writing and shall be effective. Any such agreement approved by the gas storage well inspector shall be kept on file in

the division and a copy thereof shall be furnished to each of the persons having a direct interest therein. The conference shall be deemed terminated as of the date an approved agreement is reached or when any person having a direct interest therein refuses to confer thereafter. Such a conference shall be held in all cases prior to the holding of a hearing as provided in this section.

(B) Within ten days after the termination of a conference at which no approved agreement is reached, any person who participated in such conference and who has a direct interest in the subject matter thereof, or the gas storage well inspector, may file with the chief of the division of ~~mineral~~ oil and gas resources management a request that the chief hear and determine the matter or matters, or any part thereof considered at the conference. Thereupon the chief shall promptly fix the time and place for the holding of such hearing and shall send written notice thereof to each person having a direct interest therein. The form of the request for such hearing and the conduct of the hearing shall be in accordance with rules that the chief adopts under section 1571.11 of the Revised Code. Consistent with the requirement for reasonable notice each such hearing shall be held promptly after the filing of the request therefor. Any person having a direct interest in the matter to be heard shall be entitled to appear and be heard in person or by attorney. The division may present at such hearing any evidence that is material to the matter being heard and that has come to the division's attention in any investigation or inspection made pursuant to this chapter.

(C) For the purpose of conducting such a hearing the chief may require the attendance of witnesses and the production of books, records, and papers, and the chief may, and at the request of any person having a direct interest in the matter being heard, the chief shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the sheriffs of the counties where such witnesses are found, which subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Such fee and mileage expenses shall be paid in advance by the persons at whose request they are incurred, and the remainder of such expenses shall be paid out of funds appropriated for the expenses of the division.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which

the witness may be lawfully interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the chief, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Witnesses at such hearings shall testify under oath, and the chief may administer oaths or affirmations to persons who so testify.

(D) With the consent of the chief, the testimony of any witness may be taken by deposition at the instance of a party to any hearing before the chief at any time after hearing has been formally commenced. The chief may, of the chief's own motion, order testimony to be taken by deposition at any stage in any hearing, proceeding, or investigation pending before the chief. Such deposition shall be taken in the manner prescribed by the laws of this state for taking depositions in civil cases in courts of record.

(E) After the conclusion of a hearing the chief shall make a determination and finding of facts. Every adjudication, determination, or finding by the chief shall be made by written order and shall contain a written finding by the chief of the facts upon which the adjudication, determination, or finding is based. Notice of the making of such order shall be given to the persons whose rights, duties, or privileges are affected thereby, by sending a certified copy thereof by registered mail to each of such persons.

Adjudications, determinations, findings, and orders made by the chief shall not be governed by, or be subject to, Chapter 119. of the Revised Code.

Sec. 1571.11. The chief of the division of ~~mineral~~ oil and gas resources management shall adopt rules governing administrative procedures to be followed in the administration of this chapter, which shall be of general application in all matters and to all persons affected by this chapter.

No rule adopted by the chief pursuant to this section shall be effective until the tenth day after a certified copy thereof has been filed in the office of the secretary of state.

All rules filed in the office of the secretary of state pursuant to this section shall be recorded by the secretary of state under a heading entitled "Regulations relating to the storage of gas in underground gas storage reservoirs" and shall be numbered consecutively under such heading and shall bear the date of filing. Such rules shall be public records open to public inspection.

No rule filed in the office of the secretary of state pursuant to this section shall be amended except by a rule that contains the entire rule as

amended and that repeals the rule amended. Each rule that amends a rule shall bear the same consecutive rule number as the number of the rule that it amends, and it shall bear the date of filing.

No rule filed in the office of the secretary of state pursuant to this section shall be repealed except by a rule. Each rule that repeals a rule shall bear the same consecutive rule number as the number of the rule that it repeals, and it shall bear the date of filing.

The authority and the duty of the chief to adopt rules as provided in this section shall not be governed by, or be subject to Chapter 119. of the Revised Code.

The chief shall have available at all times copies of all rules adopted pursuant to this section, and shall furnish same free of charge to any person requesting same.

Sec. 1571.14. Any person claiming to be aggrieved or adversely affected by an order of the chief of the division of ~~mineral~~ oil and gas resources management made as provided in section 1571.10 or 1571.16 of the Revised Code may appeal to the director of natural resources for an order vacating or modifying such order. Upon receipt of the appeal, the director shall appoint an individual who has knowledge of the laws and rules regarding the underground storage of gas and who shall act as a hearing officer in accordance with Chapter 119. of the Revised Code in hearing the appeal.

The person appealing to the director shall be known as appellant and the chief shall be known as appellee. The appellant and the appellee shall be deemed parties to the appeal.

The appeal shall be in writing and shall set forth the order complained of and the grounds upon which the appeal is based. The appeal shall be filed with the director within thirty days after the date upon which appellant received notice by registered mail of the making of the order complained of, as required by section 1571.10 of the Revised Code. Notice of the filing of such appeal shall be delivered by appellant to the chief within three days after the appeal is filed with the director.

Within seven days after receipt of the notice of appeal the chief shall prepare and certify to the director at the expense of appellant a complete transcript of the proceedings out of which the appeal arises, including a transcript of the testimony submitted to the chief.

Upon the filing of the appeal the director shall fix the time and place at which the hearing on the appeal will be held, and shall give appellant and the chief at least ten days' written notice thereof by mail. The director may postpone or continue any hearing upon the director's own motion or upon

application of appellant or of the chief.

The filing of an appeal provided for in this section does not automatically suspend or stay execution of the order appealed from, but upon application by the appellant the director may suspend or stay such execution pending determination of the appeal upon such terms as the director deems proper.

The hearing officer appointed by the director shall hear the appeal de novo, and either party to the appeal may submit such evidence as the hearing officer deems admissible.

For the purpose of conducting a hearing on an appeal, the hearing officer may require the attendance of witnesses and the production of books, records, and papers, and may, and at the request of any party shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the sheriffs of the counties where such witnesses are found, which subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Such fee and mileage expenses incurred at the request of appellant shall be paid in advance by appellant, and the remainder of such expenses shall be paid out of funds appropriated for the expenses of the division of ~~mineral~~ oil and gas resources management.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the director, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Witnesses at such hearings shall testify under oath, and the hearing officer may administer oaths or affirmations to persons who so testify.

At the request of any party to the appeal, a stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter at the expense of the party making the request therefor. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The hearing officer shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the ruling of the hearing officer thereon, and if the hearing officer refuses to admit

evidence, the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

If upon completion of the hearing the hearing officer finds that the order appealed from was lawful and reasonable, the hearing officer shall make a written order affirming the order appealed from. If the hearing officer finds that such order was unreasonable or unlawful, the hearing officer shall make a written order vacating the order appealed from and making the order that it finds the chief should have made. Every order made by the hearing officer shall contain a written finding by the hearing officer of the facts upon which the order is based. Notice of the making of such order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each such party by registered mail.

Sec. 1571.16. (A) The gas storage well inspector or any person having a direct interest in the subject matter of this chapter may file with the division of ~~mineral~~ oil and gas resources management a complaint in writing stating that a person is violating, or is about to violate, a provision or provisions of this chapter, or has done, or is about to do, an act, matter, or thing therein prohibited or declared to be unlawful, or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or refuse, to perform a duty enjoined upon the person by this chapter. Upon the filing of such a complaint, the chief of the division of ~~mineral~~ oil and gas resources management shall promptly fix the time for the holding of a hearing on such complaint and shall send by registered mail to the person so complained of, a copy of such complaint together with at least five days' notice of the time and place at which such hearing will be held. Such notice of such hearing shall also be given to all persons having a direct interest in the matters complained of in such complaint. Such hearing shall be conducted in the same manner, and the chief and persons having a direct interest in the matter being heard, shall have the same powers, rights, and duties as provided in divisions (B), (C), (D), and (E) of section 1571.10 of the Revised Code, in connection with hearings by the chief, provided that if after conclusion of the hearing the chief finds that the charges against the person complained of, as stated in such complaint, have not been sustained by a preponderance of evidence, the chief shall make an order dismissing the complaint, and if the chief finds that the charges have been so sustained, the chief shall by appropriate order require compliance with those provisions.

(B) Whenever the chief is of the opinion that any person is violating, or is about to violate, any provision of this chapter, or has done, or is about to do, any act, matter, or thing therein prohibited or declared to be unlawful, or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or

refuse, to perform any duty enjoined upon the person by this chapter, or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or refuse, to obey any lawful requirement or order made by the chief, or any final judgment, order, or decree made by any court pursuant to this chapter, then and in every such case, the chief may institute in a court of competent jurisdiction of the county or counties wherein the operation is situated, an action to enjoin or restrain such violations or to enforce obedience with law or the orders of the chief. No injunction bond shall be required to be filed in any such proceeding. Such persons or corporations as the court may deem necessary or proper to be joined as parties in order to make its judgment, order, or writ effective may be joined as parties. An appeal may be taken as in other civil actions.

(C) In addition to the other remedies as provided in divisions (A) and (B) of this section, any reservoir operator or coal mine operator affected by this chapter may proceed by injunction or other appropriate remedy to restrain violations or threatened violations of this chapter or of orders of the chief, or of the hearing officer appointed under section 1571.14 of the Revised Code, or the judgments, orders, or decrees of any court or to enforce obedience therewith.

(D) Each remedy prescribed in divisions (A), (B), and (C) of this section is deemed concurrent or contemporaneous with each other remedy prescribed therein, and the existence or exercise of any one such remedy shall not prevent the exercise of any other such remedy.

(E) The provisions of this chapter providing for conferences, hearings by the chief, appeals to the hearing officer from orders of the chief, and appeals to the court of common pleas from orders of the hearing officer, and the remedies prescribed in divisions (A), (B), (C), and (D) of this section, do not constitute the exclusive procedure that a person, who deems the person's rights to be unlawfully affected by any official action taken thereunder, must pursue in order to protect and preserve such rights, nor does this chapter constitute a procedure that such a person must pursue before the person may lawfully proceed by other actions, legal or equitable, to protect and preserve such rights.

Sec. 1571.18. After ~~the effective date of this section~~ June 30, 2010, and not later than the thirty-first day of March each year, the owner of a well that is used for gas storage or of a well that is used to monitor a gas storage reservoir and that is located in a reservoir protective area shall pay to the chief of the division of ~~mineral~~ oil and gas resources management a gas storage well regulatory fee of one hundred twenty-five dollars for each well that the owner owned as of the thirty-first day of December of the previous

year for the purposes of administering this chapter and Chapter 1509. of the Revised Code. The chief may prescribe and provide a form for the collection of the fee imposed by this section and may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration of this section.

All money collected under this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.

Sec. 1571.99. Any person who purposely violates any order of the chief of the division of ~~mineral~~ oil and gas resources management, of a hearing officer appointed by the director of natural resources under section 1571.14 of the Revised Code, or of the director, made pursuant to this chapter shall be punished by a fine not exceeding two thousand dollars, or imprisoned in jail for a period not exceeding twelve months, or both, in the discretion of the court.

Sec. 1701.07. (A) Every corporation shall have and maintain an agent, sometimes referred to as the "statutory agent," upon whom any process, notice, or demand required or permitted by statute to be served upon a corporation may be served. The agent may be a natural person who is a resident of this state or may be a domestic corporation or a foreign corporation holding a license as such under the laws of this state, that is authorized by its articles of incorporation to act as such agent and that has a business address in this state.

(B) The secretary of state shall not accept original articles for filing unless there is filed with the articles a written appointment of an agent that is signed by the incorporators of the corporation or a majority of them and a written acceptance of the appointment that is signed by the agent. In all other cases, the corporation shall appoint the agent and shall file in the office of the secretary of state a written appointment of the agent that is signed by any authorized officer of the corporation and a written acceptance of the appointment that is either the original acceptance signed by the agent or a photocopy, facsimile, or similar reproduction of the original acceptance signed by the agent.

(C) The written appointment of an agent shall set forth the name and address in this state of the agent, including the street and number or other particular description, and shall otherwise be in such form as the secretary of state prescribes. The secretary of state shall keep a record of the names of corporations, and the names and addresses of their respective agents.

(D) If any agent dies, removes from the state, or resigns, the corporation shall forthwith appoint another agent and file with the secretary of state, on

a form prescribed by the secretary of state, a written appointment of the agent.

(E) If the agent changes the agent's address from that appearing upon the record in the office of the secretary of state, the corporation or the agent shall forthwith file with the secretary of state, on a form prescribed by the secretary of state, a written statement setting forth the new address.

(F) An agent may resign by filing with the secretary of state, on a form prescribed by the secretary of state, a written notice to that effect that is signed by the agent and by sending a copy of the notice to the corporation at the current or last known address of its principal office on or prior to the date the notice is filed with the secretary of state. The notice shall set forth the name of the corporation, the name and current address of the agent, the current or last known address, including the street and number or other particular description, of the corporation's principal office, the resignation of the agent, and a statement that a copy of the notice has been sent to the corporation within the time and in the manner prescribed by this division. Upon the expiration of thirty days after the filing, the authority of the agent shall terminate.

(G) A corporation may revoke the appointment of an agent by filing with the secretary of state, on a form prescribed by the secretary of state, a written appointment of another agent and a statement that the appointment of the former agent is revoked.

(H) Any process, notice, or demand required or permitted by statute to be served upon a corporation may be served upon the corporation by delivering a copy of it to its agent, if a natural person, or by delivering a copy of it at the address of its agent in this state, as the address appears upon the record in the office of the secretary of state. If (1) the agent cannot be found, or (2) the agent no longer has that address, or (3) the corporation has failed to maintain an agent as required by this section, and if in any such case the party desiring that the process, notice, or demand be served, or the agent or representative of the party, shall have filed with the secretary of state an affidavit stating that one of the foregoing conditions exists and stating the most recent address of the corporation that the party after diligent search has been able to ascertain, then service of process, notice, or demand upon the secretary of state, as the agent of the corporation, may be initiated by delivering to the secretary of state or at the secretary of state's office quadruplicate copies of such process, notice, or demand and by paying to the secretary of state a fee of five dollars. The secretary of state shall forthwith give notice of the delivery to the corporation at its principal office as shown upon the record in the secretary of state's office and at any

different address shown on its last franchise tax report filed in this state, or to the corporation at any different address set forth in the above mentioned affidavit, and shall forward to the corporation at said addresses, by certified mail, with request for return receipt, a copy of the process, notice, or demand; and thereupon service upon the corporation shall be deemed to have been made.

(I) The secretary of state shall keep a record of each process, notice, and demand delivered to the secretary of state or at the secretary of state's office under this section or any other law of this state that authorizes service upon the secretary of state, and shall record the time of the delivery and the action thereafter with respect thereto.

(J) This section does not limit or affect the right to serve any process, notice, or demand upon a corporation in any other manner permitted by law.

(K) Every corporation shall state in each annual report filed by it with the department of taxation the name and address of its statutory agent.

(L) Except when an original appointment of an agent is filed with the original articles, a written appointment of an agent or a written statement filed by a corporation with the secretary of state shall be signed by any authorized officer of the corporation or by the incorporators of the corporation or a majority of them if no directors have been elected.

(M) For filing a written appointment of an agent other than one filed with original articles, and for filing a statement of change of address of an agent, the secretary of state shall charge and collect the fee specified in division (R) of section 111.16 of the Revised Code.

(N) Upon the failure of a corporation to appoint another agent or to file a statement of change of address of an agent, the secretary of state shall give notice thereof by ~~certified~~ ordinary or electronic mail to the corporation at the electronic mail address provided to the secretary of state, or at the address set forth in the notice of resignation or on the last franchise tax return filed in this state by the corporation. Unless the default is cured within thirty days after the mailing by the secretary of state of the notice or within any further period of time that the secretary of state grants, upon the expiration of that period of time from the date of the mailing, the articles of the corporation shall be canceled without further notice or action by the secretary of state. The secretary of state shall make a notation of the cancellation on the secretary of state's records.

A corporation whose articles have been canceled may be reinstated by filing, on a form prescribed by the secretary of state, an application for reinstatement and the required appointment of agent or required statement, and by paying the filing fee specified in division (Q) of section 111.16 of the

Revised Code. The rights, privileges, and franchises of a corporation whose articles have been reinstated are subject to section 1701.922 of the Revised Code. The secretary of state shall furnish the tax commissioner a monthly list of all corporations canceled and reinstated under this division.

(O) This section does not apply to banks, trust companies, insurance companies, or any corporation defined under the laws of this state as a public utility for taxation purposes.

Sec. 1702.01. As used in this chapter, unless the context otherwise requires:

(A) "Corporation" or "domestic corporation" means a nonprofit corporation formed under the laws of this state, or a business corporation formed under the laws of this state that, by amendment to its articles as provided by law, becomes a nonprofit corporation.

(B) "Foreign corporation" means a nonprofit corporation formed under the laws of another state.

(C) "Nonprofit corporation" means a domestic or foreign corporation that is formed otherwise than for the pecuniary gain or profit of, and whose net earnings or any part of them is not distributable to, its members, directors, officers, or other private persons, except that the payment of reasonable compensation for services rendered and the distribution of assets on dissolution as permitted by section 1702.49 of the Revised Code is not pecuniary gain or profit or distribution of net earnings. In a corporation all of whose members are nonprofit corporations, distribution to members does not deprive it of the status of a nonprofit corporation.

(D) "State" means the United States; any state, territory, insular possession, or other political subdivision of the United States, including the District of Columbia; any foreign country or nation; and any province, territory, or other political subdivision of a foreign country or nation.

(E) "Articles" includes original articles of incorporation, agreements of merger or consolidation if and only to the extent that articles of incorporation are adopted or amended in the agreements, amended articles, and amendments to any of these, and, in the case of a corporation created before September 1, 1851, the special charter and any amendments to it made by special act of the general assembly or pursuant to general law.

(F) "Incorporator" means a person who signed the original articles of incorporation.

(G) "Member" means one having membership rights and privileges in a corporation in accordance with its articles or regulations.

(H) "Voting member" means a member possessing voting rights, either generally or in respect of the particular question involved, as the case may

be.

(I) "Person" includes, but is not limited to, a nonprofit corporation, a business corporation, a partnership, an unincorporated society or association, and two or more persons having a joint or common interest.

(J) The location of the "principal office" of a corporation is the place named as such in its articles.

(K) "Directors" means the persons vested with the authority to conduct the affairs of the corporation irrespective of the name, such as trustees, by which they are designated.

(L) "Insolvent" means that the corporation is unable to pay its obligations as they become due in the usual course of its affairs.

(M)(1) Subject to division (M)(2) of this section, "volunteer" means a director, officer, or agent of a corporation, or another person associated with a corporation, who satisfies both of the following:

(a) Performs services for or on behalf of, and under the authority or auspices of, that corporation;

(b) Does not receive compensation, either directly or indirectly, for performing those services.

(2) For purposes of division (M)(1) of this section, "compensation" does not include any of the following:

(a) Actual and necessary expenses that are incurred by a volunteer in connection with the services performed for a corporation, and that are reimbursed to the volunteer or otherwise paid;

(b) Insurance premiums paid on behalf of a volunteer, and amounts paid or reimbursed, pursuant to division (E) of section 1702.12 of the Revised Code;

(c) Modest perquisites.

(N) "Business corporation" means any entity, as defined in section 1701.01 of the Revised Code, other than a public benefit corporation or a mutual benefit corporation, that is organized pursuant to Chapter 1701. of the Revised Code.

(O) "Mutual benefit corporation" means any corporation organized under this chapter other than a public benefit corporation.

(P) "Public benefit corporation" means a corporation that is recognized as exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, or is organized for a public or charitable purpose and that upon dissolution must distribute its assets to a public benefit corporation, the United States, a state or any political subdivision of a state, or a person that is recognized as exempt from federal income taxation under section 501(c)(3) of the

"Internal Revenue Code of 1986," as amended. "Public benefit corporation" does not include a nonprofit corporation that is organized by one or more municipal corporations to further a public purpose that is not a charitable purpose.

(Q) "Authorized communications equipment" means any communications equipment that provides a transmission, including, but not limited to, by telephone, telecopy, or any electronic means, from which it can be determined that the transmission was authorized by, and accurately reflects the intention of, the member or director involved and, with respect to meetings, allows all persons participating in the meeting to contemporaneously communicate with each other.

(R) "Entity" means any of the following:

(1) A nonprofit corporation existing under the laws of this state or any other state;

(2) Any of the following organizations existing under the laws of this state, the United States, or any other state:

(a) A common law trust;

(b) An unincorporated nonprofit organization, including a general or limited partnership;

(c) A limited liability company;

(d) A for profit corporation.

Sec. 1702.461. (A) Subject to division (B)(2) of this section and pursuant to a written declaration of conversion as provided in this section, a domestic corporation may be converted into a domestic or foreign entity other than a for profit corporation or a domestic corporation. The conversion also must be permitted by the laws under which the converted entity will exist.

(B)(1) The written declaration of conversion shall set forth all of the following:

(a) The name and form of entity that is being converted, the name and form of entity into which the entity will be converted, and the jurisdiction of formation of the converted entity;

(b) If the converted entity is a domestic entity, the complete terms of all documents required under the applicable chapter of the Revised Code to form the converted entity;

(c) If the converted entity is a foreign entity, all of the following:

(i) The complete terms of all documents required under the law of its formation to form the converted entity;

(ii) The consent of the converted entity to be sued and served with process in this state, and the irrevocable appointment of the secretary of

state as the agent of the converted entity to accept service of process in this state to enforce against the converted entity any obligation of the converting corporation or to enforce the rights of a dissenting shareholder of the converting corporation;

(iii) If the converted entity desires to transact business in this state, the information required to qualify or to be licensed under the applicable chapter of the Revised Code.

(d) All other statements and matters required to be set forth in the declaration of conversion by the applicable chapter of the Revised Code, if the converted entity is a domestic entity, or by the laws under which the converted entity will be formed, if the converted entity is a foreign entity;

(e) The terms of the conversion, the mode of carrying them into effect, and the manner and basis of converting the interests of the converting corporation into, or substituting the interests in the converting corporation for, interests in the converted entity.

(2) No conversion or substitution described in this section shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion;

(2) A provision authorizing, prior to the filing of the certificate of conversion pursuant to section 1702.462 of the Revised Code, the converting corporation to abandon the proposed conversion by action of the trustees of the converting corporation or by the same vote as was required to adopt the declaration of conversion;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting corporation at the time of the conversion;

(4) The parties to the declaration of conversion in addition to the converting entity;

(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) The trustees of the domestic converting corporation must approve the declaration of conversion to effect the conversion, and the declaration of conversion must be adopted by the members of the domestic converting corporation, at a meeting held for the purpose.

(E) Notice of each meeting of members of a domestic converting

corporation at which a declaration of conversion is to be submitted shall be given to all members of that corporation, whether or not they are entitled to vote, and shall be accompanied by a copy or a summary of the material provisions of the declaration of conversion.

(F) The vote required to adopt a declaration of conversion at a meeting of the members of a domestic converting corporation is the affirmative vote of the members of that corporation entitling them to exercise at least two-thirds of the voting power of the corporation on the proposal or a different proportion as provided in the articles, but not less than a majority, or, if the conversion is to a foreign corporation, a different proportion as the articles provide for a merger or consolidation, and the affirmative vote of the members of any particular class as required by the articles of the converting corporation.

If the declaration of conversion would authorize any particular corporate action that under any applicable provision of law or the articles could be authorized only by or pursuant to a specified vote of members, the declaration of conversion also must be adopted by the same affirmative vote as required for such action.

(G)(1) At any time before the filing of the certificate of conversion pursuant to section 1702.462 of the Revised Code, the conversion may be abandoned by the trustees of the converting corporation, if the trustees are authorized to do so by the declaration of conversion, or by the same vote of the members as was required to adopt the declaration of conversion.

(2) The declaration of conversion may contain a provision authorizing the trustees of the converting corporation to amend the declaration of conversion at any time before the filing of the certificate of conversion pursuant to section 1702.462 of the Revised Code, except that, after the adoption of the declaration of conversion by the members of the converting corporation, the trustees may not amend the declaration of conversion to do any of the following:

(a) Alter or change any term of the organizational documents of the converted entity except for alterations or changes that are adopted with the vote or action of the persons, the vote or action of which would be required for the alteration or change after the conversion;

(b) Alter or change any other terms and conditions of the declaration of conversion if any of the alterations or changes, alone or in the aggregate, materially and adversely would affect the members of the converting corporation.

Sec. 1702.462. (A) Upon the adoption of a declaration of conversion pursuant to section 1702.461 of the Revised Code, or at a later time as

authorized by the declaration of conversion, a certificate of conversion that is signed by an authorized representative of the converting entity shall be filed with the secretary of state. The certificate shall be on a form prescribed by the secretary of state and shall set forth only the information required under division (B) of this section.

(B)(1) The certificate of conversion shall set forth all of the following:

(a) The name and form of entity of the converting entity and the state under the laws of which the converting entity exists;

(b) A statement that the converting entity has complied with all of the laws under which it exists and that the laws permit the conversion;

(c) The name and mailing address of the person or entity that is to provide a copy of the declaration of conversion in response to any written request made by a member of the converting entity;

(d) The effective date of the conversion, which date may be on or after the date of the filing of the certificate pursuant to this section;

(e) The signature of the representative or representatives authorized to sign the certificate on behalf of the converting entity and the office held or the capacity in which the representative is acting;

(f) A statement that the declaration of conversion is authorized on behalf of the converting entity and that each person signing the certificate on behalf of the converting entity is authorized to do so;

(g) The name and the form of the converted entity and the state under the laws of which the converted entity will exist;

(h) If the converted entity is a foreign entity that will not be licensed in this state, the name and address of the statutory agent upon whom any process, notice, or demand may be served.

(2) In the case of a conversion into a limited liability company, limited partnership, or other partnership, any organizational document, including a designation of agent, that would be filed upon the creation of the new entity shall be filed with the certificate of conversion.

(3) If the converted entity is a foreign entity that desires to transact business in this state, the certificate of conversion shall be accompanied by the information required by divisions (B)(1)(c)(ii) and (iii) of section 1702.461 of the Revised Code.

(4) If a foreign or domestic corporation licensed to transact business in this state is the converting entity, the certificate of conversion shall be accompanied by the affidavits, receipts, certificates, or other evidence required by division (G) of section 1702.47 of the Revised Code, with respect to a converting domestic corporation, and by the affidavits, receipts, certificates, or other evidence required by division (C) or (D) of section

1703.17 of the Revised Code with respect to a foreign corporation.

(C) If the converting entity or the converted entity is organized or formed under the laws of a state other than this state or under any chapter of the Revised Code other than this chapter, all documents required to be filed in connection with the conversion by the laws of that state or that chapter shall be filed in the proper office.

(D) Upon the filing of a certificate of conversion and other filings required by division (C) of this section or at any later date that the certificate of conversion specifies, the conversion is effective, subject to the limitation that no conversion shall be effective if there are reasonable grounds to believe that the conversion would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(E) The secretary of state shall furnish, upon request and payment of the fee specified in division (K)(2) of section 111.16 of the Revised Code, the secretary of state's certificate setting forth all of the following:

(1) The name and form of entity of the converting entity and the state under the laws of which it existed prior to the conversion;

(2) The name and form of entity of the converted entity and the state under the laws of which it will exist;

(3) The date of filing of the certificate of conversion with the secretary of state and the effective date of the conversion.

(F) The certificate of the secretary of state, or a copy of the certificate of conversion certified by the secretary of state, may be filed for record in the office of the recorder of any county in this state and, if filed, shall be recorded in the records of deeds for that county. For the recording, the county recorder shall charge and collect the same fee as in the case of deeds.

Sec. 1702.59. (A) Every nonprofit corporation, incorporated under the general corporation laws of this state, or previous laws, or under special provisions of the Revised Code, or created before September 1, 1851, which corporation has expressedly or impliedly elected to be governed by the laws passed since that date, and whose articles or other documents are filed with the secretary of state, shall file with the secretary of state a verified statement of continued existence, signed by a director, officer, or three members in good standing, setting forth the corporate name, the place where the principal office of the corporation is located, the date of incorporation, the fact that the corporation is still actively engaged in exercising its corporate privileges, and the name and address of its agent appointed pursuant to section 1702.06 of the Revised Code.

(B) Each corporation required to file a statement of continued existence shall file it with the secretary of state within each five years after the date of

incorporation or of the last corporate filing.

(C) Corporations specifically exempted by division (N) of section 1702.06 of the Revised Code, or whose activities are regulated or supervised by another state official, agency, bureau, department, or commission are exempted from this section.

(D) The secretary of state shall give notice ~~in writing~~ by ordinary or electronic mail and provide a form for compliance with this section to each corporation required by this section to file the statement of continued existence, such notice and form to be mailed to the last known physical or electronic mail address of the corporation as it appears on the records of the secretary of state or which the secretary of state may ascertain upon a reasonable search.

(E) If any nonprofit corporation required by this section to file a statement of continued existence fails to file the statement required every fifth year, then the secretary of state shall cancel the articles of such corporation, make a notation of the cancellation on the records, and mail to the corporation a certificate of the action so taken.

(F) A corporation whose articles have been canceled may be reinstated by filing an application for reinstatement and paying to the secretary of state the fee specified in division (Q) of section 111.16 of the Revised Code. The name of a corporation whose articles have been canceled shall be reserved for a period of one year after the date of cancellation. If the reinstatement is not made within one year from the date of the cancellation of its articles of incorporation and it appears that a corporate name, limited liability company name, limited liability partnership name, limited partnership name, or trade name has been filed, the name of which is not distinguishable upon the record as provided in section 1702.06 of the Revised Code, the applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code. The rights, privileges, and franchises of a corporation whose articles have been reinstated are subject to section 1702.60 of the Revised Code.

(G) The secretary of state shall furnish the tax commissioner a list of all corporations failing to file the required statement of continued existence.

Sec. 1703.031. (A) If the laws of the United States prohibit, preempt, or otherwise eliminate the licensing requirement of sections 1703.01 to 1703.31 of the Revised Code with respect to a corporation that is a bank,

savings bank, or savings and loan association chartered under the laws of the United States, the main office of which is located in another state, the bank, savings bank, or savings and loan association shall notify the secretary of state that it is transacting business in this state by submitting a notice in such form as the secretary of state prescribes. The notice shall be verified by the oath of the president, vice-president, secretary, or treasurer of the bank, savings bank, or savings and loan association, and shall set forth all of the following:

(1) The name of the corporation and any trade name under which it will do business in this state;

(2) The location and complete address, including the county, of its main office in another state and its principal office, if any, in this state;

(3) The appointment of a designated agent and the complete address of such agent in this state, which agent may be a natural person who is a resident of this state, or may be a domestic corporation for profit or a foreign corporation for profit holding a license as such under the laws of this state, provided that the domestic or foreign corporation has a business address in this state and is authorized by its articles of incorporation to act as such agent;

(4) The irrevocable consent of the corporation to service of process on such agent so long as the authority of the agent continues and to service of process upon the secretary of state in the events provided for in section 1703.19 of the Revised Code;

(5) A brief summary of the business to be transacted within this state.

(B) The notice required by this section shall be accompanied by a certificate of good standing or subsistence, dated not earlier than sixty days prior to the submission of the notice, under the seal of the proper official of the agency of the United States that incorporated the bank, savings bank, or savings and loan association, setting forth the exact corporate title, the date of incorporation, and the fact that the bank, savings bank, or savings and loan association is in good standing or is a subsisting bank, savings bank, or savings and loan association.

(C) Upon submission of the notice, a bank, savings bank, or savings and loan association shall pay a filing fee ~~of one hundred dollars~~ to the secretary of state as required by section 111.16 of the Revised Code.

(D)(1) No such notice shall be accepted for filing if it appears that the name of the bank, savings bank, or savings and loan association is any of the following:

(a) Prohibited by law;

(b) Not distinguishable upon the records in the office of the secretary of

state from the name of a limited liability company, whether domestic or foreign, or any other corporation, whether nonprofit or for profit and whether that of a domestic corporation or of a foreign corporation authorized to transact business in this state, unless there is also filed with the secretary of state the consent of the other limited liability company or corporation to the use of the name, evidenced in a writing signed by any authorized representative or authorized officer of the other limited liability company or corporation;

(c) Not distinguishable upon the records in the office of the secretary of state from a trade name, the exclusive right to which is at the time in question registered in the manner provided in Chapter 1329. of the Revised Code, unless there also is filed with the secretary of state the consent of the other corporation or person to the use of the name, evidenced in a writing signed by any authorized officer of the other corporation or authorized party of the other person owning the exclusive right to the registered trade name.

(2) Notwithstanding division (D)(1)(b) of this section, if a notice is not acceptable for filing solely because the name of the bank, savings bank, or savings and loan association is not distinguishable from the name of another corporation or registered trade name, the bank, savings bank, or savings and loan association may be authorized to transact business in this state by filing with the secretary of state, in addition to those items otherwise prescribed by this section, a statement signed by an authorized officer directing the bank, savings bank, or savings and loan association to transact business in this state under an assumed business name or names that comply with the requirements of division (D) of this section and stating that the bank, savings bank, or savings and loan association will transact business in this state only under the assumed name or names.

(E) The secretary of state shall provide evidence of receipt of notice to each bank, savings bank, or savings and loan association that submits a notice required by this section.

Sec. 1703.07. If a foreign corporation has merged or consolidated with one or more foreign corporations, it shall file with the secretary of state a certificate setting forth the fact of merger or consolidation, certified by the secretary of state, or other proper official, of the state under the laws of which the foreign corporation was incorporated.

The secretary of state, before filing a certificate evidencing a foreign corporation's merger or consolidation, shall charge and collect from the foreign corporation a filing fee ~~of ten dollars~~ as required by section 111.16 of the Revised Code.

Sec. 1705.01. As used in this chapter:

(A) "Business" means every trade, occupation, or profession.

(B) "Contribution" means any cash, property, services rendered, promissory note, or other binding obligation to contribute cash or property or to perform services that a member contributes to a limited liability company in the capacity as a member.

(C) "Conveyance" means every assignment, lease, mortgage, or encumbrance.

(D) "Entity" means any of the following:

(1) A ~~for-profit~~ corporation existing under the laws of this state or any other state;

(2) Any of the following organizations existing under the laws of this state, the United States, or any other state:

(a) A business trust or association;

(b) A real estate investment trust;

(c) A common law trust;

(d) An unincorporated business or for profit organization, including a general or limited partnership;

(e) A limited liability company.

(E) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.

(F) "Knowledge," of a fact, means actual knowledge of that fact and knowledge of other facts that under the circumstances shows bad faith.

(G) "Member" means a person whose name appears on the records of the limited liability company as the owner of a membership interest in that company.

(H) "Membership interest" means a member's share of the profits and losses of a limited liability company and the right to receive distributions from that company.

(I) "Notice" means that the person who claims the benefit of the notice has done one of the following:

(1) Stated the fact to the person entitled to notice;

(2) Delivered through the mail or by other means of communication a written statement of the fact to the person entitled to notice or to a proper person at the place of business or residence of the person entitled to receive a notice.

(J) "Operating agreement" means all of the valid written or oral agreements of the members or, in the case of a limited liability company consisting of one member, a written declaration of that member, as to the affairs of a limited liability company and the conduct of its business.

(K) "Person" means any natural person; partnership, limited partnership,

trust, estate, association, limited liability company, or corporation; any custodian, nominee, trustee, executor, administrator, or other fiduciary; or any other individual or entity in its own or any representative capacity.

(L) "Professional association" and "professional service" have the same meanings as in section 1785.01 of the Revised Code.

(M) "State" has the same meaning as in section 1.59 of the Revised Code and additionally includes a foreign country and any province, territory, or other political subdivision of a foreign country.

Sec. 1707.11. (A) Each person that is not organized under the laws of this state, that is not licensed under section 1703.03 of the Revised Code, or that does not have its principal place of business in this state, shall submit to the division of securities an irrevocable consent to service of process, as described in division (B) of this section, in connection with any of the following:

(1) Filings to claim any of the exemptions enumerated in division (Q), (W), ~~(X),~~ or (Y) of section 1707.03 of the Revised Code;

(2) Applications for registration by description, qualification, or coordination;

(3) Notice filings pursuant to section 1707.092 of the Revised Code.

(B) The irrevocable written consent shall be executed and acknowledged by an individual duly authorized to give the consent and shall do all of the following:

(1) Designate the secretary of state as agent for service of process or pleadings;

(2) State that actions growing out of the sale of such securities, the giving of investment advice, or fraud committed by a person on whose behalf the consent is submitted may be commenced against the person, in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff in the action may reside, by serving on the secretary of state any proper process or pleading authorized by the laws of this state;

(3) Stipulate that service of process or pleading on the secretary of state shall be taken in all courts to be as valid and binding as if service had been made upon the person on whose behalf the consent is submitted.

(C) Notwithstanding any application, form, or other material filed with or submitted to the division that purports to appoint as agent for service of process a person other than the secretary of state, the application, form, or other material shall be considered to appoint the secretary of state as agent for service of process.

(D) Service of any process or pleadings may be made on the secretary of

state by duplicate copies, of which one shall be filed in the office of the secretary of state, and the other immediately forwarded by the secretary of state by certified mail to the principal place of business of the person on whose behalf the consent is submitted or to the last known address as shown on the filing made with the division. However, failure to mail such copy does not invalidate the service.

(E) Notwithstanding any provision of this chapter, or of any rule adopted by the division of securities under this chapter, that requires the submission of a consent to service of process, the division may provide by rule for the electronic filing or submission of a consent to service of process.

Sec. 1707.17. (A)(1) The license of every dealer in and salesperson of securities shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the division of securities of an application for renewal, and the payment of the fee prescribed in this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal of a dealer's or salesperson's license.

(2) The license of every investment adviser and investment adviser representative licensed under section 1707.141 or 1707.161 of the Revised Code shall expire on the thirty-first day of December of each year. The licenses may be renewed upon the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(3) An investment adviser required to make a notice filing under division (B) of section 1707.141 of the Revised Code annually shall file with the division the notice filing and the fee prescribed in division (B) of this section, no later than the thirty-first day of December of each year.

(4) The license of every state retirement system investment officer licensed under section 1707.163 of the Revised Code and the license of a bureau of workers' compensation chief investment officer issued under section 1707.165 of the Revised Code shall expire on the thirtieth day of June of each year. The licenses may be renewed on the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(B)(1) The fee for each dealer's license, and for each annual renewal thereof, shall be two hundred dollars.

(2) The fee for each salesperson's license, and for each annual renewal thereof, shall be sixty dollars.

(3) The fee for each investment adviser's license, and for each annual

renewal thereof, shall be one hundred dollars.

(4) The fee for each investment adviser notice filing required by division (B) of section 1707.141 of the Revised Code shall be one hundred dollars.

(5) The fee for each investment adviser representative's license, and for each annual renewal thereof, shall be thirty-five dollars.

(6) The fee for each state retirement system investment officer's license, and for each annual renewal thereof, shall be fifty dollars.

(7) The fee for a bureau of workers' compensation chief investment officer's license, and for each annual renewal thereof, shall be fifty dollars.

(C) A dealer's, salesperson's, investment adviser's, investment adviser representative's, bureau of workers' compensation chief investment officer's, or state retirement system investment officer's license may be issued at any time for the remainder of the calendar year. In that event, the annual fee shall not be reduced.

(D) The division may, by rule or order, waive, in whole or in part, any of the fee requirements of this section for any person or class of persons if, in the same calendar year, the person or class of persons is required to pay an additional fee as a result of changes in federal law and regulations implemented under Title IV of the "Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010," 124 Stat. 1576 (2010), 15 U.S.C. 80b-3a(a), under which a person or class of persons formerly subject to regulation under the United States securities and exchange commission is subject to state regulation under Chapter 1707. of the Revised Code.

Sec. 1711.05. Every county agricultural society annually shall publish an abstract of its treasurer's account in a newspaper of general circulation in the county and make a report of its proceedings during the year. It shall also make, in accordance with the rules of the department of agriculture, a synopsis of its awards for improvement in agriculture and in household manufactures and forward such synopsis to the director of agriculture at or before the annual meeting of the directors of the society with the director of agriculture, as provided for in section 901.06 of the Revised Code. No payment after such date shall be made from the county treasury to such society unless a certificate from the director is presented to the county auditor showing that such reports have been made.

Sec. 1711.07. The board of directors of a county or independent agricultural society shall consist of at least eight members. An employee of the Ohio state university extension service and the county school superintendent shall be members ex officio. Their terms of office shall be determined by the rules of the department of agriculture. Any vacancy in the

board caused by death, resignation, refusal to qualify, removal from county, or other cause may be filled by the board until the society's next annual election, when a director shall be elected for the unexpired term. There shall be an annual election of directors by ballot at a time and a place fixed by the board, but this election shall not be held later than the first Saturday in December 1994, and not later than the fifteenth day of November each year thereafter, beginning in 1995. The secretary of the society shall give notice of such election, for three weeks prior to the holding thereof, in ~~at least two newspapers~~ a newspaper of ~~opposite politics and of~~ general circulation in the county or as provided in section 7.16 of the Revised Code, or by letter mailed to each member of the society. Only persons holding membership certificates at the close of the annual county fair, or at least fifteen calendar days before the date of election, as may be fixed by the board, may vote, unless such election is held on the fairground during the fair, in which case all persons holding membership certificates on the date and hour of the election may vote. When the election is to be held during the fair, notice of such election must be prominently mentioned in the premium list, in addition to the notice required in ~~newspapers~~ a newspaper. The terms of office of the retiring directors shall expire, and those of the directors-elect shall begin, not later than the first Saturday in January 1995, and not later than the thirtieth day of November each year thereafter, beginning in 1995.

The secretary of such society shall send the name and address of each member of its board to the director of agriculture within ten days after the election.

Sec. 1711.18. In a county in which there is a county agricultural society indebted fifteen thousand dollars or more, and such society has purchased a fairground or title to such fairground is vested in fee in the county, the board of county commissioners, upon the presentation of a petition signed by not less than five hundred resident electors of the county praying for the submission to the electors of the county of the question whether or not county bonds shall be issued and sold to liquidate such indebtedness, shall, by resolution within ten days thereafter, fix a date, which shall be within thirty days, upon which the question of issuing and selling such bonds, in the necessary amount and denomination, shall be submitted to the electors of the county. The board also shall cause a copy of such resolution to be certified to the county board of elections and such board of elections, within ten days after such certification, shall proceed to make the necessary arrangements for the submission of such question to such electors at the time fixed by such resolution.

Such election shall be held at the regular places of voting in the county

and shall be conducted, canvassed, and certified, except as otherwise provided by law, as are elections of county officers. The county board of elections must give fifteen days' notice of such submission by publication in ~~one or more newspapers published~~ a newspaper of general circulation in the county once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, stating the amount of bonds to be issued, the purpose for which they are to be issued, and the time and places of holding such election. Those who vote in favor of the proposition shall have written or printed on their ballots "for the issue of bonds" and those who vote against it shall have written or printed on their ballots "against the issue of bonds." If a majority of those voting upon the question of issuing the bonds vote in favor thereof, then and only then shall they be issued and the tax provided for in section 1711.20 of the Revised Code be levied.

Sec. 1711.30. Before issuing bonds under section 1711.28 of the Revised Code, the board of county commissioners, by resolution, shall submit to the qualified electors of the county at the next general election for county officers, held not less than ninety days after receiving from the county agricultural society the notice provided for in section 1711.25 of the Revised Code, the question of issuing and selling such bonds in such amount and denomination as are necessary for the purpose in view, and shall certify a copy of such resolution to the county board of elections.

The county board of elections shall place the question of issuing and selling such bonds upon the ballot and make all other necessary arrangements for the submission, at the time fixed by such resolution, of such question to such electors. The votes cast at such election upon such question must be counted, canvassed, and certified in the same manner, except as provided by law, as votes cast for county officers. Fifteen days' notice of such submission shall be given by the county board of elections, by publication once a week for two consecutive weeks in ~~two or more newspapers published~~ a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, stating the amount of bonds to be issued, the purpose for which they are to be issued, and the time and places of holding such election. Such question must be stated on the ballot as follows: "For the issue of county fair bonds, yes"; "For the issue of county fair bonds, no." If the majority of those voting upon the question of issuing the bonds vote in favor thereof, then and only then shall they be issued and the tax provided for in section 1711.29 of the Revised Code be levied.

Sec. 1728.06. Every community urban redevelopment corporation qualifying under this chapter, before proceeding with any project authorized

in this chapter, shall make written application to the municipal corporation for approval thereof. The application shall be in such form and shall certify to such facts and data as shall be required by the municipal corporation, and may include but not be limited to:

(A) A general statement of the nature of the proposed project, that the undertaking conforms to all applicable municipal ordinances, that its completion will meet an existing need, and that the project accords with the master plan or official map, if any, of the municipal corporation;

(B) A description of the proposed project outlining the area included and a description of each unit thereof if the project is to be undertaken in units and setting out such architectural and site plans as may be required;

(C) A statement of the estimated cost of the proposed project in such detail as may be required, including the estimated cost of each unit if it is to be so undertaken;

(D) The source, method, and amount of money to be subscribed through the investment of private capital, setting forth the amount of stock or other securities to be issued therefor;

(E) A fiscal plan for the project outlining a schedule of rents, the estimated expenditures for operation and maintenance, payments for interest, amortization of debt and reserves, and payments to the municipal corporation to be made pursuant to a financial agreement to be entered into with the municipal corporation;

(F) A relocation plan providing for the relocation of persons, including families, business concerns, and others, displaced by the project, which relocation plan shall include, but not be limited to, the proposed method for the relocation of residents who will be displaced from their dwelling accommodations in decent, safe, and sanitary dwelling accommodations within their means, or with provision for adjustment payments to bring such accommodations within their means, and without undue hardship, and reasonable moving costs;

(G) The names and tax mailing addresses, as determined from the records of the county auditor not more than five days prior to the submission of the application to the mayor of the municipal corporation, of the owners of all property which the corporation proposes in its application to acquire.

Such application shall be addressed and submitted to the mayor of the municipal corporation, who shall, within sixty days after receipt thereof, submit it with ~~his~~ the mayor's recommendations to the governing body. The application shall be a matter of public record upon receipt by the mayor.

The governing body shall by notice published once a week for two consecutive weeks in a newspaper of general circulation in the municipal

corporation or as provided in section 7.16 of the Revised Code, by written notice, by certified mail or personal service, to the owners of property which the corporation proposes in its application to purchase at the tax mailing address as set forth in the corporation's application, by the putting up of signs in at least five places within the area covered by the application, and by giving written notice, by certified mail or personal service, to community organizations known by the clerk of the governing body to represent a substantial number of the residents of the area covered by the application, advise that the application is on file in the office of the clerk of the governing body of the municipal corporation and is available for inspection by the general public during business hours and advise that a public hearing shall be held thereon, stating the place and time of the public hearing, which time shall be not less than fourteen days after the first publication, or after sending the mailed notice, or after the putting up of the signs, whichever is later.

Following the public hearing and after complying with section 5709.83 of the Revised Code, the governing body, taking into consideration the financial impact on the community, shall by resolution approve or disapprove the application, approval to be by an affirmative vote of not less than three-fifths of the governing body, but in the event of disapproval, changes may be suggested to secure its approval.

An application may be revised or resubmitted in the same manner and subject to the same procedures as an original application. The clerk of the governing body shall diligently discharge the duties imposed on the clerk by this division, provided failure of the clerk to send written notices to all community organizations, in a good faith effort by the clerk to give the required notice, shall not invalidate any proceedings under this chapter. The failure of delivery of notice given by certified mail under this division shall not invalidate any proceedings under this chapter.

Sec. 1728.07. Every approved project shall be evidenced by a financial agreement between the municipal corporation and the community urban redevelopment corporation. Such agreement shall be prepared by the community urban redevelopment corporation and submitted as a separate part of its application for project approval.

The financial agreement shall be in the form of a contract requiring full performance within twenty years from the date of completion of the project and shall, as a minimum, include the following:

(A) That all improvements in the project to be constructed or acquired by the corporation shall be exempt from taxation, subject to section 1728.10 of the Revised Code;

(B) That the corporation shall make payments in lieu of real estate taxes not less than the amount as provided by section 1728.11 of the Revised Code; or if the municipal corporation is an impacted city, not less than the amount as provided by section 1728.111 of the Revised Code;

(C) That the corporation, its successors and assigns, shall use, develop, and redevelop the real property of the project in accordance with, and for the period of, the community development plan approved by the governing body of the municipal corporation for the blighted area in which the project is situated and shall so bind its successors and assigns by appropriate agreements and covenants running with the land enforceable by the municipal corporation.

(D) If the municipal corporation is an impacted city, the extent of the undertakings and activities of the corporation for the elimination and for the prevention of the development or spread of blight.

(E) That the corporation or the municipal corporation, or both, shall provide for carrying out relocation of persons, families, business concerns, and others displaced by the project, pursuant to a relocation plan, including the method for the relocation of residents in decent, safe, and sanitary dwelling accommodations, and reasonable moving costs, determined to be feasible by the governing body of the municipal corporation. Where the relocation plan is carried out by the corporation, its officers, employees, agents, or lessees, the municipal corporation shall enforce and supervise the corporation's compliance with the relocation plan. If the corporation refuses or fails to comply with the relocation plan and the municipal corporation fails or refuses to enforce compliance with such plan, the director of development may request the attorney general to commence a civil action against the municipality and the corporation to require compliance with such relocation plan. Prior to requesting action by the attorney general the director shall give notice of the proposed action to the municipality and the corporation, provide an opportunity to such municipality and corporation for discussions on the matter, and allow a reasonable time in which the corporation may begin compliance with the relocation plan, or the municipality may commence enforcement of the relocation plan.

(F) That the corporation shall submit annually, within ninety days after the close of its fiscal year, its auditor's reports to the mayor and governing body of the municipal corporation;

(G) That the corporation shall, upon request, permit inspection of property, equipment, buildings, and other facilities of the corporation, and also permit examination and audit of its books, contracts, records, documents, and papers by authorized representatives of the municipal

corporation;

(H) That in the event of any dispute between the parties the matters in controversy shall be resolved by arbitration in the manner provided therein;

(I) That operation under the financial agreement is terminable by the corporation in the manner provided by Chapter 1728. of the Revised Code;

(J) That the corporation shall, at all times prior to the expiration or other termination of the financial agreement, remain bound by Chapter 1728. of the Revised Code;

(K) ~~That all wages paid to laborers and mechanics employed for work on such projects, other than for residential structures containing seven or less family units, shall be paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the project, which wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for determination of prevailing wage rates, provided that the requirements of this division do not apply where the federal government or any of its agencies furnishes by law or grant all or any part of the funds used in connection with such project and prescribes predetermined minimum wages to be paid to such laborers and mechanics.~~

Modifications of the financial agreement may from time to time be made by agreement between the governing body of the municipal corporation and the community urban redevelopment corporation.

Sec. 1751.01. As used in this chapter:

(A)(1) "Basic health care services" means the following services when medically necessary:

(a) Physician's services, except when such services are supplemental under division (B) of this section;

(b) Inpatient hospital services;

(c) Outpatient medical services;

(d) Emergency health services;

(e) Urgent care services;

(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;

(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;

(h) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care;

(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.

"Basic health care services" does not include experimental procedures.

Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, ~~or to the coverage of participants of the children's buy-in program,~~ or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

(2) A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses without offering coverage for all other basic health care services. A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses alone or in combination with one or more supplemental health care services. However, a health insuring corporation that offers coverage for any other basic health care service shall offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services.

(3) A health insuring corporation that offers coverage for basic health care services is not required to offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services if all of the following apply:

(a) The health insuring corporation submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the health insuring corporation's costs for claims and administrative expenses for the coverage of basic health care services to increase by more than one per cent per year.

(b) The health insuring corporation submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase in costs described in division (A)(3)(a) of this section could reasonably justify an increase of

more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services.

(c) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (A)(3)(a) and (b) of this section:

(i) Incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the health insuring corporation's costs for claims and administrative expenses for the coverage of basic health care services to increase by more than one per cent per year.

(ii) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services.

Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.

(B)(1) "Supplemental health care services" means any health care services other than basic health care services that a health insuring corporation may offer, alone or in combination with either basic health care services or other supplemental health care services, and includes:

(a) Services of facilities for intermediate or long-term care, or both;

(b) Dental care services;

(c) Vision care and optometric services including lenses and frames;

(d) Podiatric care or foot care services;

(e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;

(f) Short-term outpatient evaluative and crisis-intervention mental health services;

(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;

(h) Home health services;

(i) Prescription drug services;

(j) Nursing services;

(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;

(l) Physical therapy services;

(m) Chiropractic services;

(n) Any other category of services approved by the superintendent of insurance.

(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for

the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.

(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.

(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

(E) ~~"Children's buy-in program" has the same meaning as in section 5101.5211 of the Revised Code.~~

~~(F)~~ "Closed panel plan" means a health care plan that requires enrollees to use participating providers.

~~(G)~~(F) "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service or discounted-fee-for-service basis.

~~(H)~~(G) "Contractual periodic prepayment" means the formula for determining the premium rate for all subscribers of a health insuring corporation.

~~(I)~~(H) "Corporation" means a corporation formed under Chapter 1701. or 1702. of the Revised Code or the similar laws of another state.

~~(J)~~(I) "Emergency health services" means those health care services that must be available on a seven-days-per-week, twenty-four-hours-per-day basis in order to prevent jeopardy to an enrollee's health status that would occur if such services were not received as soon as possible, and includes, where appropriate, provisions for transportation and indemnity payments or service agreements for out-of-area coverage.

~~(K)~~(J) "Enrollee" means any natural person who is entitled to receive health care benefits provided by a health insuring corporation.

~~(L)~~(K) "Evidence of coverage" means any certificate, agreement, policy, or contract issued to a subscriber that sets out the coverage and other rights to which such person is entitled under a health care plan.

~~(M)~~(L) "Health care facility" means any facility, except a health care practitioner's office, that provides preventive, diagnostic, therapeutic, acute convalescent, rehabilitation, mental health, mental retardation, intermediate care, or skilled nursing services.

~~(N)~~(M) "Health care services" means basic, supplemental, and specialty

health care services.

~~(O)~~(N) "Health delivery network" means any group of providers or health care facilities, or both, or any representative thereof, that have entered into an agreement to offer health care services in a panel rather than on an individual basis.

~~(P)~~(O) "Health insuring corporation" means a corporation, as defined in division ~~(I)~~(H) of this section, that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, basic health care services, supplemental health care services, or specialty health care services, or a combination of basic health care services and either supplemental health care services or specialty health care services, through either an open panel plan or a closed panel plan.

"Health insuring corporation" does not include a limited liability company formed pursuant to Chapter 1705. of the Revised Code, an insurer licensed under Title XXXIX of the Revised Code if that insurer offers only open panel plans under which all providers and health care facilities participating receive their compensation directly from the insurer, a corporation formed by or on behalf of a political subdivision or a department, office, or institution of the state, or a public entity formed by or on behalf of a board of county commissioners, a county board of developmental disabilities, an alcohol and drug addiction services board, a board of alcohol, drug addiction, and mental health services, or a community mental health board, as those terms are used in Chapters 340. and 5126. of the Revised Code. Except as provided by division (D) of section 1751.02 of the Revised Code, or as otherwise provided by law, no board, commission, agency, or other entity under the control of a political subdivision may accept insurance risk in providing for health care services. However, nothing in this division shall be construed as prohibiting such entities from purchasing the services of a health insuring corporation or a third-party administrator licensed under Chapter 3959. of the Revised Code.

~~(Q)~~(P) "Intermediary organization" means a health delivery network or other entity that contracts with licensed health insuring corporations or self-insured employers, or both, to provide health care services, and that enters into contractual arrangements with other entities for the provision of health care services for the purpose of fulfilling the terms of its contracts with the health insuring corporations and self-insured employers.

~~(R)~~(Q) "Intermediate care" means residential care above the level of room and board for patients who require personal assistance and health-related services, but who do not require skilled nursing care.

~~(S)~~(R) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(T)~~(S) "Medical record" means the personal information that relates to an individual's physical or mental condition, medical history, or medical treatment.

~~(U)~~(T) "Medicare" means the program established under Title XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 1395, as amended.

~~(V)~~(U)(1) "Open panel plan" means a health care plan that provides incentives for enrollees to use participating providers and that also allows enrollees to use providers that are not participating providers.

(2) No health insuring corporation may offer an open panel plan, unless the health insuring corporation is also licensed as an insurer under Title XXXIX of the Revised Code, the health insuring corporation, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1736. or 1740. of the Revised Code, or an insurer licensed under Title XXXIX of the Revised Code is responsible for the out-of-network risk as evidenced by both an evidence of coverage filing under section 1751.11 of the Revised Code and a policy and certificate filing under section 3923.02 of the Revised Code.

~~(W)~~(V) "Panel" means a group of providers or health care facilities that have joined together to deliver health care services through a contractual arrangement with a health insuring corporation, employer group, or other payor.

~~(X)~~(W) "Person" has the same meaning as in section 1.59 of the Revised Code, and, unless the context otherwise requires, includes any insurance company holding a certificate of authority under Title XXXIX of the Revised Code, any subsidiary and affiliate of an insurance company, and any government agency.

~~(Y)~~(X) "Premium rate" means any set fee regularly paid by a subscriber to a health insuring corporation. A "premium rate" does not include a one-time membership fee, an annual administrative fee, or a nominal access fee, paid to a managed health care system under which the recipient of health care services remains solely responsible for any charges accessed for those services by the provider or health care facility.

~~(Z)~~(Y) "Primary care provider" means a provider that is designated by a health insuring corporation to supervise, coordinate, or provide initial care or continuing care to an enrollee, and that may be required by the health insuring corporation to initiate a referral for specialty care and to maintain supervision of the health care services rendered to the enrollee.

~~(AA)~~(Z) "Provider" means any natural person or partnership of natural

persons who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services, or any professional association organized under Chapter 1785. of the Revised Code, provided that nothing in this chapter or other provisions of law shall be construed to preclude a health insuring corporation, health care practitioner, or organized health care group associated with a health insuring corporation from employing certified nurse practitioners, certified nurse anesthetists, clinical nurse specialists, certified nurse midwives, dietitians, physician assistants, dental assistants, dental hygienists, optometric technicians, or other allied health personnel who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services.

~~(BB)~~(AA) "Provider sponsored organization" means a corporation, as defined in division ~~(I)~~(H) of this section, that is at least eighty per cent owned or controlled by one or more hospitals, as defined in section 3727.01 of the Revised Code, or one or more physicians licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code, or any combination of such physicians and hospitals. Such control is presumed to exist if at least eighty per cent of the voting rights or governance rights of a provider sponsored organization are directly or indirectly owned, controlled, or otherwise held by any combination of the physicians and hospitals described in this division.

~~(CC)~~(BB) "Solicitation document" means the written materials provided to prospective subscribers or enrollees, or both, and used for advertising and marketing to induce enrollment in the health care plans of a health insuring corporation.

~~(DD)~~(CC) "Subscriber" means a person who is responsible for making payments to a health insuring corporation for participation in a health care plan, or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health insuring corporation.

~~(EE)~~(DD) "Urgent care services" means those health care services that are appropriately provided for an unforeseen condition of a kind that usually requires medical attention without delay but that does not pose a threat to the life, limb, or permanent health of the injured or ill person, and may include such health care services provided out of the health insuring corporation's approved service area pursuant to indemnity payments or service agreements.

Sec. 1751.04. (A) Except as provided by division (D) of this section, upon the receipt by the superintendent of insurance of a complete application for a certificate of authority to establish or operate a health insuring corporation, which application sets forth or is accompanied by the

information and documents required by division (A) of section 1751.03 of the Revised Code, the superintendent shall review the application and accompanying documents and make findings as to whether the applicant for a certificate of authority has done all of the following with respect to any basic health care services and supplemental health care services to be furnished:

(1) Demonstrated the willingness and potential ability to ensure that all basic health care services and supplemental health care services described in the evidence of coverage will be provided to all its enrollees as promptly as is appropriate and in a manner that assures continuity;

(2) Made effective arrangements to ensure that its enrollees have reliable access to qualified providers in those specialties that are generally available in the geographic area or areas to be served by the applicant and that are necessary to provide all basic health care services and supplemental health care services described in the evidence of coverage;

(3) Made appropriate arrangements for the availability of short-term health care services in emergencies within the geographic area or areas to be served by the applicant, twenty-four hours per day, seven days per week, and for the provision of adequate coverage whenever an out-of-area emergency arises;

(4) Made appropriate arrangements for an ongoing evaluation and assurance of the quality of health care services provided to enrollees, including, if applicable, the development of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code, and the adequacy of the personnel, facilities, and equipment by or through which the services are rendered;

(5) Developed a procedure to gather and report statistics relating to the cost and effectiveness of its operations, the pattern of utilization of its services, and the quality, availability, and accessibility of its services.

(B) Based upon the information provided in the application for issuance of a certificate of authority, the superintendent shall determine whether or not the applicant meets the requirements of division (A) of this section. If the superintendent determines that the applicant does not meet these requirements, the superintendent shall specify in what respects it is deficient. However, the superintendent shall not deny an application because the requirements of this section are not met unless the applicant has been given an opportunity for a hearing on that issue.

(C) If the applicant requests a hearing, the superintendent shall hold a hearing before denying an application because the applicant does not meet the requirements of this section. The hearing shall be held in accordance

with Chapter 119. of the Revised Code.

(D) Nothing in this section requires the superintendent to review or make findings with regard to an application and accompanying documents to establish or operate any of the following:

(1) A health insuring corporation to cover solely medicaid recipients;

(2) A health insuring corporation to cover solely medicare beneficiaries;

(3) A health insuring corporation to cover solely medicaid recipients and medicare beneficiaries~~;~~

~~(4) A health insuring corporation to cover solely participants of the children's buy-in program;~~

~~(5) A health insuring corporation to cover solely medicaid recipients and participants of the children's buy-in program;~~

~~(6) A health insuring corporation to cover solely medicaid recipients, medicare beneficiaries, and participants of the children's buy-in program~~.

Sec. 1751.11. (A) Every subscriber of a health insuring corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.

(B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document shall list at least one toll-free telephone number that provides the subscriber with access, to information on a twenty-four-hours-per-day, seven-days-per-week basis, as to how health care services may be obtained. The identification card or document shall also list at least one toll-free number that, during normal business hours, provides the subscriber with access to information on the coverage available under the subscriber's health care plan and information on the health care plan's internal and external review processes.

(C) No evidence of coverage, or amendment to the evidence of coverage, shall be delivered, issued for delivery, renewed, or used, until the form of the evidence of coverage or amendment has been filed by the health insuring corporation with the superintendent of insurance. If the superintendent does not disapprove the evidence of coverage or amendment within sixty days after it is filed it shall be deemed approved, unless the superintendent sooner gives approval for the evidence of coverage or amendment. With respect to an amendment to an approved evidence of coverage, the superintendent only may disapprove provisions amended or added to the evidence of coverage. If the superintendent determines within the sixty-day period that any evidence of coverage or amendment fails to

meet the requirements of this section, the superintendent shall so notify the health insuring corporation and it shall be unlawful for the health insuring corporation to use such evidence of coverage or amendment. At any time, the superintendent, upon at least thirty days' written notice to a health insuring corporation, may withdraw an approval, deemed or actual, of any evidence of coverage or amendment on any of the grounds stated in this section. Such disapproval shall be effected by a written order, which shall state the grounds for disapproval and shall be issued in accordance with Chapter 119. of the Revised Code.

(D) No evidence of coverage or amendment shall be delivered, issued for delivery, renewed, or used:

(1) If it contains provisions or statements that are inequitable, untrue, misleading, or deceptive;

(2) Unless it contains a clear, concise, and complete statement of the following:

(a) The health care services and insurance or other benefits, if any, to which an enrollee is entitled under the health care plan;

(b) Any exclusions or limitations on the health care services, type of health care services, benefits, or type of benefits to be provided, including copayments and deductibles;

(c) An enrollee's personal financial obligation for noncovered services;

(d) Where and in what manner general information and information as to how health care services may be obtained is available, including a toll-free telephone number;

(e) The premium rate with respect to individual and conversion contracts, and relevant copayment and deductible provisions with respect to all contracts. The statement of the premium rate, however, may be contained in a separate insert.

(f) The method utilized by the health insuring corporation for resolving enrollee complaints;

(g) The utilization review, internal review, and external review procedures established under sections 1751.77 to 1751.85 of the Revised Code.

(3) Unless it provides for the continuation of an enrollee's coverage, in the event that the enrollee's coverage under the group policy, contract, certificate, or agreement terminates while the enrollee is receiving inpatient care in a hospital. This continuation of coverage shall terminate at the earliest occurrence of any of the following:

(a) The enrollee's discharge from the hospital;

(b) The determination by the enrollee's attending physician that inpatient

care is no longer medically indicated for the enrollee; however, nothing in division (D)(3)(b) of this section precludes a health insuring corporation from engaging in utilization review as described in the evidence of coverage.

(c) The enrollee's reaching the limit for contractual benefits;

(d) The effective date of any new coverage.

(4) Unless it contains a provision that states, in substance, that the health insuring corporation is not a member of any guaranty fund, and that in the event of the health insuring corporation's insolvency, an enrollee is protected only to the extent that the hold harmless provision required by section 1751.13 of the Revised Code applies to the health care services rendered;

(5) Unless it contains a provision that states, in substance, that in the event of the insolvency of the health insuring corporation, an enrollee may be financially responsible for health care services rendered by a provider or health care facility that is not under contract to the health insuring corporation, whether or not the health insuring corporation authorized the use of the provider or health care facility.

(E) Notwithstanding divisions (C) and (D) of this section, a health insuring corporation may use an evidence of coverage that provides for the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or an evidence of coverage that provides for the coverage of beneficiaries enrolled in the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or an evidence of coverage that provides for the coverage of medicaid recipients, ~~or an evidence of coverage that provides for coverage of participants of the children's buy-in program,~~ or an evidence of coverage that provides for the coverage of beneficiaries under any other federal health care program regulated by a federal regulatory body, or an evidence of coverage that provides for the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services, if both of the following apply:

(1) The evidence of coverage has been approved by the United States department of health and human services, the United States office of personnel management, the Ohio department of job and family services, or the department of administrative services.

(2) The evidence of coverage is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the Ohio department of job and

family services, or the department of administrative services.

Sec. 1751.111. (A)(1) This section applies to both of the following:

(a) A health insuring corporation that issues or requires the use of a standardized identification card or an electronic technology for submission and routing of prescription drug claims pursuant to a policy, contract, or agreement for health care services;

(b) A person or entity that a health insuring corporation contracts with to issue a standardized identification card or an electronic technology described in division (A)(1)(a) of this section.

(2) Notwithstanding division (A)(1) of this section, this section does not apply to the issuance or required use of a standardized identification card or an electronic technology for submission and routing of prescription drug claims in connection with any of the following:

(a) Coverage provided under the medicare advantage program operated pursuant to Part C of Title XVIII of the "Social Security Act," 49 Stat. 62 (1935), 42 U.S.C. 301, as amended.

(b) Coverage provided under medicaid.

(c) ~~Coverage provided under the children's buy-in program.~~

~~(d)~~ Coverage provided under an employer's self-insurance plan or by any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of this section to the plan and its administrators.

(B) A standardized identification card or an electronic technology issued or required to be used as provided in division (A)(1) of this section shall contain uniform prescription drug information in accordance with either division (B)(1) or (2) of this section.

(1) The standardized identification card or the electronic technology shall be in a format and contain information fields approved by the national council for prescription drug programs or a successor organization, as specified in the council's or successor organization's pharmacy identification card implementation guide in effect on the first day of October most immediately preceding the issuance or required use of the standardized identification card or the electronic technology.

(2) If the health insuring corporation or the person under contract with the corporation to issue a standardized identification card or an electronic technology requires the information for the submission and routing of a claim, the standardized identification card or the electronic technology shall contain any of the following information:

(a) The health insuring corporation's name;

(b) The subscriber's name, group number, and identification number;

(c) A telephone number to inquire about pharmacy-related issues;

(d) The issuer's international identification number, labeled as "ANSI BIN" or "RxBIN";

(e) The processor's control number, labeled as "RxPCN";

(f) The subscriber's pharmacy benefits group number if different from the subscriber's medical group number, labeled as "RxGrp."

(C) If the standardized identification card or the electronic technology issued or required to be used as provided in division (A)(1) of this section is also used for submission and routing of nonpharmacy claims, the designation "Rx" is required to be included as part of the labels identified in divisions (B)(2)(d) and (e) of this section if the issuer's international identification number or the processor's control number is different for medical and pharmacy claims.

(D) Each health insuring corporation described in division (A) of this section shall annually file a certificate with the superintendent of insurance certifying that it or any person it contracts with to issue a standardized identification card or electronic technology for submission and routing of prescription drug claims complies with this section.

(E)(1) Except as provided in division (E)(2) of this section, if there is a change in the information contained in the standardized identification card or the electronic technology issued to a subscriber, the health insuring corporation or person under contract with the corporation to issue a standardized identification card or an electronic technology shall issue a new card or electronic technology to the subscriber.

(2) A health insuring corporation or person under contract with the corporation is not required under division (E)(1) of this section to issue a new card or electronic technology to a subscriber more than once during a twelve-month period.

(F) Nothing in this section shall be construed as requiring a health insuring corporation to produce more than one standardized identification card or one electronic technology for use by subscribers accessing health care benefits provided under a policy, contract, or agreement for health care services.

Sec. 1751.12. (A)(1) No contractual periodic prepayment and no premium rate for nongroup and conversion policies for health care services, or any amendment to them, may be used by any health insuring corporation at any time until the contractual periodic prepayment and premium rate, or amendment, have been filed with the superintendent of insurance, and shall not be effective until the expiration of sixty days after their filing unless the superintendent sooner gives approval. The filing shall be accompanied by an

actuarial certification in the form prescribed by the superintendent. The superintendent shall disapprove the filing, if the superintendent determines within the sixty-day period that the contractual periodic prepayment or premium rate, or amendment, is not in accordance with sound actuarial principles or is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees. The superintendent shall notify the health insuring corporation of the disapproval, and it shall thereafter be unlawful for the health insuring corporation to use the contractual periodic prepayment or premium rate, or amendment.

(2) No contractual periodic prepayment for group policies for health care services shall be used until the contractual periodic prepayment has been filed with the superintendent. The filing shall be accompanied by an actuarial certification in the form prescribed by the superintendent. The superintendent may reject a filing made under division (A)(2) of this section at any time, with at least thirty days' written notice to a health insuring corporation, if the contractual periodic prepayment is not in accordance with sound actuarial principles or is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees.

(3) At any time, the superintendent, upon at least thirty days' written notice to a health insuring corporation, may withdraw the approval given under division (A)(1) of this section, deemed or actual, of any contractual periodic prepayment or premium rate, or amendment, based on information that either of the following applies:

(a) The contractual periodic prepayment or premium rate, or amendment, is not in accordance with sound actuarial principles.

(b) The contractual periodic prepayment or premium rate, or amendment, is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees.

(4) Any disapproval under division (A)(1) of this section, any rejection of a filing made under division (A)(2) of this section, or any withdrawal of approval under division (A)(3) of this section, shall be effected by a written notice, which shall state the specific basis for the disapproval, rejection, or withdrawal and shall be issued in accordance with Chapter 119. of the Revised Code.

(B) Notwithstanding division (A) of this section, a health insuring corporation may use a contractual periodic prepayment or premium rate for policies used for the coverage of beneficiaries enrolled in medicare pursuant to a medicare risk contract or medicare cost contract, or for policies used for the coverage of beneficiaries enrolled in the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies used for the

coverage of medicaid recipients, ~~or for policies used for coverage of participants of the children's buy-in program,~~ or for policies used for the coverage of beneficiaries under any other federal health care program regulated by a federal regulatory body, or for policies used for the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services, if both of the following apply:

(1) The contractual periodic prepayment or premium rate has been approved by the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(2) The contractual periodic prepayment or premium rate is filed with the superintendent prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(C) The administrative expense portion of all contractual periodic prepayment or premium rate filings submitted to the superintendent for review must reflect the actual cost of administering the product. The superintendent may require that the administrative expense portion of the filings be itemized and supported.

(D)(1) Copayments must be reasonable and must not be a barrier to the necessary utilization of services by enrollees.

(2) A health insuring corporation, in order to ensure that copayments are reasonable and not a barrier to the necessary utilization of basic health care services by enrollees, may do one of the following:

(a) Impose copayment charges on any single covered basic health care service that does not exceed forty per cent of the average cost to the health insuring corporation of providing the service;

(b) Impose copayment charges that annually do not exceed twenty per cent of the total annual cost to the health insuring corporation of providing all covered basic health care services, including physician office visits, urgent care services, and emergency health services, when aggregated as to all persons covered under the filed product in question. In addition, annual copayment charges as to each enrollee shall not exceed twenty per cent of the total annual cost to the health insuring corporation of providing all covered basic health care services, including physician office visits, urgent care services, and emergency health services, as to such enrollee. The total annual cost of providing a health care service is the cost to the health insuring corporation of providing the health care service to its enrollees as

reduced by any applicable provider discount.

(3) To ensure that copayments are reasonable and not a barrier to the utilization of basic health care services, a health insuring corporation may not impose, in any contract year, on any subscriber or enrollee, copayments that exceed two hundred per cent of the average annual premium rate to subscribers or enrollees.

(4) For purposes of division (D) of this section, both of the following apply:

(a) Copayments imposed by health insuring corporations in connection with a high deductible health plan that is linked to a health savings account are reasonable and are not a barrier to the necessary utilization of services by enrollees.

(b) Divisions (D)(2) and (3) of this section do not apply to a high deductible health plan that is linked to a health savings account.

(E) A health insuring corporation shall not impose lifetime maximums on basic health care services. However, a health insuring corporation may establish a benefit limit for inpatient hospital services that are provided pursuant to a policy, contract, certificate, or agreement for supplemental health care services.

(F) A health insuring corporation may require that an enrollee pay an annual deductible that does not exceed one thousand dollars per enrollee or two thousand dollars per family, except that:

(1) A health insuring corporation may impose higher deductibles for high deductible health plans that are linked to health savings accounts;

(2) The superintendent may adopt rules allowing different annual deductible amounts for plans with a medical savings account, health reimbursement arrangement, flexible spending account, or similar account;

(3) A health insuring corporation may impose higher deductibles under health plans if requested by the group contract, policy, certificate, or agreement holder, or an individual seeking coverage under an individual health plan. This shall not be construed as requiring the health insuring corporation to create customized health plans for group contract holders or individuals.

(G) As used in this section, "health savings account" and "high deductible health plan" have the same meanings as in the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 223, as amended.

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, either directly or indirectly, enter into contracts for the provision of health care services with a sufficient number and types of providers and health care facilities to ensure that all covered health care services will be accessible to

enrollees from a contracted provider or health care facility.

(b) A health insuring corporation shall not refuse to contract with a physician for the provision of health care services or refuse to recognize a physician as a specialist on the basis that the physician attended an educational program or a residency program approved or certified by the American osteopathic association. A health insuring corporation shall not refuse to contract with a health care facility for the provision of health care services on the basis that the health care facility is certified or accredited by the American osteopathic association or that the health care facility is an osteopathic hospital as defined in section 3702.51 of the Revised Code.

(c) Nothing in division (A)(1)(b) of this section shall be construed to require a health insuring corporation to make a benefit payment under a closed panel plan to a physician or health care facility with which the health insuring corporation does not have a contract, provided that none of the bases set forth in that division are used as a reason for failing to make a benefit payment.

(2) When a health insuring corporation is unable to provide a covered health care service from a contracted provider or health care facility, the health insuring corporation must provide that health care service from a noncontracted provider or health care facility consistent with the terms of the enrollee's policy, contract, certificate, or agreement. The health insuring corporation shall either ensure that the health care service be provided at no greater cost to the enrollee than if the enrollee had obtained the health care service from a contracted provider or health care facility, or make other arrangements acceptable to the superintendent of insurance.

(3) Nothing in this section shall prohibit a health insuring corporation from entering into contracts with out-of-state providers or health care facilities that are licensed, certified, accredited, or otherwise authorized in that state.

(B)(1) A health insuring corporation shall, either directly or indirectly, enter into contracts with all providers and health care facilities through which health care services are provided to its enrollees.

(2) A health insuring corporation, upon written request, shall assist its contracted providers in finding stop-loss or reinsurance carriers.

(C) A health insuring corporation shall file an annual certificate with the superintendent certifying that all provider contracts and contracts with health care facilities through which health care services are being provided contain the following:

(1) A description of the method by which the provider or health care facility will be notified of the specific health care services for which the

provider or health care facility will be responsible, including any limitations or conditions on such services;

(2) The specific hold harmless provision specifying protection of enrollees set forth as follows:

"[Provider/Health Care Facility] agrees that in no event, including but not limited to nonpayment by the health insuring corporation, insolvency of the health insuring corporation, or breach of this agreement, shall [Provider/Health Care Facility] bill, charge, collect a deposit from, seek remuneration or reimbursement from, or have any recourse against, a subscriber, enrollee, person to whom health care services have been provided, or person acting on behalf of the covered enrollee, for health care services provided pursuant to this agreement. This does not prohibit [Provider/Health Care Facility] from collecting co-insurance, deductibles, or copayments as specifically provided in the evidence of coverage, or fees for uncovered health care services delivered on a fee-for-service basis to persons referenced above, nor from any recourse against the health insuring corporation or its successor."

(3) Provisions requiring the provider or health care facility to continue to provide covered health care services to enrollees in the event of the health insuring corporation's insolvency or discontinuance of operations. The provisions shall require the provider or health care facility to continue to provide covered health care services to enrollees as needed to complete any medically necessary procedures commenced but unfinished at the time of the health insuring corporation's insolvency or discontinuance of operations. The completion of a medically necessary procedure shall include the rendering of all covered health care services that constitute medically necessary follow-up care for that procedure. If an enrollee is receiving necessary inpatient care at a hospital, the provisions may limit the required provision of covered health care services relating to that inpatient care in accordance with division (D)(3) of section 1751.11 of the Revised Code, and may also limit such required provision of covered health care services to the period ending thirty days after the health insuring corporation's insolvency or discontinuance of operations.

The provisions required by division (C)(3) of this section shall not require any provider or health care facility to continue to provide any covered health care service after the occurrence of any of the following:

(a) The end of the thirty-day period following the entry of a liquidation order under Chapter 3903. of the Revised Code;

(b) The end of the enrollee's period of coverage for a contractual prepayment or premium;

(c) The enrollee obtains equivalent coverage with another health insuring corporation or insurer, or the enrollee's employer obtains such coverage for the enrollee;

(d) The enrollee or the enrollee's employer terminates coverage under the contract;

(e) A liquidator effects a transfer of the health insuring corporation's obligations under the contract under division (A)(8) of section 3903.21 of the Revised Code.

(4) A provision clearly stating the rights and responsibilities of the health insuring corporation, and of the contracted providers and health care facilities, with respect to administrative policies and programs, including, but not limited to, payments systems, utilization review, quality assurance, assessment, and improvement programs, credentialing, confidentiality requirements, and any applicable federal or state programs;

(5) A provision regarding the availability and confidentiality of those health records maintained by providers and health care facilities to monitor and evaluate the quality of care, to conduct evaluations and audits, and to determine on a concurrent or retrospective basis the necessity of and appropriateness of health care services provided to enrollees. The provision shall include terms requiring the provider or health care facility to make these health records available to appropriate state and federal authorities involved in assessing the quality of care or in investigating the grievances or complaints of enrollees, and requiring the provider or health care facility to comply with applicable state and federal laws related to the confidentiality of medical or health records.

(6) A provision that states that contractual rights and responsibilities may not be assigned or delegated by the provider or health care facility without the prior written consent of the health insuring corporation;

(7) A provision requiring the provider or health care facility to maintain adequate professional liability and malpractice insurance. The provision shall also require the provider or health care facility to notify the health insuring corporation not more than ten days after the provider's or health care facility's receipt of notice of any reduction or cancellation of such coverage.

(8) A provision requiring the provider or health care facility to observe, protect, and promote the rights of enrollees as patients;

(9) A provision requiring the provider or health care facility to provide health care services without discrimination on the basis of a patient's participation in the health care plan, age, sex, ethnicity, religion, sexual preference, health status, or disability, and without regard to the source of

payments made for health care services rendered to a patient. This requirement shall not apply to circumstances when the provider or health care facility appropriately does not render services due to limitations arising from the provider's or health care facility's lack of training, experience, or skill, or due to licensing restrictions.

(10) A provision containing the specifics of any obligation on the primary care provider to provide, or to arrange for the provision of, covered health care services twenty-four hours per day, seven days per week;

(11) A provision setting forth procedures for the resolution of disputes arising out of the contract;

(12) A provision stating that the hold harmless provision required by division (C)(2) of this section shall survive the termination of the contract with respect to services covered and provided under the contract during the time the contract was in effect, regardless of the reason for the termination, including the insolvency of the health insuring corporation;

(13) A provision requiring those terms that are used in the contract and that are defined by this chapter, be used in the contract in a manner consistent with those definitions.

This division does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, ~~or to the coverage of participants of the children's buy-in program,~~ or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

(D)(1) No health insuring corporation contract with a provider or health care facility shall contain any of the following:

(a) A provision that directly or indirectly offers an inducement to the provider or health care facility to reduce or limit medically necessary health care services to a covered enrollee;

(b) A provision that penalizes a provider or health care facility that assists an enrollee to seek a reconsideration of the health insuring corporation's decision to deny or limit benefits to the enrollee;

(c) A provision that limits or otherwise restricts the provider's or health care facility's ethical and legal responsibility to fully advise enrollees about their medical condition and about medically appropriate treatment options;

(d) A provision that penalizes a provider or health care facility for principally advocating for medically necessary health care services;

(e) A provision that penalizes a provider or health care facility for providing information or testimony to a legislative or regulatory body or agency. This shall not be construed to prohibit a health insuring corporation from penalizing a provider or health care facility that provides information or testimony that is libelous or slanderous or that discloses trade secrets which the provider or health care facility has no privilege or permission to disclose.

(f) A provision that violates Chapter 3963. of the Revised Code.

(2) Nothing in this division shall be construed to prohibit a health insuring corporation from doing either of the following:

(a) Making a determination not to reimburse or pay for a particular medical treatment or other health care service;

(b) Enforcing reasonable peer review or utilization review protocols, or determining whether a particular provider or health care facility has complied with these protocols.

(E) Any contract between a health insuring corporation and an intermediary organization shall clearly specify that the health insuring corporation must approve or disapprove the participation of any provider or health care facility with which the intermediary organization contracts.

(F) If an intermediary organization that is not a health delivery network contracting solely with self-insured employers subcontracts with a provider or health care facility, the subcontract with the provider or health care facility shall do all of the following:

(1) Contain the provisions required by divisions (C) and (G) of this section, as made applicable to an intermediary organization, without the inclusion of inducements or penalties described in division (D) of this section;

(2) Acknowledge that the health insuring corporation is a third-party beneficiary to the agreement;

(3) Acknowledge the health insuring corporation's role in approving the participation of the provider or health care facility, pursuant to division (E) of this section.

(G) Any provider contract or contract with a health care facility shall clearly specify the health insuring corporation's statutory responsibility to monitor and oversee the offering of covered health care services to its enrollees.

(H)(1) A health insuring corporation shall maintain its provider contracts and its contracts with health care facilities at one or more of its places of business in this state, and shall provide copies of these contracts to facilitate regulatory review upon written notice by the superintendent of

insurance.

(2) Any contract with an intermediary organization that accepts compensation shall include provisions requiring the intermediary organization to provide the superintendent with regulatory access to all books, records, financial information, and documents related to the provision of health care services to subscribers and enrollees under the contract. The contract shall require the intermediary organization to maintain such books, records, financial information, and documents at its principal place of business in this state and to preserve them for at least three years in a manner that facilitates regulatory review.

(I)(1) A health insuring corporation shall notify its affected enrollees of the termination of a contract for the provision of health care services between the health insuring corporation and a primary care physician or hospital, by mail, within thirty days after the termination of the contract.

(a) Notice shall be given to subscribers of the termination of a contract with a primary care physician if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from the primary care physician within the previous twelve months or if the subscriber or dependent has selected the physician as the subscriber's or dependent's primary care physician within the previous twelve months.

(b) Notice shall be given to subscribers of the termination of a contract with a hospital if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from that hospital within the previous twelve months.

(2) The health insuring corporation shall pay, in accordance with the terms of the contract, for all covered health care services rendered to an enrollee by a primary care physician or hospital between the date of the termination of the contract and five days after the notification of the contract termination is mailed to a subscriber at the subscriber's last known address.

(J) Divisions (A) and (B) of this section do not apply to any health insuring corporation that, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1740. of the Revised Code.

(K) Nothing in this section shall restrict the governing body of a hospital from exercising the authority granted it pursuant to section 3701.351 of the Revised Code.

Sec. 1751.15. (A) Each health insuring corporation shall accept individuals for open enrollment coverage as provided in sections 3923.58 and 3923.581 of the Revised Code. A health insuring corporation may reinsure coverage of any individual acquired under those sections with the open enrollment reinsurance program in accordance with division (G) of

section 3924.11 of the Revised Code. Fixed periodic prepayment rates charged for coverage reinsured by the program shall be established in accordance with section 3924.12 of the Revised Code.

(B) This section does not apply to any of the following:

(1) Any health insuring corporation that offers only supplemental health care services or specialty health care services;

(2) Any health insuring corporation that offers plans only through medicare~~,~~ or medicaid~~, or the children's buy-in program~~ and that has no other commercial enrollment;

(3) Any health insuring corporation that offers plans only through other federal health care programs regulated by federal regulatory bodies and that has no other commercial enrollment;

(4) Any health insuring corporation that offers plans only through contracts covering officers or employees of the state that have been entered into by the department of administrative services and that has no other commercial enrollment.

Sec. 1751.17. (A) As used in this section, "nongroup contract" means a contract issued by a health insuring corporation to an individual who makes direct application for coverage under the contract and who, if required by the health insuring corporation, submits to medical underwriting. "Nongroup contract" does not include group conversion coverage, coverage obtained through open enrollment, or coverage issued on the basis of membership in a group.

(B) Except as provided in division (C) of this section, every nongroup contract that is issued by a health insuring corporation and that makes available basic health care services shall provide an option for conversion to a contract issued on a direct-payment basis to an enrollee covered by the nongroup contract. The option for conversion shall be available:

(1) Upon the death of the subscriber, to the surviving spouse with respect to the spouse or dependents who were then covered by the nongroup contract;

(2) Upon the divorce, dissolution, or annulment of the marriage of the subscriber, to the divorced spouse, or, in the event of annulment, to the former spouse of the subscriber;

(3) To a child solely with respect to the child, upon the child's attaining the limiting age of coverage under the nongroup contract while covered as a dependent under the contract.

(C) The direct payment contract offered pursuant to division (B) of this section shall not be made available to an enrollee if any of the following applies:

(1) The enrollee is, or is eligible to be, covered for benefits at least comparable to the nongroup contract under any of the following:

(a) Medicaid;

(b) ~~The children's buy-in program;~~

~~(c)~~ Medicare;

~~(d)~~(c) Any act of congress or law under this or any other state of the United States providing coverage at least comparable to the benefits offered under division (C)(1)(a)~~,~~ or (b)~~, or (c)~~ of this section.

(2) The nongroup contract under which the enrollee was covered was terminated due to nonpayment of a premium rate.

(3) The enrollee is eligible for group coverage provided by, or available through, an employer or association and the group coverage provides benefits comparable to the benefits provided under a direct payment contract.

(D) The direct payment contract offered pursuant to division (B) of this section shall provide benefits that are at least comparable to the benefits provided by the nongroup contract under which the enrollee was covered at the time of the occurrence of any of the events set forth in division (B) of this section. The coverage provided under the direct payment contract shall be continuous, provided that the enrollee makes the required premium rate payment within the thirty-day period immediately following the occurrence of the event, and may be terminated for nonpayment of any required premium rate payment.

(E) The evidence of coverage of every nongroup contract shall contain notice that an option for conversion to a contract issued on a direct-payment basis is available, in accordance with this section, to any enrollee covered by the contract.

(F) Benefits otherwise payable to an enrollee under a direct payment contract shall be reduced by the amount of any benefits available to the enrollee under any applicable group health insuring corporation contract or group sickness and accident insurance policy.

(G) Nothing in this section shall be construed as requiring a health insuring corporation to offer nongroup contracts.

(H) This section does not apply to any nongroup contract offering only supplemental health care services or specialty health care services.

Sec. 1751.20. (A) No health insuring corporation, or agent, employee, or representative of a health insuring corporation, shall use any advertisement or solicitation document, or shall engage in any activity, that is unfair, untrue, misleading, or deceptive.

(B) No health insuring corporation shall use a name that is deceptively

similar to the name or description of any insurance or surety corporation doing business in this state.

(C) All solicitation documents, advertisements, evidences of coverage, and enrollee identification cards used by a health insuring corporation shall contain the health insuring corporation's name. The use of a trade name, an insurance group designation, the name of a parent company, the name of a division of an affiliated insurance company, a service mark, a slogan, a symbol, or other device, without the name of the health insuring corporation as stated in its articles of incorporation, shall not satisfy this requirement if the usage would have the capacity and tendency to mislead or deceive persons as to the true identity of the health insuring corporation.

(D) No solicitation document or advertisement used by a health insuring corporation shall contain any words, symbols, or physical materials that are so similar in content, phraseology, shape, color, or other characteristic to those used by an agency of the federal government or this state, that prospective enrollees may be led to believe that the solicitation document or advertisement is connected with an agency of the federal government or this state.

(E) A health insuring corporation that provides basic health care services may use the phrase "health maintenance organization" or the abbreviation "HMO" in its marketing name, advertising, solicitation documents, or marketing literature, or in reference to the phrase "doing business as" or the abbreviation "DBA."

(F) This section does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients~~, or to the coverage of participants of the children's buy-in program,~~ or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

Sec. 1751.31. (A) Any changes in a health insuring corporation's solicitation document shall be filed with the superintendent of insurance. The superintendent, within sixty days of filing, may disapprove any solicitation document or amendment to it on any of the grounds stated in this section. Such disapproval shall be effected by written notice to the health insuring corporation. The notice shall state the grounds for disapproval and shall be issued in accordance with Chapter 119. of the Revised Code.

(B) The solicitation document shall contain all information necessary to

enable a consumer to make an informed choice as to whether or not to enroll in the health insuring corporation. The information shall include a specific description of the health care services to be available and the approximate number and type of full-time equivalent medical practitioners. The information shall be presented in the solicitation document in a manner that is clear, concise, and intelligible to prospective applicants in the proposed service area.

(C) Every potential applicant whose subscription to a health care plan is solicited shall receive, at or before the time of solicitation, a solicitation document approved by the superintendent.

(D) Notwithstanding division (A) of this section, a health insuring corporation may use a solicitation document that the corporation uses in connection with policies for medicare beneficiaries pursuant to a medicare risk contract or medicare cost contract, or for policies for beneficiaries of the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies for medicaid recipients, or for policies for beneficiaries of any other federal health care program regulated by a federal regulatory body, ~~or for policies for participants of the children's buy-in program,~~ or for policies for beneficiaries of contracts covering officers or employees of the state entered into by the department of administrative services, if both of the following apply:

(1) The solicitation document has been approved by the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(2) The solicitation document is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(E) No health insuring corporation, or its agents or representatives, shall use monetary or other valuable consideration, engage in misleading or deceptive practices, or make untrue, misleading, or deceptive representations to induce enrollment. Nothing in this division shall prohibit incentive forms of remuneration such as commission sales programs for the health insuring corporation's employees and agents.

(F) Any person obligated for any part of a premium rate in connection with an enrollment agreement, in addition to any right otherwise available to revoke an offer, may cancel such agreement within seventy-two hours after having signed the agreement or offer to enroll. Cancellation occurs when

written notice of the cancellation is given to the health insuring corporation or its agents or other representatives. A notice of cancellation mailed to the health insuring corporation shall be considered to have been filed on its postmark date.

(G) Nothing in this section shall prohibit healthy lifestyle programs.

Sec. 1751.34. (A) Each health insuring corporation and each applicant for a certificate of authority under this chapter shall be subject to examination by the superintendent of insurance in accordance with section 3901.07 of the Revised Code. Section 3901.07 of the Revised Code shall govern every aspect of the examination, including the circumstances under and frequency with which it is conducted, the authority of the superintendent and any examiner or other person appointed by the superintendent, the liability for the assessment of expenses incurred in conducting the examination, and the remittance of the assessment to the superintendent's examination fund.

(B) The superintendent shall make an examination concerning the matters subject to the superintendent's consideration in section 1751.04 of the Revised Code as often as the superintendent considers it necessary for the protection of the interests of the people of this state. The expenses of such examinations shall be assessed against the health insuring corporation being examined in the manner in which expenses of examinations are assessed against an insurance company under section 3901.07 of the Revised Code. Nothing in this division requires the superintendent to make an examination of any of the following:

(1) A health insuring corporation that covers solely medicaid recipients;

(2) A health insuring corporation that covers solely medicare beneficiaries;

(3) A health insuring corporation that covers solely medicaid recipients and medicare beneficiaries~~;~~

~~(4) A health insuring corporation that covers solely participants of the children's buy-in program;~~

~~(5) A health insuring corporation that covers solely medicaid recipients and participants of the children's buy-in program;~~

~~(6) A health insuring corporation that covers solely medicaid recipients, medicare beneficiaries, and participants of the children's buy-in program~~.

(C) An examination, pursuant to section 3901.07 of the Revised Code, of an insurance company holding a certificate of authority under this chapter to organize and operate a health insuring corporation shall include an examination of the health insuring corporation pursuant to this section and the examination shall satisfy the requirements of divisions (A) and (B) of

this section.

(D) The superintendent may conduct market conduct examinations pursuant to section 3901.011 of the Revised Code of any health insuring corporation as often as the superintendent considers it necessary for the protection of the interests of subscribers and enrollees. The expenses of such market conduct examinations shall be assessed against the health insuring corporation being examined. All costs, assessments, or fines collected under this division shall be paid into the state treasury to the credit of the department of insurance operating fund.

Sec. 1751.60. (A) Except as provided for in divisions (E) and (F) of this section, every provider or health care facility that contracts with a health insuring corporation to provide health care services to the health insuring corporation's enrollees or subscribers shall seek compensation for covered services solely from the health insuring corporation and not, under any circumstances, from the enrollees or subscribers, except for approved copayments and deductibles.

(B) No subscriber or enrollee of a health insuring corporation is liable to any contracting provider or health care facility for the cost of any covered health care services, if the subscriber or enrollee has acted in accordance with the evidence of coverage.

(C) Except as provided for in divisions (E) and (F) of this section, every contract between a health insuring corporation and provider or health care facility shall contain a provision approved by the superintendent of insurance requiring the provider or health care facility to seek compensation solely from the health insuring corporation and not, under any circumstances, from the subscriber or enrollee, except for approved copayments and deductibles.

(D) Nothing in this section shall be construed as preventing a provider or health care facility from billing the enrollee or subscriber of a health insuring corporation for noncovered services.

(E) Upon application by a health insuring corporation and a provider or health care facility, the superintendent may waive the requirements of divisions (A) and (C) of this section when, in addition to the reserve requirements contained in section 1751.28 of the Revised Code, the health insuring corporation provides sufficient assurances to the superintendent that the provider or health care facility has been provided with financial guarantees. No waiver of the requirements of divisions (A) and (C) of this section is effective as to enrollees or subscribers for whom the health insuring corporation is compensated under a provider agreement or risk contract entered into pursuant to Chapter 5111. or 5115. of the Revised

Code ~~or under the children's buy-in program~~.

(F) The requirements of divisions (A) to (C) of this section apply only to health care services provided to an enrollee or subscriber prior to the effective date of a termination of a contract between the health insuring corporation and the provider or health care facility.

Sec. 1761.04. (A) The licensing and operation of a credit union share guaranty corporation is subject to the regulation of the superintendent of insurance pursuant to Chapters 3901., 3903., 3905., 3925., 3927., 3929., 3937., 3941., and 3999. of the Revised Code to the extent such laws are otherwise applicable and are not in conflict with this chapter.

(B) A credit union share guaranty corporation shall pay, by the fifteenth day of April of each year, to the superintendent of credit unions, an annual fee of one-half of one per cent of its guarantee fund as shown by the corporation's last annual financial report, but in no event shall such payment exceed ~~five~~ twenty-five thousand dollars in any calendar year.

(C) In addition to the specific powers and duties given the superintendent of insurance and the superintendent of credit unions under this chapter, the superintendents may independently, pursuant to Chapter 119. of the Revised Code, adopt, amend, and rescind such rules as are necessary to implement the requirements of this chapter.

Sec. 1776.83. (A) A limited liability partnership and a foreign limited liability partnership authorized to transact business in this state shall file a biennial report in the office of the secretary of state. The report shall contain all of the following:

(1) The name of the limited liability partnership and the state or other jurisdiction under whose laws the foreign limited liability partnership is formed;

(2) The street address of the partnership's chief executive office and, if the partnership's chief executive office is not in this state, the street address of any office of the partnership in this state;

(3) If the partnership does not have an office in this state, the name and street address of the partnership's current agent for service of process.

(B) A partnership shall file a biennial report between the first day of April and the first day of July of each odd-numbered year that follows the calendar year in which the partnership files a statement of qualification or a foreign partnership becomes authorized to transact business in this state.

(C) The secretary of state may revoke the statement of qualification of any partnership that fails to file a biennial report when due or pay the required filing fee. To revoke a statement, the secretary of state shall provide the partnership at least sixty days' written notice of the intent to

revoke, mailed to the partnership at its chief executive office set forth in the last filed statement of qualification or biennial report or sent by electronic mail to the last electronic mail address provided to the secretary of state. The notice shall specify the report that the partnership failed to file, the unpaid fee, and the effective date of the revocation. The revocation is not effective if the partnership files the report and pays the fee before the effective date of the revocation.

(D) A revocation under division (C) of this section affects only a partnership's status as a limited liability partnership and is not an event of dissolution of the partnership.

(E) A partnership whose statement of qualification is revoked may apply to the secretary of state for reinstatement within two years after the effective date of the revocation. The application for reinstatement shall state the name of the partnership, the effective date of the revocation, and that the ground for revocation either did not exist or has been corrected.

(F) A reinstatement under division (E) of this section relates back to and takes effect as of the effective date of the revocation, and the partnership's status as a limited liability partnership continues as if the revocation had never occurred.

Sec. 1785.06. A professional association, within thirty days after the thirtieth day of June in each even-numbered year, shall furnish a statement to the secretary of state showing the names and post-office addresses of all of the shareholders in the association and certifying that all of the shareholders are duly licensed, certificated, or otherwise legally authorized to render within this state the same professional service for which the association was organized or, in the case of a combination of professional services described in division (B) of section 1785.01 of the Revised Code, to render within this state any of the applicable types of professional services for which the association was organized. This statement shall be made on a form that the secretary of state shall prescribe, shall be signed by an officer of the association, and shall be filed in the office of the secretary of state.

If any professional association fails to file the biennial statement within the time required by this section, the secretary of state shall give notice of the failure by ~~certified~~ ordinary or electronic mail~~, return receipt requested,~~ to the last known physical or electronic address of the association or its agent. If the biennial statement is not filed within thirty days after the mailing of the notice, the secretary of state, upon the expiration of that period, shall cancel the association's articles of incorporation, give notice of the cancellation to the association by ordinary or electronic mail sent to the last known physical or electronic address of the association or its agent, and

make a notation of the cancellation on the records of the secretary of state.

A professional association whose articles have been canceled pursuant to this section may be reinstated by filing an application for reinstatement and the required biennial statement or statements and by paying the reinstatement fee specified in division (Q) of section 111.16 of the Revised Code. The rights, privileges, and franchises of a professional association whose articles have been reinstated are subject to section 1701.922 of the Revised Code. The secretary of state shall inform the tax commissioner of all cancellations and reinstatements under this section.

Sec. 1901.02. (A) The municipal courts established by section 1901.01 of the Revised Code have jurisdiction within the corporate limits of their respective municipal corporations, or, for the Clermont county municipal court, the Columbiana county municipal court, and, effective January 1, 2008, the Erie county municipal court, within the municipal corporation or unincorporated territory in which they are established, and are courts of record. Each of the courts shall be styled "..... municipal court," inserting the name of the municipal corporation, except the following courts, which shall be styled as set forth below:

(1) The municipal court established in Chesapeake that shall be styled and known as the "Lawrence county municipal court";

(2) The municipal court established in Cincinnati that shall be styled and known as the "Hamilton county municipal court";

(3) The municipal court established in Ravenna that shall be styled and known as the "Portage county municipal court";

(4) The municipal court established in Athens that shall be styled and known as the "Athens county municipal court";

(5) The municipal court established in Columbus that shall be styled and known as the "Franklin county municipal court";

(6) The municipal court established in London that shall be styled and known as the "Madison county municipal court";

(7) The municipal court established in Newark that shall be styled and known as the "Licking county municipal court";

(8) The municipal court established in Wooster that shall be styled and known as the "Wayne county municipal court";

(9) The municipal court established in Wapakoneta that shall be styled and known as the "Auglaize county municipal court";

(10) The municipal court established in Troy that shall be styled and known as the "Miami county municipal court";

(11) The municipal court established in Bucyrus that shall be styled and known as the "Crawford county municipal court";

(12) The municipal court established in Logan that shall be styled and known as the "Hocking county municipal court";

(13) The municipal court established in Urbana that shall be styled and known as the "Champaign county municipal court";

(14) The municipal court established in Jackson that shall be styled and known as the "Jackson county municipal court";

(15) The municipal court established in Springfield that shall be styled and known as the "Clark county municipal court";

(16) The municipal court established in Kenton that shall be styled and known as the "Hardin county municipal court";

(17) The municipal court established within Clermont county in Batavia or in any other municipal corporation or unincorporated territory within Clermont county that is selected by the legislative authority of that court that shall be styled and known as the "Clermont county municipal court";

(18) The municipal court established in Wilmington that, beginning July 1, 1992, shall be styled and known as the "Clinton county municipal court";

(19) The municipal court established in Port Clinton that shall be styled and known as "the Ottawa county municipal court";

(20) The municipal court established in Lancaster that, beginning January 2, 2000, shall be styled and known as the "Fairfield county municipal court";

(21) The municipal court established within Columbiana county in Lisbon or in any other municipal corporation or unincorporated territory selected pursuant to division (I) of section 1901.021 of the Revised Code, that shall be styled and known as the "Columbiana county municipal court";

(22) The municipal court established in Georgetown that, beginning February 9, 2003, shall be styled and known as the "Brown county municipal court";

(23) The municipal court established in Mount Gilead that, beginning January 1, 2003, shall be styled and known as the "Morrow county municipal court";

(24) The municipal court established in Greenville that, beginning January 1, 2005, shall be styled and known as the "Darke county municipal court";

(25) The municipal court established in Millersburg that, beginning January 1, 2007, shall be styled and known as the "Holmes county municipal court";

(26) The municipal court established in Carrollton that, beginning January 1, 2007, shall be styled and known as the "Carroll county municipal court";

(27) The municipal court established within Erie county in Milan or established in any other municipal corporation or unincorporated territory that is within Erie county, is within the territorial jurisdiction of that court, and is selected by the legislative authority of that court that, beginning January 1, 2008, shall be styled and known as the "Erie county municipal court";

(28) The municipal court established in Ottawa that, beginning January 1, 2011, shall be styled and known as the "Putnam county municipal court";

(29) The municipal court established within Montgomery county in any municipal corporation or unincorporated territory within Montgomery county, except the municipal corporations of Centerville, Clayton, Dayton, Englewood, Germantown, Kettering, Miamisburg, Moraine, Oakwood, Union, Vandalia, and West Carrollton and Butler, German, Harrison, Miami, and Washington townships, that is selected by the legislative authority of that court and that, beginning July 1, 2010, shall be styled and known as the "Montgomery county municipal court."

(B) In addition to the jurisdiction set forth in division (A) of this section, the municipal courts established by section 1901.01 of the Revised Code have jurisdiction as follows:

The Akron municipal court has jurisdiction within Bath, Richfield, and Springfield townships, and within the municipal corporations of Fairlawn, Lakemore, and Mogadore, in Summit county.

The Alliance municipal court has jurisdiction within Lexington, Marlboro, Paris, and Washington townships in Stark county.

The Ashland municipal court has jurisdiction within Ashland county.

The Ashtabula municipal court has jurisdiction within Ashtabula, Plymouth, and Saybrook townships in Ashtabula county.

The Athens county municipal court has jurisdiction within Athens county.

The Auglaize county municipal court has jurisdiction within Auglaize county.

The Avon Lake municipal court has jurisdiction within the municipal corporations of Avon and Sheffield in Lorain county.

The Barberton municipal court has jurisdiction within Coventry, Franklin, and Green townships, within all of Copley township except within the municipal corporation of Fairlawn, and within the municipal corporations of Clinton and Norton, in Summit county.

The Bedford municipal court has jurisdiction within the municipal corporations of Bedford Heights, Oakwood, Glenwillow, Solon, Bentleyville, Chagrin Falls, Moreland Hills, Orange, Warrensville Heights,

North Randall, and Woodmere, and within Warrensville and Chagrin Falls townships, in Cuyahoga county.

The Bellefontaine municipal court has jurisdiction within Logan county.

The Bellevue municipal court has jurisdiction within Lyme and Sherman townships in Huron county and within York township in Sandusky county.

The Berea municipal court has jurisdiction within the municipal corporations of Strongsville, Middleburgh Heights, Brook Park, Westview, and Olmsted Falls, and within Olmsted township, in Cuyahoga county.

The Bowling Green municipal court has jurisdiction within the municipal corporations of Bairdstown, Bloomdale, Bradner, Custar, Cygnet, Grand Rapids, Haskins, Hoytville, Jerry City, Milton Center, North Baltimore, Pemberville, Portage, Rising Sun, Tontogany, Wayne, West Millgrove, and Weston, and within Bloom, Center, Freedom, Grand Rapids, Henry, Jackson, Liberty, Middleton, Milton, Montgomery, Plain, Portage, Washington, Webster, and Weston townships in Wood county.

Beginning February 9, 2003, the Brown county municipal court has jurisdiction within Brown county.

The Bryan municipal court has jurisdiction within Williams county.

The Cambridge municipal court has jurisdiction within Guernsey county.

The Campbell municipal court has jurisdiction within Coitsville township in Mahoning county.

The Canton municipal court has jurisdiction within Canton, Lake, Nimishillen, Osnaburg, Pike, Plain, and Sandy townships in Stark county.

The Carroll county municipal court has jurisdiction within Carroll county.

The Celina municipal court has jurisdiction within Mercer county.

The Champaign county municipal court has jurisdiction within Champaign county.

The Chardon municipal court has jurisdiction within Geauga county.

The Chillicothe municipal court has jurisdiction within Ross county.

The Circleville municipal court has jurisdiction within Pickaway county.

The Clark county municipal court has jurisdiction within Clark county.

The Clermont county municipal court has jurisdiction within Clermont county.

The Cleveland municipal court has jurisdiction within the municipal corporation of Bratenahl in Cuyahoga county.

Beginning July 1, 1992, the Clinton county municipal court has

jurisdiction within Clinton county.

The Columbiana county municipal court has jurisdiction within all of Columbiana county except within the municipal corporation of East Liverpool and except within Liverpool and St. Clair townships.

The Coshocton municipal court has jurisdiction within Coshocton county.

The Crawford county municipal court has jurisdiction within Crawford county.

Until December 31, 2008, the Cuyahoga Falls municipal court has jurisdiction within Boston, Hudson, Northfield Center, Sagamore Hills, and Twinsburg townships, and within the municipal corporations of Boston Heights, Hudson, Munroe Falls, Northfield, Peninsula, Reminderville, Silver Lake, Stow, Tallmadge, Twinsburg, and Macedonia, in Summit county.

Beginning January 1, 2005, the Darke county municipal court has jurisdiction within Darke county except within the municipal corporation of Bradford.

The Defiance municipal court has jurisdiction within Defiance county.

The Delaware municipal court has jurisdiction within Delaware county.

The East Liverpool municipal court has jurisdiction within Liverpool and St. Clair townships in Columbiana county.

The Eaton municipal court has jurisdiction within Preble county.

The Elyria municipal court has jurisdiction within the municipal corporations of Grafton, LaGrange, and North Ridgeville, and within Elyria, Carlisle, Eaton, Columbia, Grafton, and LaGrange townships, in Lorain county.

Beginning January 1, 2008, the Erie county municipal court has jurisdiction within Erie county except within the townships of Florence, Huron, Perkins, and Vermilion and the municipal corporations of Bay View, Castalia, Huron, Sandusky, and Vermilion.

The Fairborn municipal court has jurisdiction within the municipal corporation of Beavercreek and within Bath and Beavercreek townships in Greene county.

Beginning January 2, 2000, the Fairfield county municipal court has jurisdiction within Fairfield county.

The Findlay municipal court has jurisdiction within all of Hancock county except within Washington township.

The Fostoria municipal court has jurisdiction within Loudon and Jackson townships in Seneca county, within Washington township in Hancock county, and within Perry township, except within the municipal corporation of West Millgrove, in Wood county.

The Franklin municipal court has jurisdiction within Franklin township in Warren county.

The Franklin county municipal court has jurisdiction within Franklin county.

The Fremont municipal court has jurisdiction within Ballville and Sandusky townships in Sandusky county.

The Gallipolis municipal court has jurisdiction within Gallia county.

The Garfield Heights municipal court has jurisdiction within the municipal corporations of Maple Heights, Walton Hills, Valley View, Cuyahoga Heights, Newburgh Heights, Independence, and Brecksville in Cuyahoga county.

The Girard municipal court has jurisdiction within Liberty, Vienna, and Hubbard townships in Trumbull county.

The Hamilton municipal court has jurisdiction within Ross and St. Clair townships in Butler county.

The Hamilton county municipal court has jurisdiction within Hamilton county.

The Hardin county municipal court has jurisdiction within Hardin county.

The Hillsboro municipal court has jurisdiction within all of Highland county except within Madison township.

The Hocking county municipal court has jurisdiction within Hocking county.

The Holmes county municipal court has jurisdiction within Holmes county.

The Huron municipal court has jurisdiction within all of Huron township in Erie county except within the municipal corporation of Sandusky.

The Ironton municipal court has jurisdiction within Aid, Decatur, Elizabeth, Hamilton, Lawrence, Upper, and Washington townships in Lawrence county.

The Jackson county municipal court has jurisdiction within Jackson county.

The Kettering municipal court has jurisdiction within the municipal corporations of Centerville and Moraine, and within Washington township, in Montgomery county.

Until January 2, 2000, the Lancaster municipal court has jurisdiction within Fairfield county.

The Lawrence county municipal court has jurisdiction within the townships of Fayette, Mason, Perry, Rome, Symmes, Union, and Windsor in

Lawrence county.

The Lebanon municipal court has jurisdiction within Turtlecreek township in Warren county.

The Licking county municipal court has jurisdiction within Licking county.

The Lima municipal court has jurisdiction within Allen county.

The Lorain municipal court has jurisdiction within the municipal corporation of Sheffield Lake, and within Sheffield township, in Lorain county.

The Lyndhurst municipal court has jurisdiction within the municipal corporations of Mayfield Heights, Gates Mills, Mayfield, Highland Heights, and Richmond Heights in Cuyahoga county.

The Madison county municipal court has jurisdiction within Madison county.

The Mansfield municipal court has jurisdiction within Madison, Springfield, Sandusky, Franklin, Weller, Mifflin, Troy, Washington, Monroe, Perry, Jefferson, and Worthington townships, and within sections 35-36-31 and 32 of Butler township, in Richland county.

The Marietta municipal court has jurisdiction within Washington county.

The Marion municipal court has jurisdiction within Marion county.

The Marysville municipal court has jurisdiction within Union county.

The Mason municipal court has jurisdiction within Deerfield township in Warren county.

The Massillon municipal court has jurisdiction within Bethlehem, Perry, Sugar Creek, Tuscarawas, Lawrence, and Jackson townships in Stark county.

The Maumee municipal court has jurisdiction within the municipal corporations of Waterville and Whitehouse, within Waterville and Providence townships, and within those portions of Springfield, Monclova, and Swanton townships lying south of the northerly boundary line of the Ohio turnpike, in Lucas county.

The Medina municipal court has jurisdiction within the municipal corporations of Briarwood Beach, Brunswick, Chippewa-on-the-Lake, and Spencer and within the townships of Brunswick Hills, Chatham, Granger, Hinckley, Lafayette, Litchfield, Liverpool, Medina, Montville, Spencer, and York townships, in Medina county.

The Mentor municipal court has jurisdiction within the municipal corporation of Mentor-on-the-Lake in Lake county.

The Miami county municipal court has jurisdiction within Miami county

and within the part of the municipal corporation of Bradford that is located in Darke county.

The Miamisburg municipal court has jurisdiction within the municipal corporations of Germantown and West Carrollton, and within German and Miami townships in Montgomery county.

The Middletown municipal court has jurisdiction within Madison township, and within all of Lemon township, except within the municipal corporation of Monroe, in Butler county.

Beginning July 1, 2010, the Montgomery county municipal court has jurisdiction within all of Montgomery county except for the municipal corporations of Centerville, Clayton, Dayton, Englewood, Germantown, Kettering, Miamisburg, Moraine, Oakwood, Union, Vandalia, and West Carrollton and Butler, German, Harrison, Miami, and Washington townships.

Beginning January 1, 2003, the Morrow county municipal court has jurisdiction within Morrow county.

The Mount Vernon municipal court has jurisdiction within Knox county.

The Napoleon municipal court has jurisdiction within Henry county.

The New Philadelphia municipal court has jurisdiction within the municipal corporation of Dover, and within Auburn, Bucks, Fairfield, Goshen, Jefferson, Warren, York, Dover, Franklin, Lawrence, Sandy, Sugarcreek, and Wayne townships in Tuscarawas county.

The Newton Falls municipal court has jurisdiction within Bristol, Bloomfield, Lordstown, Newton, Braceville, Southington, Farmington, and Mesopotamia townships in Trumbull county.

The Niles municipal court has jurisdiction within the municipal corporation of McDonald, and within Weathersfield township in Trumbull county.

The Norwalk municipal court has jurisdiction within all of Huron county except within the municipal corporation of Bellevue and except within Lyme and Sherman townships.

The Oberlin municipal court has jurisdiction within the municipal corporations of Amherst, Kipton, Rochester, South Amherst, and Wellington, and within Henrietta, Russia, Camden, Pittsfield, Brighton, Wellington, Penfield, Rochester, and Huntington townships, and within all of Amherst township except within the municipal corporation of Lorain, in Lorain county.

The Oregon municipal court has jurisdiction within the municipal corporation of Harbor View, and within Jerusalem township, in Lucas

county, and north within Maumee Bay and Lake Erie to the boundary line between Ohio and Michigan between the easterly boundary of the court and the easterly boundary of the Toledo municipal court.

The Ottawa county municipal court has jurisdiction within Ottawa county.

The Painesville municipal court has jurisdiction within Painesville, Perry, Leroy, Concord, and Madison townships in Lake county.

The Parma municipal court has jurisdiction within the municipal corporations of Parma Heights, Brooklyn, Linndale, North Royalton, Broadview Heights, Seven Hills, and Brooklyn Heights in Cuyahoga county.

The Perrysburg municipal court has jurisdiction within the municipal corporations of Luckey, Millbury, Northwood, Rossford, and Walbridge, and within Perrysburg, Lake, and Troy townships, in Wood county.

The Portage county municipal court has jurisdiction within Portage county.

The Portsmouth municipal court has jurisdiction within Scioto county.

The Putnam county municipal court has jurisdiction within Putnam county.

The Rocky River municipal court has jurisdiction within the municipal corporations of Bay Village, Westlake, Fairview Park, and North Olmsted, and within Riveredge township, in Cuyahoga county.

The Sandusky municipal court has jurisdiction within the municipal corporations of Castalia and Bay View, and within Perkins township, in Erie county.

The Shaker Heights municipal court has jurisdiction within the municipal corporations of University Heights, Beachwood, Pepper Pike, and Hunting Valley in Cuyahoga county.

The Shelby municipal court has jurisdiction within Sharon, Jackson, Cass, Plymouth, and Blooming Grove townships, and within all of Butler township except sections 35-36-31 and 32, in Richland county.

The Sidney municipal court has jurisdiction within Shelby county.

Beginning January 1, 2009, the Stow municipal court has jurisdiction within Boston, Hudson, Northfield Center, Sagamore Hills, and Twinsburg townships, and within the municipal corporations of Boston Heights, Cuyahoga Falls, Hudson, Munroe Falls, Northfield, Peninsula, Reminderville, Silver Lake, Stow, Tallmadge, Twinsburg, and Macedonia, in Summit county.

The Struthers municipal court has jurisdiction within the municipal corporations of Lowellville, New Middleton, and Poland, and within Poland

and Springfield townships in Mahoning county.

The Sylvania municipal court has jurisdiction within the municipal corporations of Berkey and Holland, and within Sylvania, Richfield, Spencer, and Harding townships, and within those portions of Swanton, Monclova, and Springfield townships lying north of the northerly boundary line of the Ohio turnpike, in Lucas county.

The Tiffin municipal court has jurisdiction within Adams, Big Spring, Bloom, Clinton, Eden, Hopewell, Liberty, Pleasant, Reed, Scipio, Seneca, Thompson, and Venice townships in Seneca county.

The Toledo municipal court has jurisdiction within Washington township, and within the municipal corporation of Ottawa Hills, in Lucas county.

The Upper Sandusky municipal court has jurisdiction within Wyandot county.

The Vandalia municipal court has jurisdiction within the municipal corporations of Clayton, Englewood, and Union, and within Butler, Harrison, and Randolph townships, in Montgomery county.

The Van Wert municipal court has jurisdiction within Van Wert county.

The Vermilion municipal court has jurisdiction within the townships of Vermilion and Florence in Erie county and within all of Brownhelm township except within the municipal corporation of Lorain, in Lorain county.

The Wadsworth municipal court has jurisdiction within the municipal corporations of Gloria Glens Park, Lodi, Seville, and Westfield Center, and within Guilford, Harrisville, Homer, Sharon, Wadsworth, and Westfield townships in Medina county.

The Warren municipal court has jurisdiction within Warren and Champion townships, and within all of Howland township except within the municipal corporation of Niles, in Trumbull county.

The Washington Court House municipal court has jurisdiction within Fayette county.

The Wayne county municipal court has jurisdiction within Wayne county.

The Willoughby municipal court has jurisdiction within the municipal corporations of Eastlake, Wickliffe, Willowick, Willoughby Hills, Kirtland, Kirtland Hills, Waite Hill, Timberlake, and Lakeline, and within Kirtland township, in Lake county.

Through June 30, 1992, the Wilmington municipal court has jurisdiction within Clinton county.

The Xenia municipal court has jurisdiction within Caesarcreek,

Cedarville, Jefferson, Miami, New Jasper, Ross, Silvercreek, Spring Valley, Sugarcreek, and Xenia townships in Greene county.

(C) As used in this section:

(1) "Within a township" includes all land, including, but not limited to, any part of any municipal corporation, that is physically located within the territorial boundaries of that township, whether or not that land or municipal corporation is governmentally a part of the township.

(2) "Within a municipal corporation" includes all land within the territorial boundaries of the municipal corporation and any townships that are coextensive with the municipal corporation.

Sec. 1901.06. A municipal judge during the judge's term of office shall be a qualified elector and a resident of the territory of the court to which the judge is elected or appointed. A municipal judge shall have been admitted to the practice of law in this state and shall have been, for a total of at least six years preceding appointment or the commencement of the judge's term, engaged in the practice of law ~~in this state~~ or served as a judge of a court of record in any jurisdiction in the United States, or both. At least two of the years of practice or service that qualify a judge shall have been in this state.

Except as provided in section 1901.08 of the Revised Code, the first election of any newly created office of a municipal judge shall be held at the next regular municipal election occurring not less than one hundred days after the creation of the office. Except as otherwise provided in division (G) of section 1901.01 of the Revised Code, the institution of a new municipal court shall take place on the first day of January next after the first election for the court.

Sec. 1901.261. (A)(1) A municipal court may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall include in its schedule of fees and costs under section 1901.26 of the Revised Code one additional fee not to exceed three dollars on the filing of each cause of action or appeal equivalent to one described in division (A), (Q), or (U) of section 2303.20 of the Revised Code and shall direct the clerk of the court to charge the fee.

(2) All fees collected under this section shall be paid to the county treasurer if the court is a county-operated municipal court or to the city treasurer if the court is not a county-operated municipal court. The treasurer shall place the funds from the fees in a separate fund to be disbursed upon an order of the court, subject to an appropriation by the board of county commissioners if the court is a county-operated municipal court or by the

legislative authority of the municipal corporation if the court is not a county-operated municipal court, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, in an amount not greater than the actual cost to the court of computerizing the court, procuring and maintaining computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners if the court is a county-operated municipal court or by the legislative authority of the municipal corporation if the court is not a county-operated municipal court, expend those surplus funds, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, expend those surplus funds, for other appropriate technological expenses of the court.

(B)(1) A municipal court may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court and, upon that determination, may include in its schedule of fees and costs under section 1901.26 of the Revised Code an additional fee not to exceed ten dollars on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment that is equivalent to one described in division (A), (P), (Q), (T), or (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer if the court is a county-operated municipal court or to the city treasurer if the court is not a county-operated municipal court. The treasurer shall place the funds from the fees in a separate fund to be disbursed, upon an order of the municipal court and subject to an appropriation by the board of county commissioners if the court is a county-operated municipal court or by the legislative authority of the municipal corporation if the court is not a county-operated municipal court, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the municipal court.

(2) If a municipal court makes the determination described in division (B)(1) of this section, the board of county commissioners of the county if the court is a county-operated municipal court or the legislative authority of

the municipal corporation if the court is not a county-operated municipal court, may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the municipal court. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges and financing costs related to any general obligation bonds issued pursuant to division (B)(2) of this section as they become due. General obligation bonds issued pursuant to division (B)(2) of this section are Chapter 133. securities.

Sec. 1901.262. (A) A municipal court may establish by rule procedures for the resolution of disputes between parties. Any procedures so adopted shall include, but are not limited to, mediation. If the court establishes any procedures under this division, the court may include in the court's schedule of fees and costs under section 1901.26 of the Revised Code a reasonable fee, that is to be collected on the filing of each civil or criminal action or proceeding, and that is to be used to implement the procedures, and the court shall direct the clerk of the court to charge the fee.

(B) All fees collected under division (A) of this section shall be paid to the county treasurer if the court is a county-operated municipal court or to the city treasurer if the court is not a county-operated municipal court. The treasurer shall place the funds from the fees in a separate fund to be disbursed either upon an order of the court, subject to an appropriation by the board of county commissioners if the court is a county-operated municipal court or by the legislative authority of the municipal corporation if the court is not a county-operated municipal court, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds.

(C) If the court determines that the amount of the moneys in the fund described in division (B) of this section is more than the amount sufficient to satisfy the purpose for which the additional fee described in division (A) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners if the court is a county-operated municipal court or by the legislative authority of the municipal corporation if the court is not a county-operated municipal court, expend the surplus moneys, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, expend the surplus moneys for other appropriate expenses of the court.

Sec. 1901.41. (A) Notwithstanding ~~section~~ sections 149.381 and 149.39

of the Revised Code and subject to division (E) of this section, each municipal court, by rule, may order the destruction or other disposition of the files of cases that have been finally disposed of by the court for at least five years as follows:

(1) If a case has been finally disposed of for at least five years, but less than fifteen years prior to the adoption of the rule of court for destruction or other disposition of the files, the court may order the files destroyed or otherwise disposed of only if the court first complies with division (B)(1) of this section;

(2) If a case has been finally disposed of for fifteen years or more prior to the adoption of the rule of court for destruction or other disposition of the files, the court may order the files destroyed or otherwise disposed of without having copied or reproduced the files prior to their destruction.

(B)(1) Except as otherwise provided in this division, all files destroyed or otherwise disposed of under division (A)(1) of this section shall be copied or reproduced prior to their destruction or disposition in the manner and according to the procedure prescribed in section 9.01 of the Revised Code. The copies or reproductions of the files made pursuant to section 9.01 of the Revised Code shall be retained and preserved by the court for a period of ten years after the destruction of the original files in accordance with this section, after which the copies or reproductions themselves may be destroyed or otherwise disposed of.

Files destroyed or otherwise disposed of under division (A)(1) of this section that are solely concerned with criminal prosecutions for minor misdemeanor offenses or that are concerned solely with minor misdemeanor traffic prosecutions do not have to be copied or reproduced in any manner or under any procedure prior to their destruction or disposition as provided in this section.

(2) Files destroyed or otherwise disposed of under division (A)(2) of this section do not have to be copied or reproduced in any manner or under any procedure prior to their destruction or disposition.

(C) Nothing in this section permits or shall be construed as permitting the destruction or other disposition of the files in the Cleveland municipal court of cases involving the following actions and proceedings:

(1) The sale of real property in an action to foreclose and marshal all liens on the real property;

(2) The sale of real property in an action to foreclose a mortgage on the real property;

(3) The determination of rights in the title to real property either in the form of a creditor's bill or in any other action intended to determine or

adjudicate the right, title, and interest of a person or persons in the ownership of a parcel or parcels of real property or any interest therein.

(D) All dockets, indexes, journals, and cash books of the court shall be retained and preserved by the court for at least twenty-five years unless they are reproduced in the manner and according to the procedure prescribed in section 9.01 of the Revised Code, in which case the reproductions shall be retained and preserved by the court at least until the expiration of the twenty-five year period for which the originals would have had to have been retained. Court dockets, indexes, journals, and cash books, and all other court records also shall be subject to destruction or other disposition under section ~~149.39~~ 149.381 of the Revised Code.

(E) Notwithstanding ~~section~~ sections 149.381 and 149.39 of the Revised Code, each clerk of a municipal court shall retain documentation regarding each criminal conviction and plea of guilty involving a case that is or was before the court. The documentation shall be in a form that is admissible as evidence in a criminal proceeding as evidence of a prior conviction or that is readily convertible to or producible in a form that is admissible as evidence in a criminal proceeding as evidence of a prior conviction and may be retained in any form authorized by section 9.01 of the Revised Code. The clerk shall retain this documentation for a period of fifty years after the entry of judgment in the case, except that documentation regarding cases solely concerned with minor misdemeanor offenses or minor misdemeanor traffic offenses shall be retained as provided in divisions (A) and (B) of this section, and documentation regarding other misdemeanor traffic offenses shall be retained for a period of twenty-five years after the entry of judgment in the case. This section shall apply to records currently retained and to records created on or after September 23, 2004.

Sec. 1907.13. A county court judge, at the time of filing a nominating petition for the office or at the time of appointment to the office and during the judge's term of office, shall be a qualified elector and a resident of the county court district in which the judge is elected or appointed. A county court judge does not have to be a resident of an area of separate jurisdiction in the county court district to which the judge may be assigned pursuant to section 1907.15 of the Revised Code. Every county court judge shall have been admitted to the practice of law in this state and shall have been engaged, for a total of at least six years preceding the judge's appointment or the commencement of the judge's term, in the practice of law in ~~this state~~ any jurisdiction in the United States, except that the six-year practice requirement does not apply to a county court judge who is holding office on ~~the effective date of this amendment~~ July 2, 2010, and who subsequently is a

candidate for that office. At least two of the years of practice that qualify a judge shall have been in this state.

Judges shall be elected by the electors of the county court district at the general election in even-numbered years as set forth in section 1907.11 of the Revised Code for a term of six years commencing on the first day of January following the election for the county court or on the dates specified in section 1907.11 of the Revised Code for particular county court judges. Their successors shall be elected in even-numbered years every six years.

All candidates for county court judge shall be nominated by petition. The nominating petition shall be in the general form and signed and verified as prescribed by section 3513.261 of the Revised Code and shall be signed by the lesser of fifty qualified electors of the county court district or a number of qualified electors of the county court district not less than one per cent of the number of electors who voted for governor at the most recent regular state election in the district. A nominating petition shall not be accepted for filing or filed if it appears on its face to contain signatures aggregating in number more than twice the minimum aggregate number of signatures required by this section. A nominating petition shall be filed with the board of elections not later than four p.m. of the ninetieth day before the day of the general election.

Sec. 1907.261. (A)(1) A county court may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall include in its schedule of fees and costs under section 1907.24 of the Revised Code one additional fee not to exceed three dollars on the filing of each cause of action or appeal equivalent to one described in division (A), (Q), or (U) of section 2303.20 of the Revised Code and shall direct the clerk of the court to charge the fee.

(2) All fees collected under this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed either upon an order of the court, subject to an appropriation by the board of county commissioners, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, in an amount not greater than the actual cost to the court of computerizing the court, procuring and maintaining computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was

imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners, expend those surplus funds, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, expend those surplus funds, for other appropriate technological expenses of the court.

(B)(1) A county court may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court and, upon that determination, may include in its schedule of fees and costs under section 1907.24 of the Revised Code an additional fee not to exceed ten dollars on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment that is equivalent to one described in division (A), (P), (Q), (T), or (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed, upon an order of the county court and subject to an appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the county court.

(2) If a county court makes the determination described in division (B)(1) of this section, the board of county commissioners of that county may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the county court. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges and financing costs related to any general obligation bonds issued pursuant to division (B)(2) of this section as they become due. General obligation bonds issued pursuant to division (B)(2) of this section are Chapter 133. securities.

Sec. 1907.262. (A) A county court may establish by rule procedures for the resolution of disputes between parties. Any procedures so adopted shall include, but are not limited to, mediation. If the court establishes any procedures under this division, the court may include in the court's schedule of fees and costs under section 1907.24 of the Revised Code a reasonable fee, that is to be collected on the filing of each civil or criminal action or proceeding, and that is to be used to implement the procedures, and the court shall direct the clerk of the court to charge the fee.

(B) All fees collected under division (A) of this section shall be paid to

the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed either upon an order of the court, subject to an appropriation by the board of county commissioners, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds.

(C) If the court determines that the amount of the moneys in the fund described in division (B) of this section is more than the amount sufficient to satisfy the purpose for which the additional fee described in division (A) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners, expend the surplus moneys, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, expend the surplus moneys, for other appropriate expenses of the court.

Sec. 1907.53. (A)(1) Each judge of a county court may appoint a bailiff on a full-time or part-time basis. The bailiff shall receive compensation as prescribed by the appointing judge, and the compensation is payable in semimonthly installments from the treasury of the county or other authorized fund. Before entering upon the duties of the office, a bailiff shall take an oath to faithfully perform those duties and shall give a bond of not less than three thousand dollars, as the appointing judge prescribes, conditioned on the faithful performance of the duties as bailiff.

(2) The board of county commissioners may purchase motor vehicles for the use of the bailiff that the court determines necessary to perform the duties of the office. The board, upon approval by the court, shall pay all expenses, maintenance, and upkeep of the vehicles from the county treasury or other authorized fund. Any allowances, costs, and expenses for the operation of private motor vehicles by the bailiffs for official duties, including the cost of oil, gasoline, and maintenance, shall be prescribed by the court and subject to the approval of the board and shall be paid from the county treasury or other authorized fund.

(B)(1) In a county court district in which no bailiff is appointed pursuant to division (A)(1) of this section, every deputy sheriff of the county, every police officer of a municipal corporation within the jurisdiction of the court, every member of a township or joint ~~township~~ police district police force, and every police constable of a township within the county court district is ex officio a bailiff of the court in and for the county, municipal corporation, or township within which the deputy sheriff, police officer, police force member, or police constable is commissioned and shall perform, in respect to cases within that jurisdiction and without additional compensation, any

duties that are required by a judge of the court or by the clerk of the court.

(2) At the request of a county court judge, a deputy sheriff or constable shall attend the county court while a trial is in progress.

(C)(1) A bailiff and an ex officio bailiff shall perform for the county court services similar to those performed by the sheriff for the court of common pleas and shall perform any other duties that are required by rule of court.

(2) The bailiff may administer oaths to witnesses and jurors and receive verdicts in the same manner and form and to the same extent as the clerk or deputy clerks of the county court. The bailiff may approve all undertakings and bonds given in actions of replevin and all redelivery bonds in attachments.

(D) Bailiffs and deputy bailiffs are in the unclassified civil service.

Sec. 2105.09. (A) The county auditor, unless ~~he~~ the auditor acts pursuant to division (C) of this section, shall take possession of real property escheated to the state that is located in ~~his~~ the auditor's county and outside the incorporated area of a city. The auditor shall take possession in the name of the state and sell the property at public auction, at the county seat of the county, to the highest bidder, after having given thirty days' notice of the intended sale in a newspaper ~~published within~~ of general circulation in the county or as provided in section 7.16 of the Revised Code.

On the application of the auditor, the court of common pleas shall appoint three disinterested freeholders of the county to appraise the real property. The freeholders shall be governed by the same rule as appraisers in sheriffs' or administrators' sales. The auditor shall sell the property at not less than two thirds of its appraised value and may sell it for cash, or for one-third cash and the balance in equal annual payments, the deferred payments to be amply secured. Upon payment of the whole consideration, the auditor shall execute a deed to the purchaser, in the name and on behalf of the state. The proceeds of the sale shall be paid by the auditor to the county treasurer.

If there is a regularly organized agricultural society within the county, the treasurer shall pay the greater of six hundred dollars or five per cent of the proceeds, in any case, to the society. The excess of the proceeds, or the whole thereof if there is no regularly organized agricultural society within the county, shall be distributed as follows:

(1) Twenty-five per cent shall be paid equally to the townships of the county;

(2) Seventy per cent shall be paid into the state treasury to the credit of the agro Ohio fund created under section 901.04 of the Revised Code;

(3) Five per cent shall be credited to the county general fund for such lawful purposes as the board of county commissioners provides.

(B) The legislative authority of a city within which are lands escheated to the state, unless it acts pursuant to division (C) of this section, shall take possession of the lands for the city, and the title to the lands shall vest in the city. The city shall use the premises primarily for health, welfare, or recreational purposes, or may lease them at such prices and for such purposes as it considers proper. With the approval of the tax commissioner, the city may sell the lands or any undivided interest in the lands, in the same manner as is provided in the sale of land not needed for any municipal purposes; provided, that the net proceeds from the rent or sale of the premises shall be devoted to health, welfare, or recreational purposes.

(C) As an alternative to the procedure prescribed in divisions (A) and (B) of this section, the county auditor, or if the real property is located within the incorporated area of a city, the legislative authority of that city by an affirmative vote of at least a majority of its members, may request the probate court to direct the administrator or executor of the estate that contains the escheated property to commence an action in the probate court for authority to sell the real property in the manner provided in Chapter 2127. of the Revised Code. The proceeds from the sale of real property that is located outside the incorporated area of a city shall be distributed by the court in the same manner as the proceeds are distributed under division (A) of this section. The proceeds from the sale of real property that is located within the incorporated area of a city shall be distributed by the court in the same manner as the proceeds are distributed under division (B) of this section.

Sec. 2117.25. (A) Every executor or administrator shall proceed with diligence to pay the debts of the decedent and shall apply the assets in the following order:

(1) Costs and expenses of administration;

(2) An amount, not exceeding four thousand dollars, for funeral expenses that are included in the bill of a funeral director, funeral expenses other than those in the bill of a funeral director that are approved by the probate court, and an amount, not exceeding three thousand dollars, for burial and cemetery expenses, including that portion of the funeral director's bill allocated to cemetery expenses that have been paid to the cemetery by the funeral director.

For purposes of ~~this~~ division (A)(2) of this section, burial and cemetery expenses shall be limited to the following:

(a) The purchase of a right of interment;

(b) Monuments or other markers;

(c) The outer burial container;

(d) The cost of opening and closing the place of interment;

(e) The urn.

(3) The allowance for support made to the surviving spouse, minor children, or both under section 2106.13 of the Revised Code;

(4) Debts entitled to a preference under the laws of the United States;

(5) Expenses of the last sickness of the decedent;

(6) If the total bill of a funeral director for funeral expenses exceeds four thousand dollars, then, in addition to the amount described in division (A)(2) of this section, an amount, not exceeding two thousand dollars, for funeral expenses that are included in the bill and that exceed four thousand dollars;

(7) Expenses of the decedent's last continuous stay in a nursing home as defined in section 3721.01 of the Revised Code, residential facility as defined in section 5123.19 of the Revised Code, or hospital long-term care unit as defined in section 3721.50 of the Revised Code.

For purposes of division (A)(7) of this section, a decedent's last continuance stay includes up to thirty consecutive days during which the decedent was temporarily absent from the nursing home, residential facility, or hospital long-term care unit.

(8) Personal property taxes, claims made under the medicaid estate recovery program instituted pursuant to section 5111.11 of the Revised Code, and obligations for which the decedent was personally liable to the state or any of its subdivisions;

~~(8)~~(9) Debts for manual labor performed for the decedent within twelve months preceding the decedent's death, not exceeding three hundred dollars to any one person;

~~(9)~~(10) Other debts for which claims have been presented and finally allowed.

(B) The part of the bill of a funeral director that exceeds the total of six thousand dollars as described in divisions (A)(2) and (6) of this section, and the part of a claim included in division (A)~~(8)~~(9) of this section that exceeds three hundred dollars shall be included as a debt under division (A)~~(9)~~(10) of this section, depending upon the time when the claim for the additional amount is presented.

(C) Any natural person or fiduciary who pays a claim of any creditor described in division (A) of this section shall be subrogated to the rights of that creditor proportionate to the amount of the payment and shall be entitled to reimbursement for that amount in accordance with the priority of payments set forth in that division.

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating to the manner in which and the time within which claims shall be presented, shall apply to claims set forth in divisions (A)(2), (6), and ~~(8)~~(9) of this section. Claims for an expense of administration or for the allowance for support need not be presented. The executor or administrator shall pay debts included in divisions (A)(4) and ~~(7)~~(8) of this section, of which the executor or administrator has knowledge, regardless of presentation.

(2) The giving of written notice to an executor or administrator of a motion or application to revive an action pending against the decedent at the date of death shall be equivalent to the presentation of a claim to the executor or administrator for the purpose of determining the order of payment of any judgment rendered or decree entered in such an action.

(E) No payments shall be made to creditors of one class until all those of the preceding class are fully paid or provided for. If the assets are insufficient to pay all the claims of one class, the creditors of that class shall be paid ratably.

(F) If it appears at any time that the assets have been exhausted in paying prior or preferred charges, allowances, or claims, those payments shall be a bar to an action on any claim not entitled to that priority or preference.

Sec. 2151.011. (A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person, organization,

association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:

(a) Receives and cares for children for two or more consecutive weeks;

(b) Participates in the placement of children in certified foster homes;

(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.

(B) As used in this chapter:

(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.

(2) "Adult" means an individual who is eighteen years of age or older.

(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) "Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.

(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

~~(5)~~(6) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

~~(6)~~(7) "Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code.

~~(7)~~(8) "Child care provider" means an individual who is a child-care

staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of developmental disabilities, or the early childhood programs of the department of education.

~~(8)~~(9) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

~~(9)~~(10) "Commit" means to vest custody as ordered by the court.

~~(10)~~(11) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

~~(11)~~(12) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

~~(12)~~(13) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

~~(13)~~(14) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.

~~(14)~~(15) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

~~(15)~~(16) "Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative response or a traditional response.

(17) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

~~(16)~~(18) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided

in the court's order and subject to the residual parental rights of the child's parents.

~~(17)~~(19) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year.

~~(18)~~(20) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

~~(19)~~(21) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

~~(20)~~(22) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following:

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

~~(21)~~(23) "Mental illness" and "mentally ill person subject to hospitalization by court order" have the same meanings as in section 5122.01 of the Revised Code.

~~(22)~~(24) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care.

~~(23)~~(25) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.

~~(24)~~(26) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.

~~(25)~~(27) "Of compulsory school age" has the same meaning as in

section 3321.01 of the Revised Code.

~~(26)~~(28) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.

~~(27)~~(29) "Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, child care provided by type B family day-care home providers and by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children.

~~(28)~~(30) "Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a) Engaging in sexual activity with a child in the person's care;

(b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;

(c) Use of restraint procedures on a child that cause injury or pain;

(d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;

(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

~~(29)~~(31) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;

(b) Failure to provide reasonable supervision according to the standards

of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;

(c) Failure to develop a process for all of the following:

(i) Administration of prescription drugs or psychotropic drugs for the child;

(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;

(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.

(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;

(e) Confinement of the child to a locked room without monitoring by staff;

(f) Failure to provide ongoing security for all prescription and nonprescription medication;

(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.

~~(30)~~(32) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

~~(31)~~(33) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.

~~(32)~~(34) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

~~(33)~~(35) "Person responsible for a child's care in out-of-home care" means any of the following:

(a) Any foster caregiver, in-home aide, or provider;

(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; certified type B family day-care home; group

home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;

(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.

~~(34)~~(36) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

(a) A substantial impairment of vision, speech, or hearing;

(b) A congenital orthopedic impairment;

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

~~(35)~~(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.

~~(36)~~(38) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.

~~(37)~~(39) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.

~~(38)~~(40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.

~~(39)~~(41) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the

Revised Code.

~~(40)~~(42) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.

~~(41)~~(43) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

~~(42)~~(44) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

~~(43)~~(45) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.

~~(44)~~(46) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health under section 5119.22 of the Revised Code and that provides care for a child.

~~(45)~~(47) "Residential facility" means a home or facility that is licensed by the department of developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.

~~(46)~~(48) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.

~~(47)~~(49) "School day" means the school day established by the state board of education pursuant to section 3313.48 of the Revised Code.

~~(48)~~(50) "School month" and "school year" have the same meanings as in section 3313.62 of the Revised Code.

~~(49)~~(51) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

~~(50)~~(52) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

~~(51)~~(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

~~(52)~~(54) "Shelter for victims of domestic violence" has the same

meaning as in section 3113.33 of the Revised Code.

~~(53)~~(55) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(56) "Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.

Sec. 2151.3515. As used in sections 2151.3515 to 2151.3530 of the Revised Code:

(A) "Deserted child" means a child whose parent has voluntarily delivered the child to an emergency medical service worker, peace officer, or hospital employee without expressing an intent to return for the child.

(B) "Emergency medical service organization," "emergency medical technician-basic," "emergency medical technician-intermediate," "first responder," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

(C) "Emergency medical service worker" means a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or paramedic.

(D) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(E) "Hospital employee" means any of the following persons:

(1) A physician who has been granted privileges to practice at the hospital;

(2) A nurse, physician assistant, or nursing assistant employed by the hospital;

(3) An authorized person employed by the hospital who is acting under the direction of a physician described in division (E)(1) of this section.

(F) "Law enforcement agency" means an organization or entity made up of peace officers.

(G) "Nurse" means a person who is licensed under Chapter 4723. of the

Revised Code to practice as a registered nurse or licensed practical nurse.

(H) "Nursing assistant" means a person designated by a hospital as a nurse aide or nursing assistant whose job is to aid nurses, physicians, and physician assistants in the performance of their duties.

(I) "Peace officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint ~~township~~ police district, marshal, deputy marshal, municipal police officer, or a state highway patrol trooper.

(J) "Physician" and "physician assistant" have the same meanings as in section 4730.01 of the Revised Code.

Sec. 2151.412. (A) Each public children services agency and private child placing agency shall prepare and maintain a case plan for any child to whom the agency is providing services and to whom any of the following applies:

(1) The agency filed a complaint pursuant to section 2151.27 of the Revised Code alleging that the child is an abused, neglected, or dependent child;

(2) The agency has temporary or permanent custody of the child;

(3) The child is living at home subject to an order for protective supervision;

(4) The child is in a planned permanent living arrangement.

Except as provided by division (A)(2) of section 5103.153 of the Revised Code, a private child placing agency providing services to a child who is the subject of a voluntary permanent custody surrender agreement entered into under division (B)(2) of section 5103.15 of the Revised Code is not required to prepare and maintain a case plan for that child.

(B) Each public children services agency shall prepare and maintain a case plan or a family service plan for any child for whom the agency is providing in-home services pursuant to an alternative response.

(C)(1) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the content and format of case plans required by division (A) of this section and establishing procedures for developing, implementing, and changing the case plans. The rules shall at a minimum comply with the requirements of Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 671 (1980), as amended.

(2) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code requiring public children services agencies and private child placing agencies to maintain case plans for children and their families who are receiving services in their homes from the agencies and for whom case plans are not required by division (A) of this section. The rules for public children services agencies shall include the

requirements for case plans or family service plans maintained for children and their families who are receiving services in their homes from public children services agencies pursuant to an alternative response. The agencies shall maintain case plans and family service plans as required by those rules; however, the case plans and family service plans shall not be subject to any other provision of this section except as specifically required by the rules.

~~(C)~~(D) Each public children services agency and private child placing agency that is required by division (A) of this section to maintain a case plan shall file the case plan with the court prior to the child's adjudicatory hearing but no later than thirty days after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care. If the agency does not have sufficient information prior to the adjudicatory hearing to complete any part of the case plan, the agency shall specify in the case plan the additional information necessary to complete each part of the case plan and the steps that will be taken to obtain that information. All parts of the case plan shall be completed by the earlier of thirty days after the adjudicatory hearing or the date of the dispositional hearing for the child.

~~(D)~~(E) Any agency that is required by division (A) of this section to prepare a case plan shall attempt to obtain an agreement among all parties, including, but not limited to, the parents, guardian, or custodian of the child and the guardian ad litem of the child regarding the content of the case plan. If all parties agree to the content of the case plan and the court approves it, the court shall journalize it as part of its dispositional order. If the agency cannot obtain an agreement upon the contents of the case plan or the court does not approve it, the parties shall present evidence on the contents of the case plan at the dispositional hearing. The court, based upon the evidence presented at the dispositional hearing and the best interest of the child, shall determine the contents of the case plan and journalize it as part of the dispositional order for the child.

~~(E)~~(F)(1) All parties, including the parents, guardian, or custodian of the child, are bound by the terms of the journalized case plan. A party that fails to comply with the terms of the journalized case plan may be held in contempt of court.

(2) Any party may propose a change to a substantive part of the case plan, including, but not limited to, the child's placement and the visitation rights of any party. A party proposing a change to the case plan shall file the proposed change with the court and give notice of the proposed change in writing before the end of the day after the day of filing it to all parties and the child's guardian ad litem. All parties and the guardian ad litem shall have seven days from the date the notice is sent to object to and request a hearing

on the proposed change.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency may implement the proposed change after the hearing, if the court approves it. The agency shall not implement the proposed change unless it is approved by the court.

(b) If it does not receive a timely request for a hearing, the court may approve the proposed change without a hearing. If the court approves the proposed change without a hearing, it shall journalize the case plan with the change not later than fourteen days after the change is filed with the court. If the court does not approve the proposed change to the case plan, it shall schedule a hearing to be held pursuant to section 2151.417 of the Revised Code no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child. If, despite the requirements of division ~~(E)~~(F)(2) of this section, the court neither approves and journalizes the proposed change nor conducts a hearing, the agency may implement the proposed change not earlier than fifteen days after it is submitted to the court.

(3) If an agency has reasonable cause to believe that a child is suffering from illness or injury and is not receiving proper care and that an appropriate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm, to believe that a child is in immediate danger from the child's surroundings and that an immediate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm to the child, or to believe that a parent, guardian, custodian, or other member of the child's household has abused or neglected the child and that the child is in danger of immediate or threatened physical or emotional harm from that person unless the agency makes an appropriate change in the child's case plan, it may implement the change without prior agreement or a court hearing and, before the end of the next day after the change is made, give all parties, the guardian ad litem of the child, and the court notice of the change. Before the end of the third day after implementing the change in the case plan, the agency shall file a statement of the change with the court and give notice of the filing accompanied by a copy of the statement to all parties and the guardian ad litem. All parties and the guardian ad litem shall have ten days from the date the notice is sent to object to and request a hearing on the change.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency shall continue to administer the case plan with the change after the hearing, if the court approves the change. If the court does not approve the change, the court shall make appropriate changes to the case plan and shall journalize the case plan.

(b) If it does not receive a timely request for a hearing, the court may approve the change without a hearing. If the court approves the change without a hearing, it shall journalize the case plan with the change within fourteen days after receipt of the change. If the court does not approve the change to the case plan, it shall schedule a hearing under section 2151.417 of the Revised Code to be held no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child.

~~(F)~~(G)(1) All case plans for children in temporary custody shall have the following general goals:

(a) Consistent with the best interest and special needs of the child, to achieve a safe out-of-home placement in the least restrictive, most family-like setting available and in close proximity to the home from which the child was removed or the home in which the child will be permanently placed;

(b) To eliminate with all due speed the need for the out-of-home placement so that the child can safely return home.

(2) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the general goals of case plans for children subject to dispositional orders for protective supervision, a planned permanent living arrangement, or permanent custody.

~~(G)~~(H) In the agency's development of a case plan and the court's review of the case plan, the child's health and safety shall be the paramount concern. The agency and the court shall be guided by the following general priorities:

(1) A child who is residing with or can be placed with the child's parents within a reasonable time should remain in their legal custody even if an order of protective supervision is required for a reasonable period of time;

(2) If both parents of the child have abandoned the child, have relinquished custody of the child, have become incapable of supporting or caring for the child even with reasonable assistance, or have a detrimental effect on the health, safety, and best interest of the child, the child should be

placed in the legal custody of a suitable member of the child's extended family;

(3) If a child described in division ~~(G)~~(H)(2) of this section has no suitable member of the child's extended family to accept legal custody, the child should be placed in the legal custody of a suitable nonrelative who shall be made a party to the proceedings after being given legal custody of the child;

(4) If the child has no suitable member of the child's extended family to accept legal custody of the child and no suitable nonrelative is available to accept legal custody of the child and, if the child temporarily cannot or should not be placed with the child's parents, guardian, or custodian, the child should be placed in the temporary custody of a public children services agency or a private child placing agency;

(5) If the child cannot be placed with either of the child's parents within a reasonable period of time or should not be placed with either, if no suitable member of the child's extended family or suitable nonrelative is available to accept legal custody of the child, and if the agency has a reasonable expectation of placing the child for adoption, the child should be committed to the permanent custody of the public children services agency or private child placing agency;

(6) If the child is to be placed for adoption or foster care, the placement shall not be delayed or denied on the basis of the child's or adoptive or foster family's race, color, or national origin.

~~(H)~~(I) The case plan for a child in temporary custody shall include at a minimum the following requirements if the child is or has been the victim of abuse or neglect or if the child witnessed the commission in the child's household of abuse or neglect against a sibling of the child, a parent of the child, or any other person in the child's household:

(1) A requirement that the child's parents, guardian, or custodian participate in mandatory counseling;

(2) A requirement that the child's parents, guardian, or custodian participate in any supportive services that are required by or provided pursuant to the child's case plan.

~~(I)~~(J) A case plan may include, as a supplement, a plan for locating a permanent family placement. The supplement shall not be considered part of the case plan for purposes of division ~~(D)~~(E) of this section.

Sec. 2151.421. (A)(1)(a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen

years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; employee of a county department of job and family services who is a professional and who works with children and families; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county board of developmental disabilities; employee of the department of developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; or third party employed by a public children services agency to assist in providing child or family related services.

(2) Except as provided in division (A)(3) of this section, an attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives

from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding.

(3) The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The abuse or neglect does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(4)(a) No cleric and no person, other than a volunteer, designated by any church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith who is acting in an official or professional capacity, who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, and who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that another cleric or another person, other than a volunteer, designated by a church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith caused, or poses the threat of causing, the wound, injury, disability, or condition that reasonably indicates abuse or neglect shall fail to immediately

report that knowledge or reasonable cause to believe to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Except as provided in division (A)(4)(c) of this section, a cleric is not required to make a report pursuant to division (A)(4)(a) of this section concerning any communication the cleric receives from a penitent in a cleric-penitent relationship, if, in accordance with division (C) of section 2317.02 of the Revised Code, the cleric could not testify with respect to that communication in a civil or criminal proceeding.

(c) The penitent in a cleric-penitent relationship described in division (A)(4)(b) of this section is deemed to have waived any testimonial privilege under division (C) of section 2317.02 of the Revised Code with respect to any communication the cleric receives from the penitent in that cleric-penitent relationship, and the cleric shall make a report pursuant to division (A)(4)(a) of this section with respect to that communication, if all of the following apply:

(i) The penitent, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(ii) The cleric knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, as a result of the communication or any observations made during that communication, the penitent has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the penitent.

(iii) The abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under eighteen years of age or upon a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(d) Divisions (A)(4)(a) and (c) of this section do not apply in a cleric-penitent relationship when the disclosure of any communication the cleric receives from the penitent is in violation of the sacred trust.

(e) As used in divisions (A)(1) and (4) of this section, "cleric" and

"sacred trust" have the same meanings as in section 2317.02 of the Revised Code.

(B) Anyone who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar circumstances to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child may report or cause reports to be made of that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the public children services agency or to a municipal or county peace officer. In the circumstances described in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2) The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.

Any person, who is required by division (A) of this section to report child abuse or child neglect that is known or reasonably suspected or believed to have occurred, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child.

(D) As used in this division, "children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the

Revised Code.

(1) When a municipal or county peace officer receives a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, upon receipt of the report, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency.

(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following:

(a) Comply with section 2151.422 of the Revised Code;

(b) If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section 2151.428 of the Revised Code relative to that center.

(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(F)(1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 2151.428 of the Revised Code that applies to the particular report, the public children services agency shall investigate, within twenty-four hours, each report of child abuse or child neglect that is known or reasonably suspected or believed to have occurred and of a threat of child abuse or child neglect that is known or reasonably suspected or believed to exist that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under

division (J) of this section. A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (H)(1) of this section and protects the rights of the person making the report under this section.

A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to the uniform statewide automated child welfare information system that the department of job and family services shall maintain in accordance with section 5101.13 of the Revised Code. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

(2) The public children services agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(G)(1)(a) Except as provided in division (H)(3) of this section, anyone or any hospital, institution, school, health department, or agency participating in the making of reports under division (A) of this section, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of reports under division (B) of this section, and anyone participating in good faith in a judicial proceeding resulting from the reports, shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the reports or the participation in the judicial proceeding.

(b) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award

the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(H)(1) Except as provided in divisions (H)(4) and (N) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. Nothing in this division shall preclude the use of reports of other incidents of known or suspected abuse or neglect in a civil action or proceeding brought pursuant to division (M) of this section against a person who is alleged to have violated division (A)(1) of this section, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker of the report is not the defendant or an agent or employee of the defendant, has been redacted. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2) No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the child fatality review board, shall submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death. On the request of the review board, the agency or peace officer may, at its discretion, make the report available to the review board. If the county served by the public children services agency is also served by a children's advocacy center and the report of alleged sexual abuse of a child or another type of abuse of a child is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, the agency or center shall perform the

duties and functions specified in this division in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code relative to that advocacy center.

(5) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section, including a report alleging sexual abuse of a child or another type of abuse of a child referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(I) Any report that is required by this section, other than a report that is made to the state highway patrol as described in section 5120.173 of the Revised Code, shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(J)(1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

(a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;

(b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;

(c) The county peace officer;

(d) All chief municipal peace officers within the county;

(e) Other law enforcement officers handling child abuse and neglect cases in the county;

(f) The prosecuting attorney of the county;

(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;

(h) The county humane society;

(i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member

of the children's advocacy center established by the memorandum.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

(3) A memorandum of understanding shall include all of the following:

(a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect;

(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.

(4) If a public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, the agency shall incorporate the contents of that memorandum in the memorandum prepared pursuant to this section.

(5) The clerk of the court of common pleas in the county may sign the memorandum of understanding prepared under division (J)(1) of this section. If the clerk signs the memorandum of understanding, the clerk shall execute all relevant responsibilities as required of officials specified in the memorandum.

(K)(1) Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency

that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:

(a) Whether the agency or center has initiated an investigation of the report;

(b) Whether the agency or center is continuing to investigate the report;

(c) Whether the agency or center is otherwise involved with the child who is the subject of the report;

(d) The general status of the health and safety of the child who is the subject of the report;

(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3) A request made pursuant to division (K)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (K) of this section.

(L) The director of job and family services shall adopt rules in

accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

(M) Whoever violates division (A) of this section is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made. A person who brings a civil action or proceeding pursuant to this division against a person who is alleged to have violated division (A)(1) of this section may use in the action or proceeding reports of other incidents of known or suspected abuse or neglect, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker is not the defendant or an agent or employee of the defendant, has been redacted.

(N)(1) As used in this division:

(a) "Out-of-home care" includes a nonchartered nonpublic school if the alleged child abuse or child neglect, or alleged threat of child abuse or child neglect, described in a report received by a public children services agency allegedly occurred in or involved the nonchartered nonpublic school and the alleged perpetrator named in the report holds a certificate, permit, or license issued by the state board of education under section 3301.071 or Chapter 3319. of the Revised Code.

(b) "Administrator, director, or other chief administrative officer" means the superintendent of the school district if the out-of-home care entity subject to a report made pursuant to this section is a school operated by the district.

(2) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child

abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

(3) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

(O) As used in this section, "investigation" means the public children services agency's response to an accepted report of child abuse or neglect through either an alternative response or a traditional response.

Sec. 2151.424. (A) If a child has been placed in a certified foster home or is in the custody of a relative of the child, other than a parent of the child, a court, prior to conducting any hearing pursuant to division ~~(E)~~(F)(2) or (3) of section 2151.412 or section 2151.28, 2151.33, 2151.35, 2151.414, 2151.415, 2151.416, or 2151.417 of the Revised Code with respect to the child, shall notify the foster caregiver or relative of the date, time, and place of the hearing. At the hearing, the foster caregiver or relative shall have the right to present evidence.

(B) If a public children services agency or private child placing agency has permanent custody of a child and a petition to adopt the child has been filed under Chapter 3107. of the Revised Code, the agency, prior to conducting a review under section 2151.416 of the Revised Code, or a court, prior to conducting a hearing under division ~~(E)~~(F)(2) or (3) of section 2151.412 or section 2151.416 or 2151.417 of the Revised Code, shall notify the prospective adoptive parent of the date, time, and place of the review or hearing. At the review or hearing, the prospective adoptive parent shall have the right to present evidence.

(C) The notice and the opportunity to present evidence do not make the foster caregiver, relative, or prospective adoptive parent a party in the action or proceeding pursuant to which the review or hearing is conducted.

Sec. 2151.429. (A) The differential response approach, as defined in section 2151.011 of the Revised Code, pursued by a public children services

agency shall include two response pathways, the traditional response pathway and the alternative response pathway. The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the procedures and criteria for public children services agencies to assign and reassign response pathways.

(B) The agency shall use the traditional response for the following types of accepted reports:

(1) Physical abuse resulting in serious injury or that creates a serious and immediate risk to a child's health and safety.

(2) Sexual abuse.

(3) Child fatality.

(4) Reports requiring a specialized assessment as identified by rule adopted by the department.

(5) Reports requiring a third party investigative procedure as identified by rule adopted by the department.

(C) For all other child abuse and neglect reports, an alternative response shall be the preferred response, whenever appropriate and in accordance with rules adopted by the department.

Sec. 2151.541. (A)(1) The juvenile judge may determine that, for the efficient operation of the juvenile court, additional funds are required to computerize the court, to make available computerized legal research services, or both. Upon making a determination that additional funds are required for either or both of those purposes, the judge shall do one of the following:

(a) If ~~he~~ the judge is clerk of the court, charge one additional fee not to exceed three dollars on the filing of each cause of action or appeal under division (A), (Q), or (U) of section 2303.20 of the Revised Code;

(b) If the clerk of the court of common pleas serves as the clerk of the juvenile court pursuant to section 2151.12 of the Revised Code, authorize and direct the clerk to charge one additional fee not to exceed three dollars on the filing of each cause of action or appeal under division (A), (Q), or (U) of section 2303.20 of the Revised Code.

(2) All moneys collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the moneys from the fees in a separate fund to be disbursed~~,~~ either upon an order of the juvenile judge, subject to an appropriation by the board of county commissioners, or upon an order of the juvenile judge, subject to the court making an annual report available to the public listing the use of all such funds, in an amount no greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners, expend those surplus funds, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, expend those surplus funds, for other appropriate technological expenses of the court.

(B)(1) If the juvenile judge is the clerk of the juvenile court, ~~he~~ the judge may determine that, for the efficient operation of ~~his~~ the juvenile court, additional funds are required to computerize the clerk's office and, upon that determination, may charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under this division shall be paid to the county treasurer to be disbursed, upon an order of the juvenile judge and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the juvenile court of procuring and maintaining computer systems for the clerk's office.

(2) If the juvenile judge makes the determination described in division (B)(1) of this section, the board of county commissioners may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the juvenile court. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued pursuant to this division as they become due. General obligation bonds issued pursuant to this division are Chapter 133. securities.

Sec. 2152.72. (A) This section applies only to a child who is or previously has been adjudicated a delinquent child for an act to which any of the following applies:

(1) The act is a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2907.02, 2907.03, or 2907.05 of the Revised Code.

(2) The act is a violation of section 2923.01 of the Revised Code and involved an attempt to commit aggravated murder or murder.

(3) The act would be a felony if committed by an adult, and the court determined that the child, if an adult, would be guilty of a specification found in section 2941.141, 2941.144, or 2941.145 of the Revised Code or in another section of the Revised Code that relates to the possession or use of a firearm during the commission of the act for which the child was adjudicated a delinquent child.

(4) The act would be an offense of violence that is a felony if committed by an adult, and the court determined that the child, if an adult, would be guilty of a specification found in section 2941.1411 of the Revised Code or in another section of the Revised Code that relates to the wearing or carrying of body armor during the commission of the act for which the child was adjudicated a delinquent child.

(B)(1) Except as provided in division (E) of this section, a public children services agency, private child placing agency, private noncustodial agency, or court, the department of youth services, or another private or government entity shall not place a child in a certified foster home or for adoption until it provides the foster caregivers or prospective adoptive parents with all of the following:

(a) A written report describing the child's social history;

(b) A written report describing all the acts committed by the child the entity knows of that resulted in the child being adjudicated a delinquent child and the disposition made by the court, unless the records pertaining to the acts have been sealed pursuant to section 2151.356 of the Revised Code;

(c) A written report describing any other violent act committed by the child of which the entity is aware;

(d) The substantial and material conclusions and recommendations of any psychiatric or psychological examination conducted on the child or, if no psychological or psychiatric examination of the child is available, the substantial and material conclusions and recommendations of an examination to detect mental and emotional disorders conducted in compliance with the requirements of Chapter 4757. of the Revised Code by an independent social worker, social worker, professional clinical counselor, or professional counselor licensed under that chapter. The entity shall not provide any part of a psychological, psychiatric, or mental and emotional disorder examination to the foster caregivers or prospective adoptive parents other than the substantial and material conclusions.

(2) Notwithstanding sections 2151.356 to 2151.358 of the Revised Code, if records of an adjudication that a child is a delinquent child have been sealed pursuant to those sections and an entity knows the records have been sealed, the entity shall provide the foster caregivers or prospective

adoptive parents a written statement that the records of a prior adjudication have been sealed.

(C)(1) The entity that places the child in a certified foster home or for adoption shall conduct a psychological examination of the child unless either of the following applies:

(a) An entity is not required to conduct the examination if an examination was conducted no more than one year prior to the child's placement, and division (C)(1)(b) of this section does not apply.

(b) An entity is not required to conduct the examination if a foster caregiver seeks to adopt the foster caregiver's foster child, and an examination was conducted no more than two years prior to the date the foster caregiver seeks to adopt the child.

(2) No later than sixty days after placing the child, the entity shall provide the foster caregiver or prospective adoptive parents a written report detailing the substantial and material conclusions and recommendations of the examination conducted pursuant to this division.

(D)(1) Except as provided in divisions (D)(2) and (3) of this section, the expenses of conducting the examinations and preparing the reports and assessment required by division (B) or (C) of this section shall be paid by the entity that places the child in the certified foster home or for adoption.

(2) When a juvenile court grants temporary or permanent custody of a child pursuant to any section of the Revised Code, including section 2151.33, 2151.353, 2151.354, or 2152.19 of the Revised Code, to a public children services agency or private child placing agency, the court shall provide the agency the information described in division (B) of this section, pay the expenses of preparing that information, and, if a new examination is required to be conducted, pay the expenses of conducting the examination described in division (C) of this section. On receipt of the information described in division (B) of this section, the agency shall provide to the court written acknowledgment that the agency received the information. The court shall keep the acknowledgment and provide a copy to the agency. On the motion of the agency, the court may terminate the order granting temporary or permanent custody of the child to that agency, if the court does not provide the information described in division (B) of this section.

(3) If one of the following entities is placing a child in a certified foster home or for adoption with the assistance of or by contracting with a public children services agency, private child placing agency, or a private noncustodial agency, the entity shall provide the agency with the information described in division (B) of this section, pay the expenses of preparing that information, and, if a new examination is required to be

conducted, pay the expenses of conducting the examination described in division (C) of this section:

(a) The department of youth services if the placement is pursuant to any section of the Revised Code including section 2152.22, 5139.06, 5139.07, 5139.38, or 5139.39 of the Revised Code;

(b) A juvenile court with temporary or permanent custody of a child pursuant to section 2151.354 or 2152.19 of the Revised Code;

(c) A public children services agency or private child placing agency with temporary or permanent custody of the child.

The agency receiving the information described in division (B) of this section shall provide the entity described in division (D)(3)(a) to (c) of this section that sent the information written acknowledgment that the agency received the information and provided it to the foster caregivers or prospective adoptive parents. The entity shall keep the acknowledgment and provide a copy to the agency. An entity that places a child in a certified foster home or for adoption with the assistance of or by contracting with an agency remains responsible to provide the information described in division (B) of this section to the foster caregivers or prospective adoptive parents unless the entity receives written acknowledgment that the agency provided the information.

(E) If a child is placed in a certified foster home as a result of an emergency removal of the child from home pursuant to division (D) of section 2151.31 of the Revised Code, an emergency change in the child's case plan pursuant to division ~~(E)~~(F)(3) of section 2151.412 of the Revised Code, or an emergency placement by the department of youth services pursuant to this chapter or Chapter 5139. of the Revised Code, the entity that places the child in the certified foster home shall provide the information described in division (B) of this section no later than ninety-six hours after the child is placed in the certified foster home.

(F) On receipt of the information described in divisions (B) and (C) of this section, the foster caregiver or prospective adoptive parents shall provide to the entity that places the child in the foster caregiver's or prospective adoptive parents' home a written acknowledgment that the foster caregiver or prospective adoptive parents received the information. The entity shall keep the acknowledgment and provide a copy to the foster caregiver or prospective adoptive parents.

(G) No person employed by an entity subject to this section and made responsible by that entity for the child's placement in a certified foster home or for adoption shall fail to provide the foster caregivers or prospective adoptive parents with the information required by divisions (B) and (C) of

this section.

(H) It is not a violation of any duty of confidentiality provided for in the Revised Code or a code of professional responsibility for a person or government entity to provide the substantial and material conclusions and recommendations of a psychiatric or psychological examination, or an examination to detect mental and emotional disorders, in accordance with division (B)(1)(d) or (C) of this section.

(I) As used in this section:

(1) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code.

(2) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

Sec. 2301.01. There shall be a court of common pleas in each county held by one or more judges, each of whom has been admitted to practice as an attorney at law in this state and has, for a total of at least six years preceding the judge's appointment or commencement of the judge's term, engaged in the practice of law ~~in this state~~ or served as a judge of a court of record in any jurisdiction in the United States, or both, resides in ~~said~~ the county, and is elected by the electors therein. At least two of the years of practice or service that qualify a judge shall have been in this state. Each judge shall be elected for six years at the general election immediately preceding the year in which the term, as provided in sections 2301.02 and 2301.03 of the Revised Code, commences, and the judge's successor shall be elected at the general election immediately preceding the expiration of ~~such~~ that term.

Sec. 2301.031. (A)(1) The domestic relations judges of a domestic relations division created by section 2301.03 of the Revised Code may determine that, for the efficient operation of their division, additional funds are required to computerize the division, to make available computerized legal research services, or both. Upon making a determination that additional funds are required for either or both of those purposes, the judges shall do one of the following:

(a) Authorize and direct the clerk or a deputy clerk of the division to charge one additional fee not to exceed three dollars on the filing of each cause of action or appeal under division (A), (Q), or (U) of section 2303.20 of the Revised Code;

(b) If the clerk of the court of common pleas serves as the clerk of the division, authorize and direct the clerk of the court of common pleas to charge one additional fee not to exceed three dollars on the filing of each cause of action or appeal under division (A), (Q), or (U) of section 2303.20

of the Revised Code.

(2) All moneys collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the moneys from the fees in a separate fund to be disbursed~~,~~ either upon an order of the domestic relations judges, subject to an appropriation by the board of county commissioners, or upon an order of the domestic relations judge, subject to the court making an annual report available to the public listing the use of all such funds, in an amount no greater than the actual cost to the division of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners, expend those surplus funds, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, expend those surplus funds, for other appropriate technological expenses of the court.

(B)(1) If the clerk of the court of common pleas is not serving as the clerk of a juvenile or domestic relations division created by section 2301.03 of the Revised Code, the juvenile or domestic relations judges may determine that, for the efficient operation of their division, additional funds are required to computerize the office of the clerk of their division and, upon that determination, may authorize and direct the clerk or a deputy clerk of their division to charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under this division shall be paid to the county treasurer to be disbursed, upon an order of the juvenile or domestic relations judges and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the juvenile or domestic relations division of procuring and maintaining computer systems for the clerk's office.

(2) If juvenile or domestic relations judges make the determination described in division (B)(1) of this section, the board of county commissioners may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the juvenile or domestic relations division. In addition to the

purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued pursuant to this division as they become due. General obligation bonds issued pursuant to this division are Chapter 133. securities.

Sec. 2303.201. (A)(1) The court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall authorize and direct the clerk of the court of common pleas to charge one additional fee, not to exceed three dollars, on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of section 2303.20 of the Revised Code.

(2) All fees collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed~~,~~ either upon an order of the court, subject to an appropriation by the board of county commissioners, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners, expend those surplus funds, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, expend those surplus funds, for other appropriate technological expenses of the court.

(B)(1) The court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court of common pleas and, upon that determination, authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject

to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer to be disbursed, upon an order of the court of common pleas and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the court of common pleas.

(2) If the court of common pleas of a county makes the determination described in division (B)(1) of this section, the board of county commissioners of that county may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the court of common pleas. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued pursuant to division (B)(2) of this section as they become due. General obligation bonds issued pursuant to division (B)(2) of this section are Chapter 133. securities.

(C) The court of common pleas shall collect the sum of twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to proceedings concerning annulments, dissolutions of marriage, divorces, legal separation, spousal support, marital property or separate property distribution, support, or other domestic relations matters; to a juvenile division of a court of common pleas; to a probate division of a court of common pleas, except that the additional filing fees shall apply to name change, guardianship, adoption, and decedents' estate proceedings; or to an execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other filing fees imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month except for an amount equal to up to one per cent of those moneys retained to cover administrative costs shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. The treasurer of

state shall deposit four per cent of the funds collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

The court may retain up to one per cent of the moneys it collects under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division. If the court fails to transmit to the treasurer of state the moneys the court collects under this division in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation, the court shall forfeit the moneys the court retains under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division, and shall transmit to the treasurer of state all moneys collected under this division, including the forfeited amount retained for administrative costs, for deposit in the legal aid fund.

(D) On and after the thirtieth day after December 9, 1994, the court of common pleas shall collect the sum of thirty-two dollars as additional filing fees in each new action or proceeding for annulment, divorce, or dissolution of marriage for the purpose of funding shelters for victims of domestic violence pursuant to sections 3113.35 to 3113.39 of the Revised Code. The filing fees required to be collected under this division shall be in addition to any other filing fees imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new action or proceeding for annulment, divorce, or dissolution of marriage unless the court waives the advanced payment of all filing fees in the action or proceeding. On or before the twentieth day of each month, all moneys collected during the immediately preceding month pursuant to this division shall be deposited by the clerk of the court into the county treasury in the special fund used for deposit of additional marriage license fees as described in section 3113.34 of the Revised Code. Upon their deposit into the fund, the moneys shall be retained in the fund and expended only as described in section 3113.34 of the Revised Code.

(E)(1) The court of common pleas may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the

training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

If the court of common pleas offers a special program or service in cases of a specific type, the court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (E) of this section shall be paid to the county treasurer for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court, subject to an appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (E) of this section, the court may order, subject to an appropriation by the board of county commissioners, that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

(2) As used in division (E) of this section:

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

Sec. 2305.232. (A) No person who gives aid or advice in an emergency situation relating to the prevention of an imminent release of hazardous material, to the clean-up or disposal of hazardous material that has been released, or to the related mitigation of the effects of a release of hazardous material, nor the public or private employer of such a person, is liable in civil damages as a result of the aid or advice if all of the following apply:

(1) The aid or advice was given at the request of:

(a) A sheriff, the chief of police or other chief officer of the law enforcement agency of a municipal corporation, the chief of police of a township police district or joint police district, the chief of a fire department, the state fire marshal, the director of environmental protection, the chairperson of the public utilities commission, the superintendent of the state highway patrol, the executive director of the emergency management agency, the chief executive of a municipal corporation, ~~or~~ the authorized representative of any such official, or the legislative authority of a township or county; or

(b) The owner or manufacturer of the hazardous material, an association of manufacturers of the hazardous material, or a hazardous material mutual aid group.

(2) The person giving the aid or advice acted without anticipating remuneration for self or the person's employer from the governmental official, authority, or agency that requested the aid or advice;

(3) The person giving the aid or advice was specially qualified by training or experience to give the aid or advice;

(4) Neither the person giving the aid or advice nor the public or private employer of the person giving the aid or advice was responsible for causing the release or threat of release nor would otherwise be liable for damages caused by the release;

(5) The person giving the aid or advice did not engage in willful, wanton, or reckless misconduct or grossly negligent conduct in giving the aid or advice;

(6) The person giving the aid or advice notified the emergency response section of the environmental protection agency prior to giving the aid or advice.

(B) The immunity conferred by this section does not limit the liability of any person whose action caused or contributed to the release of hazardous material. That person is liable for any enhancement of damages caused by the person giving aid or advice under this section unless the enhancement of damages was caused by the willful, wanton, or reckless misconduct or grossly negligent conduct of the person giving aid or advice.

(C) This section does not apply to any person rendering care, assistance, or advice in response to a discharge of oil when that person's immunity from liability is subject to determination under section 2305.39 of the Revised Code.

(D) As used in this section:

(1) "Hazardous material" means any material designated as such under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49

U.S.C.A. 1803, as amended.

(2) "Mutual aid group" means any group formed at the federal, state, regional, or local level whose members agree to respond to incidents involving hazardous material whether or not they shipped, transported, manufactured, or were at all connected with the hazardous material involved in a particular incident.

(3) "Discharge" and "oil" have the same meanings as in section 2305.39 of the Revised Code.

Sec. 2317.02. The following persons shall not testify in certain respects:

(A)(1) An attorney, concerning a communication made to the attorney by a client in that relation or the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client. However, if the client voluntarily testifies or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply concerning a communication between a client who has since died and the deceased client's attorney if the communication is relevant to a dispute between parties who claim through that deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased client when the deceased client executed a document that is the basis of the dispute or whether the deceased client was a victim of fraud, undue influence, or duress when the deceased client executed a document that is the basis of the dispute.

(2) An attorney, concerning a communication made to the attorney by a client in that relationship or the attorney's advice to a client, except that if the client is an insurance company, the attorney may be compelled to testify, subject to an in camera inspection by a court, about communications made by the client to the attorney or by the attorney to the client that are related to the attorney's aiding or furthering an ongoing or future commission of bad faith by the client, if the party seeking disclosure of the communications has made a prima facie showing of bad faith, fraud, or criminal misconduct by the client.

(B)(1) A physician or a dentist concerning a communication made to the physician or dentist by a patient in that relation or the physician's or dentist's advice to a patient, except as otherwise provided in this division, division (B)(2), and division (B)(3) of this section, and except that, if the patient is

deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply, and a physician or dentist may testify or may be compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal representative of the patient gives express consent;

(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent;

(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(d) In any criminal action against a physician or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician or dentist to testify in such an action or permits the introduction into evidence of patient records or other

communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(e)(i) If the communication was between a patient who has since died and the deceased patient's physician or dentist, the communication is relevant to a dispute between parties who claim through that deceased patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the dispute.

(ii) If neither the spouse of a patient nor the executor or administrator of that patient's estate gives consent under division (B)(1)(a)(ii) of this section, testimony or the disclosure of the patient's medical records by a physician, dentist, or other health care provider under division (B)(1)(e)(i) of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required.

(iii) Division (B)(1)(e)(i) of this section does not require a mental health professional to disclose psychotherapy notes, as defined in 45 C.F.R. 164.501.

(iv) An interested person who objects to testimony or disclosure under division (B)(1)(e)(i) of this section may seek a protective order pursuant to Civil Rule 26.

(v) A person to whom protected health information is disclosed under division (B)(1)(e)(i) of this section shall not use or disclose the protected health information for any purpose other than the litigation or proceeding for which the information was requested and shall return the protected health information to the covered entity or destroy the protected health information, including all copies made, at the conclusion of the litigation or proceeding.

(2)(a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified

person to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy of any of the requested records the provider possesses. If the health care provider does not possess any of the requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records.

(b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test to which the records pertain, the person under whose supervision the test was administered, the custodian of the records, the person who made the records, or the person under whose supervision the records were made.

(3)(a) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(a)(iii) of this section, a physician or dentist may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the physician or dentist by the patient in question in that relation, or the physician's or dentist's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(b) If the testimonial privilege described in division (B)(1) of this section does not apply to a physician or dentist as provided in division (B)(1)(c) of this section, the physician or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the

Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test in question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled.

(4) The testimonial privilege described in division (B)(1) of this section is not waived when a communication is made by a physician to a pharmacist or when there is communication between a patient and a pharmacist in furtherance of the physician-patient relation.

(5)(a) As used in divisions (B)(1) to (4) of this section, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a physician or dentist to diagnose, treat, prescribe, or act for a patient. A "communication" may include, but is not limited to, any medical or dental, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(b) As used in division (B)(2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(c) As used in division (B)(5)(b) of this section:

(i) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory health care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01

of the Revised Code; an adult care facility, as defined in section ~~3722.01~~ 5119.70 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust.

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

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but

not limited to, the Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice to a client unless any of the following applies:

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.

(b) The client gives express consent to the testimony.

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family

therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent who takes part in mediation in accordance with the order and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children;

(I) A communications assistant, acting within the scope of the communication assistant's authority, when providing telecommunications relay service pursuant to section 4931.06 of the Revised Code or Title II of the "Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication made through a telecommunications relay service. Nothing in this section shall limit the obligation of a communications assistant to divulge information or testify when mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding.

Nothing in this section shall limit any immunity or privilege granted under federal law or regulation.

(J)(1) A chiropractor in a civil proceeding concerning a communication made to the chiropractor by a patient in that relation or the chiropractor's advice to a patient, except as otherwise provided in this division. The testimonial privilege established under this division does not apply, and a

chiropractor may testify or may be compelled to testify, in any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(a) If the patient or the guardian or other legal representative of the patient gives express consent.

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.

(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(2) If the testimonial privilege described in division (J)(1) of this section does not apply as provided in division (J)(1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the individual, during a debriefing session.

(2) The testimonial privilege established under division (K)(1) of this

section does not apply if any of the following are true:

(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or past child abuse or neglect of the individual constitute a clear and present danger.

(b) The individual who received crisis response services gives express consent to the testimony.

(c) If the individual who received crisis response services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent.

(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the individual who received crisis response services is not germane to the relationship between the individual and the team member.

(f) The communication or advice pertains or is related to any criminal act.

(3) As used in division (K) of this section:

(a) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster.

(b) "Critical incident stress management team member" or "team member" means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network.

(c) "Debriefing session" means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster.

(L)(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an employee assistance professional, concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional.

(2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements:

(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession;

(b) Has education, training, and experience in all of the following:

(i) Providing workplace-based services designed to address employer and employee productivity issues;

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;

(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;

(iv) Selecting and evaluating available community resources;

(v) Making appropriate referrals;

(vi) Local and national employee assistance agreements;

(vii) Client confidentiality.

(3) Division (L)(1) of this section does not apply to any of the following:

(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;

(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;

(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;

(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;

(e) A civil or criminal malpractice action brought against the employee assistance professional;

(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;

(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 2317.41 of the Revised Code but subject to division (B) of this section, the records, or copies or photographs of the records, of a hospital, homes required to be licensed pursuant to section 3721.01 of the Revised Code, and adult care

facilities required to be licensed pursuant to Chapter ~~3722.~~ 5119. of the Revised Code, in lieu of the testimony in open court of their custodian, person who made them, or person under whose supervision they were made, may be qualified as authentic evidence if any such person endorses thereon the person's verified certification identifying such records, giving the mode and time of their preparation, and stating that they were prepared in the usual course of the business of the institution. Such records, copies, or photographs may not be qualified by certification as provided in this section unless the party intending to offer them delivers a copy of them, or of their relevant portions, to the attorney of record for each adverse party not less than five days before trial. Nothing in this section shall be construed to limit the right of any party to call the custodian, person who made such records, or person under whose supervision they were made, as a witness.

(B) Division (A) of this section does not apply to any certified copy of the results of any test given to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in a patient's whole blood, blood serum or plasma, breath, or urine at any time relevant to a criminal offense that is submitted in a criminal action or proceeding in accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 of the Revised Code.

Sec. 2329.26. (A) Lands and tenements taken in execution shall not be sold until all of the following occur:

(1)(a) Except as otherwise provided in division (A)(1)(b) of this section, the judgment creditor who seeks the sale of the lands and tenements or the judgment creditor's attorney does both of the following:

(i) Causes a written notice of the date, time, and place of the sale to be served in accordance with divisions (A) and (B) of Civil Rule 5 upon the judgment debtor and upon each other party to the action in which the judgment giving rise to the execution was rendered;

(ii) At least seven calendar days prior to the date of the sale, files with the clerk of the court that rendered the judgment giving rise to the execution a copy of the written notice described in division (A)(1)(a)(i) of this section with proof of service endorsed on the copy in the form described in division (D) of Civil Rule 5.

(b) Service of the written notice described in division (A)(1)(a)(i) of this section is not required to be made upon any party who is in default for failure to appear in the action in which the judgment giving rise to the execution was rendered.

(2) The officer taking the lands and tenements gives public notice of the date, time, and place of the sale once a week for at least three consecutive

weeks before the day of sale by advertisement in a newspaper ~~published in and~~ of general circulation in the county. The newspaper shall meet the requirements of section 7.12 of the Revised Code. The court ordering the sale may designate in the order of sale the newspaper in which this public notice shall be published~~, and this public notice is subject to division (A) of section 2329.27 of the Revised Code~~.

(3) The officer taking the lands and tenements shall collect the purchaser's information required by section 2329.271 of the Revised Code.

(B) A sale of lands and tenements taken in execution may be set aside in accordance with division (A) or (B) of section 2329.27 of the Revised Code.

Sec. 2335.05. In all cases or proceedings not specified in sections 2335.06 and 2335.08 of the Revised Code, except as otherwise provided in section 2335.061 of the Revised Code, each person subpoenaed as a witness shall be allowed one dollar for each day's attendance and the mileage allowed in courts of record. ~~When~~ If not subpoenaed each person called upon to testify in a case or proceeding shall receive twenty-five cents. Such fee shall be taxed in the bill of costs, and if incurred in a state or ordinance case, or in a proceeding before a public officer, board, or commission, the fee shall be paid out of the proper public treasury, upon the certificate of the court, officer, board, or commission conducting the proceeding.

Sec. 2335.06. ~~Each~~ (A) Except as otherwise provided in section 2335.061 of the Revised Code, each witness in civil cases shall receive the following fees:

~~(A)~~(1) Twelve dollars for each full day's attendance and six dollars for each half day's attendance at a court of record, mayor's court, or before a person authorized to take depositions, to be taxed in the bill of costs. Each witness shall also receive reimbursement for each mile necessarily traveled to and from the witness's place of residence to the place of giving testimony, to be taxed in the bill of costs. The board of county commissioners of each county shall set the reimbursement rate for each mile necessarily traveled by a witness in a civil case in the common pleas court, any division of the common pleas court, a county court, or a county-operated municipal court. The rate shall not exceed fifty and one-half cents for each mile.

~~(B)~~(2) For attending a coroner's inquest, the same fees and mileage provided by division (A)(1) of this section, payable from the county treasury on the certificate of the coroner.

~~(C)~~(B) As used in this section, "full day's attendance" means a day on which a witness is required or requested to be present at proceedings before and after twelve noon regardless of whether the witness actually testifies; "half day's attendance" means a day on which a witness is required or

requested to be present at proceedings either before or after twelve noon, but not both, regardless of whether the witness actually testifies.

Sec. 2335.061. (A) As used in this section:

(1) "Coroner" has the same meaning as in section 313.01 of the Revised Code, and includes the following:

(a) The coroner of a county other than a county in which the death occurred or the dead human body was found if the coroner of that other county performed services for the county in which the death occurred or the dead human body was found;

(b) A medical examiner appointed by the governing authority of a county to perform the duties of a coroner set forth in Chapter 313. of the Revised Code.

(2) "Deposition fee" means the amount derived by multiplying the hourly rate by the number of hours a coroner or deputy coroner spent preparing for and giving expert testimony at a deposition in a civil action pursuant to this section.

(3) "Deputy coroner" means a pathologist serving as a deputy coroner.

(4) "Expert testimony" means testimony given by a coroner or deputy coroner as an expert witness pursuant to this section and the Rules of Evidence.

(5) "Fact testimony" means testimony given by a coroner or deputy coroner regarding the performance of the duties of the coroner as set forth in Chapter 313. of the Revised Code. "Fact testimony" does not include expert testimony.

(6) "Hourly rate" means the compensation established in sections 325.15 and 325.18 of the Revised Code for a coroner without a private practice of medicine at the class 8 level for calendar year 2001 and thereafter, divided by two thousand eighty.

(7) "Testimonial fee" means the amount derived by multiplying the hourly rate by six and multiplying the product by the number of hours that a coroner or deputy coroner spent preparing for and giving expert testimony at a trial or hearing in a civil action pursuant to this section.

(B)(1) A party may subpoena a coroner or deputy coroner to give expert testimony at a trial, hearing, or deposition in a civil action only upon filing with the court a notice that includes all of the following:

(a) The name of the coroner or deputy coroner whose testimony is sought;

(b) A brief statement of the issues upon which the party seeks expert testimony from the coroner or deputy coroner;

(c) An acknowledgment by the party that the giving of expert testimony

by the coroner or deputy coroner at the trial, hearing, or deposition is governed by this section and that the party will comply with all of the requirements of this section;

(d) A statement of the obligations of the coroner or deputy coroner under division (C) of this section.

(2) The notice under division (B)(1) of this section shall be served together with the subpoena.

(C) A party that obtains the expert testimony of a coroner or deputy coroner at a trial, hearing, or deposition in a civil action pursuant to division (B) or (D) of this section shall pay to the treasury of the county in which the coroner or deputy coroner holds office or is appointed or employed a testimonial fee or deposition fee, whichever is applicable, within thirty days after receiving the statement described in this division. Upon the conclusion of the coroner's or deputy coroner's expert testimony, the coroner or deputy coroner shall file a statement with the court on behalf of the county in which the coroner or deputy coroner holds office or is appointed or employed showing the fee due and how the coroner or deputy coroner calculated the fee. The coroner or deputy coroner shall serve a copy of the statement on each of the parties.

(D) For good cause shown, the court may permit a coroner or deputy coroner who has not been served with a subpoena under division (B) of this section to give expert testimony at a trial, hearing, or deposition in a civil action. Unless good cause is shown, the failure of a party to file with the court the notice described in division (B)(1) of this section prohibits the party from having a coroner or deputy coroner subpoenaed to give expert testimony at a trial, hearing, or deposition in a civil action or from otherwise calling the coroner or a deputy coroner to give expert testimony at a trial, hearing, or deposition in a civil action.

(E) In the event of a dispute as to the contents of the notice filed by a party under division (B) of this section or as to the nature of the testimony sought from or given by a coroner or a deputy coroner at a trial, hearing, or deposition in a civil action, the court shall determine whether the testimony sought from or given by the coroner or deputy coroner is expert testimony or fact testimony. In making this determination, the court shall consider all of the following:

(1) The definitions of "expert testimony" and "fact testimony" set forth in this section;

(2) All applicable rules of evidence;

(3) Any other information that the court considers relevant.

(F) Nothing in this section shall be construed to alter, amend, or

supersede the requirements of the Rules of Civil Procedure or the Rules of Evidence.

Sec. 2501.02. Each judge of a court of appeals shall have been admitted to practice as an attorney at law in this state and have, for a total of six years preceding the judge's appointment or commencement of the judge's term, engaged in the practice of law ~~in this state~~ or served as a judge of a court of record in any jurisdiction in the United States, or both. At least two of the years of practice or service that qualify a judge shall have been in this state. One judge shall be chosen in each court of appeals district every two years, and shall hold office for six years, beginning on the ninth day of February next after the judge's election.

In addition to the original jurisdiction conferred by Section 3 of Article IV, Ohio Constitution, the court shall have jurisdiction upon an appeal upon questions of law to review, affirm, modify, set aside, or reverse judgments or final orders of courts of record inferior to the court of appeals within the district, including the finding, order, or judgment of a juvenile court that a child is delinquent, neglected, abused, or dependent, for prejudicial error committed by such lower court.

The court, on good cause shown, may issue writs of supersedeas in any case, and all other writs, not specially provided for or prohibited by statute, necessary to enforce the administration of justice.

Sec. 2503.01. The supreme court shall consist of a chief justice and six justices, each of whom has been admitted to practice as an attorney at law in this state and has, for a total of at least six years preceding ~~his~~ appointment or commencement of ~~his~~ the justice's term, engaged in the practice of law ~~in this state~~ or served as a judge of a court of record in any jurisdiction of the United States, or both. At least two of the years of practice or service that qualify a justice shall have been in this state.

Sec. 2744.05. Notwithstanding any other provisions of the Revised Code or rules of a court to the contrary, in an action against a political subdivision to recover damages for injury, death, or loss to person or property caused by an act or omission in connection with a governmental or proprietary function:

(A) Punitive or exemplary damages shall not be awarded.

(B)(1) If a claimant receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against a political subdivision recovered by that claimant. No insurer or other person is entitled to bring an action under a subrogation provision in an insurance or other contract

against a political subdivision with respect to those benefits.

The amount of the benefits shall be deducted from an award against a political subdivision under division (B)(1) of this section regardless of whether the claimant may be under an obligation to pay back the benefits upon recovery, in whole or in part, for the claim. A claimant whose benefits have been deducted from an award under division (B)(1) of this section is not considered fully compensated and shall not be required to reimburse a subrogated claim for benefits deducted from an award pursuant to division (B)(1) of this section.

(2) Nothing in division (B)(1) of this section shall be construed to do either of the following:

(a) Limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds;

(b) Prohibit the department of job and family services from recovering from the political subdivision, pursuant to section 5101.58 of the Revised Code, the cost of medical assistance benefits provided under ~~sections 5101.5211 to 5101.5216 or~~ Chapter 5107.~~,~~ or 5111. of the Revised Code.

(C)(1) There shall not be any limitation on compensatory damages that represent the actual loss of the person who is awarded the damages. However, except in wrongful death actions brought pursuant to Chapter 2125. of the Revised Code, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages shall not exceed two hundred fifty thousand dollars in favor of any one person. The limitation on damages that do not represent the actual loss of the person who is awarded the damages provided in this division does not apply to court costs that are awarded to a plaintiff, or to interest on a judgment rendered in favor of a plaintiff, in an action against a political subdivision.

(2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured;

(b) All expenditures of the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that were necessary because of the injury;

(c) All expenditures to be incurred in the future, as determined by the

court, by the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that will be necessary because of the injury;

(d) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;

(e) All expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved;

(f) Any other expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

"The actual loss of the person who is awarded the damages" does not include any fees paid or owed to an attorney for any services rendered in relation to a personal or property injury or property loss, and does not include any damages awarded for pain and suffering, for the loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education of the person injured, for mental anguish, or for any other intangible loss.

Sec. 2901.01. (A) As used in the Revised Code:

(1) "Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

(2) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(4) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(5) "Serious physical harm to persons" means any of the following:

(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(b) Any physical harm that carries a substantial risk of death;

(c) Any physical harm that involves some permanent incapacity,

whether partial or total, or that involves some temporary, substantial incapacity;

(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;

(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.

(6) "Serious physical harm to property" means any physical harm to property that does either of the following:

(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;

(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.

(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(9) "Offense of violence" means any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, of division (A)(1), (2), or (3) of section 2911.12, or of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A)(9)(a) of this section;

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (A)(9)(a), (b), or (c) of this section.

(10)(a) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes,

but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(b) As used in division (A)(10) of this section, "trade secret" has the same meaning as in section 1333.61 of the Revised Code, and "telecommunications service" and "information service" have the same meanings as in section 2913.01 of the Revised Code.

(c) As used in divisions (A)(10) and (13) of this section, "cable television service," "computer," "computer software," "computer system," "computer network," "data," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(11) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, police officer of a township or joint ~~township~~ police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or state highway patrol trooper;

(b) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(c) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;

(d) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;

(e) A person lawfully called pursuant to section 311.07 of the Revised Code to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;

(f) A person appointed by a mayor pursuant to section 737.01 of the Revised Code as a special patrolling officer during riot or emergency, for

the purposes and during the time when the person is appointed;

(g) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;

(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code;

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

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

(l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms;

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

(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity.

(13) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:

(a) Any controlled substance, as defined in section 3719.01 of the Revised Code, or any device or paraphernalia;

(b) Any unlawful gambling device or paraphernalia;

(c) Any dangerous ordnance or obscene material.

(14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in section 2901.05 of the Revised Code, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or

defect, the wrongfulness of the person's acts.

(B)(1)(a) Subject to division (B)(2) of this section, as used in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense, "person" includes all of the following:

(i) An individual, corporation, business trust, estate, trust, partnership, and association;

(ii) An unborn human who is viable.

(b) As used in any section contained in Title XXIX of the Revised Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

(c) As used in division (B)(1)(a) of this section:

(i) "Unborn human" means an individual organism of the species Homo sapiens from fertilization until live birth.

(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (B)(1)(a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B)(1)(a)(ii) of this section be applied or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (B)(2)(a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, may be punished as a violation of section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with section 2919.12 of the Revised Code.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

(i) Her delivery of a stillborn baby;

(ii) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;

(iii) Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;

(iv) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;

(v) Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(C) As used in Title XXIX of the Revised Code:

(1) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(2) "School," "school building," and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314. of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code.

(4) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the Revised Code:

(A) "Care facility" means any of the following:

(1) Any "home" as defined in section 3721.10 or 5111.20 of the Revised Code;

(2) Any "residential facility" as defined in section 5123.19 of the Revised Code;

(3) Any institution or facility operated or provided by the department of mental health or by the department of developmental disabilities pursuant to sections 5119.02 and 5123.03 of the Revised Code;

(4) Any "residential facility" as defined in section 5119.22 of the Revised Code;

(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code;

(6) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to one individual or two unrelated individuals who are dependent upon the services of others;

(7) Any "adult care facility" as defined in section ~~3722.01~~ 5119.70 of the Revised Code;

(8) Any adult foster home certified ~~by the department of aging or its designee~~ under section ~~173.36~~ 5119.692 of the Revised Code.

(B) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a person by physical contact with the person or by the inappropriate use of a physical or chemical restraint, medication, or isolation on the person.

(C)(1) "Gross neglect" means knowingly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in physical harm or serious physical harm to the person.

(2) "Neglect" means recklessly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in serious physical harm to the person.

(D) "Inappropriate use of a physical or chemical restraint, medication, or isolation" means the use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in quantities that preclude habilitation and treatment.

Sec. 2917.40. (A) As used in this section:

(1) "Live entertainment performance" means any live speech; any live musical performance, including a concert; any live dramatic performance; any live variety show; and any other live performance with respect to which the primary intent of the audience can be construed to be viewing the performers. A "live entertainment performance" does not include any form of entertainment with respect to which the person purchasing a ticket routinely participates in amusements as well as views performers.

(2) "Restricted entertainment area" means any wholly or partially enclosed area, whether indoors or outdoors, that has limited access through established entrances, or established ~~turnstyles~~ turnstiles or similar devices.

(3) "Concert" means a musical performance of which the primary component is a presentation by persons singing or playing musical instruments, that is intended by its sponsors mainly, but not necessarily exclusively, for the listening enjoyment of the audience, and that is held in a facility. A "concert" does not include any performance in which music is a part of the presentation and the primary component of which is acting, dancing, a motion picture, a demonstration of skills or talent other than singing or playing an instrument, an athletic event, an exhibition, or a speech.

(4) "Facility" means any structure that has a roof or partial roof and that has walls that wholly surround the area on all sides, including, but not limited to, a stadium, hall, arena, armory, auditorium, ballroom, exhibition hall, convention center, or music hall.

(5) "Person" includes, in addition to an individual or entity specified in division (C) of section 1.59 of the Revised Code, any governmental entity.

(B)(1) No person shall sell, offer to sell, or offer in return for a donation any ticket that is not numbered and that does not correspond to a specific seat for admission to either of the following:

(a) A live entertainment performance that is not exempted under division (D) of this section, that is held in a restricted entertainment area, and for which more than eight thousand tickets are offered to the public;

(b) A concert that is not exempted under division (D) of this section and for which more than three thousand tickets are offered to the public.

(2) No person shall advertise any live entertainment performance as described in division (B)(1)(a) of this section or any concert as described in division (B)(1)(b) of this section, unless the advertisement contains the words "Reserved Seats Only."

(C) Unless exempted by division (D)(1) of this section, no person who owns or operates any restricted entertainment area shall fail to open, maintain, and properly staff at least the number of entrances designated under division (E) of this section for a minimum of ninety minutes prior to the scheduled start of any live entertainment performance that is held in the restricted entertainment area and for which more than three thousand tickets are sold, offered for sale, or offered in return for a donation.

(D)(1) A live entertainment performance, other than a concert, is exempted from the provisions of divisions (B) and (C) of this section if both of the following apply:

(a) The restricted entertainment area in which the performance is held has at least eight entrances or, if both entrances and separate admission ~~turnstyles~~ turnstiles or similar devices are used, has at least eight ~~turnstyles~~

turnstiles or similar devices;

(b) The eight entrances or, if applicable, the eight ~~turnstyles~~ turnstiles or similar devices are opened, maintained, and properly staffed at least one hour prior to the scheduled start of the performance.

(2)(a) The chief of the police department of a township police district or joint police district in the case of a facility located within the district, the officer responsible for public safety within a municipal corporation in the case of a facility located within the municipal corporation, or the county sheriff in the case of a facility located outside the boundaries of a township or joint police district or municipal corporation may, upon application of the sponsor of a concert covered by division (B) of this section, exempt the concert from the provisions of that division if the official finds that the health, safety, and welfare of the participants and spectators would not be substantially affected by failure to comply with the provisions of that division.

In determining whether to grant an exemption, the official shall consider the following factors:

(i) The size and design of the facility in which the concert is scheduled;

(ii) The size, age, and anticipated conduct of the crowd expected to attend the concert;

(iii) The ability of the sponsor to manage and control the expected crowd.

If the sponsor of any concert desires to obtain an exemption under this division, the sponsor shall apply to the appropriate official on a form prescribed by that official. The official shall issue an order that grants or denies the exemption within five days after receipt of the application. The sponsor may appeal any order that denies an exemption to the court of common pleas of the county in which the facility is located.

(b) If an official grants an exemption under division (D)(2)(a) of this section, the official shall designate an on-duty law enforcement officer to be present at the concert. The designated officer has authority to issue orders to all security personnel at the concert to protect the health, safety, and welfare of the participants and spectators.

(3) Notwithstanding division (D)(2) of this section, in the case of a concert held in a facility located on the campus of an educational institution covered by section 3345.04 of the Revised Code, a state university law enforcement officer appointed pursuant to sections 3345.04 and 3345.21 of the Revised Code shall do both of the following:

(a) Exercise the authority to grant exemptions provided by division (D)(2)(a) of this section in lieu of an official designated in that division;

(b) If the officer grants an exemption under division (D)(3)(a) of this section, designate an on-duty state university law enforcement officer to be present at the concert. The designated officer has authority to issue orders to all security personnel at the concert to protect the health, safety, and welfare of the participants and spectators.

(E)(1) Unless a live entertainment performance is exempted by division (D)(1) of this section, the chief of the police department of a township police district or joint police district in the case of a restricted entertainment area located within the district, the officer responsible for public safety within a municipal corporation in the case of a restricted entertainment area located within the municipal corporation, or the county sheriff in the case of a restricted entertainment area located outside the boundaries of a township or joint police district or municipal corporation shall designate, for purposes of division (C) of this section, the minimum number of entrances required to be opened, maintained, and staffed at each live entertainment performance so as to permit crowd control and reduce congestion at the entrances. The designation shall be based on such factors as the size and nature of the crowd expected to attend the live entertainment performance, the length of time prior to the live entertainment performance that crowds are expected to congregate at the entrances, and the amount of security provided at the restricted entertainment area.

(2) Notwithstanding division (E)(1) of this section, a state university law enforcement officer appointed pursuant to sections 3345.04 and 3345.21 of the Revised Code shall designate the number of entrances required to be opened, maintained, and staffed in the case of a live entertainment performance that is held at a restricted entertainment area located on the campus of an educational institution covered by section 3345.04 of the Revised Code.

(F) No person shall enter into any contract for a live entertainment performance, that does not permit or require compliance with this section.

(G)(1) This section does not apply to a live entertainment performance held in a restricted entertainment area if one admission ticket entitles the holder to view or participate in three or more different games, rides, activities, or live entertainment performances occurring simultaneously at different sites within the restricted entertainment area and if the initial admittance entrance to the restricted entertainment area, for which the ticket is required, is separate from the entrance to any specific live entertainment performance and an additional ticket is not required for admission to the particular live entertainment performance.

(2) This section does not apply to a symphony orchestra performance, a

ballet performance, horse races, dances, or fairs.

(H) This section does not prohibit the legislative authority of any municipal corporation from imposing additional requirements, not in conflict with this section, for the promotion or holding of live entertainment performances.

(I) Whoever violates division (B), (C), or (F) of this section is guilty of a misdemeanor of the first degree. If any individual suffers physical harm to ~~his~~ the individual's person as a result of a violation of this section, the sentencing court shall consider this factor in favor of imposing a term of imprisonment upon the offender.

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a violation of section 2919.27 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant if the court determines that either of the following criteria apply:

(i) If the alleged violation is a violation of a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of a family or household member covered by the order or agreement, or conduct by the defendant that caused a family or household member to believe that the defendant would cause physical harm to that member or that member's property.

(ii) If the alleged violation is a violation of a protection order issued pursuant to section 2903.213 or 2903.214 of the Revised Code or a protection order issued by a court of another state, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of the person covered by the order, or conduct by the defendant that caused the person covered by the order to believe that the defendant would cause physical harm to that person or that person's property.

(b) If a defendant is charged with a violation of section 2903.211 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant.

(2) An evaluation ordered under division (A)(1) of this section shall be completed no later than thirty days from the date the order is entered pursuant to that division. In that order, the court shall do either of the following:

(a) Order that the evaluation of the mental condition of the defendant be preceded by an examination conducted either by a forensic center that is

designated by the department of mental health to conduct examinations and make evaluations of defendants charged with violations of section 2903.211 or 2919.27 of the Revised Code or of substantially similar municipal ordinances in the area in which the court is located, or by any other program or facility that is designated by the department of mental health or the department of developmental disabilities to conduct examinations and make evaluations of defendants charged with violations of section 2903.211 or 2919.27 of the Revised Code or of substantially similar municipal ordinances, and that is operated by either department or is certified by either department as being in compliance with the standards established under division ~~(I)~~(H) of section 5119.01 of the Revised Code or division (C) of section 5123.04 of the Revised Code.

(b) Designate a center, program, or facility other than one designated by the department of mental health or the department of developmental disabilities, as described in division (A)(2)(a) of this section, to conduct the evaluation and preceding examination of the mental condition of the defendant.

Whether the court acts pursuant to division (A)(2)(a) or (b) of this section, the court may designate examiners other than the personnel of the center, program, facility, or department involved to make the evaluation and preceding examination of the mental condition of the defendant.

(B) If the court considers that additional evaluations of the mental condition of a defendant are necessary following the evaluation authorized by division (A) of this section, the court may order up to two additional similar evaluations. These evaluations shall be completed no later than thirty days from the date the applicable court order is entered. If more than one evaluation of the mental condition of the defendant is ordered under this division, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations and preceding examinations.

(C)(1) The court may order a defendant who has been released on bail to submit to an examination under division (A) or (B) of this section. The examination shall be conducted either at the detention facility in which the defendant would have been confined if the defendant had not been released on bail, or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility. Additionally, the examination shall be conducted at the times established by the examiners involved. If such a defendant refuses to submit to an examination or a complete examination as required by the court or the center, program, facility, or examiners involved, the court may amend the conditions of the

bail of the defendant and order the sheriff to take the defendant into custody and deliver the defendant to the detention facility in which the defendant would have been confined if the defendant had not been released on bail, or, if so specified by the center, program, facility, or examiners involved, to the premises of the center, program, or facility, for purposes of the examination.

(2) A defendant who has not been released on bail shall be examined at the detention facility in which the defendant is confined or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility.

(D) The examiner of the mental condition of a defendant under division (A) or (B) of this section shall file a written report with the court within thirty days after the entry of an order for the evaluation of the mental condition of the defendant. The report shall contain the findings of the examiner; the facts in reasonable detail on which the findings are based; the opinion of the examiner as to the mental condition of the defendant; the opinion of the examiner as to whether the defendant represents a substantial risk of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that placed other persons in reasonable fear of violent behavior and serious physical harm, or evidence of present dangerousness; and the opinion of the examiner as to the types of treatment or counseling that the defendant needs. The court shall provide copies of the report to the prosecutor and defense counsel.

(E) The costs of any evaluation and preceding examination of a defendant that is ordered pursuant to division (A) or (B) of this section shall be taxed as court costs in the criminal case.

(F) If the examiner considers it necessary in order to make an accurate evaluation of the mental condition of a defendant, an examiner under division (A) or (B) of this section may request any family or household member of the defendant to provide the examiner with information. A family or household member may, but is not required to, provide information to the examiner upon receipt of the request.

(G) As used in this section:

(1) "Bail" includes a recognizance.

(2) "Examiner" means a psychiatrist, a licensed independent social worker who is employed by a forensic center that is certified as being in compliance with the standards established under division ~~(I)~~(H) of section 5119.01 or division (C) of section 5123.04 of the Revised Code, a licensed professional clinical counselor who is employed at a forensic center that is certified as being in compliance with such standards, or a licensed clinical

psychologist, except that in order to be an examiner, a licensed clinical psychologist shall meet the criteria of division (I)(1) of section 5122.01 of the Revised Code or be employed to conduct examinations by the department of mental health or by a forensic center certified as being in compliance with the standards established under division ~~(I)~~(H) of section 5119.01 or division (C) of section 5123.04 of the Revised Code that is designated by the department of mental health.

(3) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(4) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(5) "Psychiatrist" and "licensed clinical psychologist" have the same meanings as in section 5122.01 of the Revised Code.

(6) "Protection order issued by a court of another state" has the same meaning as in section 2919.27 of the Revised Code.

Sec. 2929.71. (A) As used in this section:

(1) "Agency" means any law enforcement agency, other public agency, or public official involved in the investigation or prosecution of the offender or in the investigation of the fire or explosion in an aggravated arson, arson, or criminal damaging or endangering case. An "agency" includes, but is not limited to, a sheriff's office, a municipal corporation, township, or township or joint police district police department, the office of a prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a municipal corporation, the fire marshal's office, a municipal corporation, township, or township fire district fire department, the office of a fire prevention officer, and any state, county, or municipal corporation crime laboratory.

(2) "Assets" includes all forms of real or personal property.

(3) "Itemized statement" means the statement of costs described in division (B) of this section.

(4) "Offender" means the person who has been convicted of or pleaded guilty to committing, attempting to commit, or complicity in committing a violation of section 2909.02 or 2909.03 of the Revised Code, or, when the means used are fire or explosion, division (A)(2) of section 2909.06 of the Revised Code.

(5) "Costs" means the reasonable value of the time spent by an officer or employee of an agency on the aggravated arson, arson, or criminal damaging or endangering case, any moneys spent by the agency on that case, and the reasonable fair market value of resources used or expended by the agency on that case.

(B) Prior to the sentencing of an offender, the court shall enter an order that directs agencies that wish to be reimbursed by the offender for the costs they incurred in the investigation or prosecution of the offender or in the investigation of the fire or explosion involved in the case, to file with the court within a specified time an itemized statement of those costs. The order also shall require that a copy of the itemized statement be given to the offender or offender's attorney within the specified time. Only itemized statements so filed and given shall be considered at the hearing described in division (C) of this section.

(C) The court shall set a date for a hearing on all the itemized statements filed with it and given to the offender or the offender's attorney in accordance with division (B) of this section. The hearing shall be held prior to the sentencing of the offender, but may be held on the same day as the sentencing. Notice of the hearing date shall be given to the offender or the offender's attorney and to the agencies whose itemized statements are involved. At the hearing, each agency has the burden of establishing by a preponderance of the evidence that the costs set forth in its itemized statement were incurred in the investigation or prosecution of the offender or in the investigation of the fire or explosion involved in the case, and of establishing by a preponderance of the evidence that the offender has assets available for the reimbursement of all or a portion of the costs.

The offender may cross-examine all witnesses and examine all documentation presented by the agencies at the hearing, and the offender may present at the hearing witnesses and documentation the offender has obtained without a subpoena or a subpoena duces tecum or, in the case of documentation, that belongs to the offender. The offender also may issue subpoenas and subpoenas duces tecum for, and present and examine at the hearing, witnesses and documentation, subject to the following applying to the witnesses or documentation subpoenaed:

(1) The testimony of witnesses subpoenaed or documentation subpoenaed is material to the preparation or presentation by the offender of the offender's defense to the claims of the agencies for a reimbursement of costs;

(2) If witnesses to be subpoenaed are personnel of an agency or documentation to be subpoenaed belongs to an agency, the personnel or documentation may be subpoenaed only if the agency involved has indicated, pursuant to this division, that it intends to present the personnel as witnesses or use the documentation at the hearing. The offender shall submit, in writing, a request to an agency as described in this division to ascertain whether the agency intends to present various personnel as

witnesses or to use particular documentation. The request shall indicate that the offender is considering issuing subpoenas to personnel of the agency who are specifically named or identified by title or position, or for documentation of the agency that is specifically described or generally identified, and shall request the agency to indicate, in writing, whether it intends to present such personnel as witnesses or to use such documentation at the hearing. The agency shall promptly reply to the request of the offender. An agency is prohibited from presenting personnel as witnesses or from using documentation at the hearing if it indicates to the offender it does not intend to do so in response to a request of the offender under this division, or if it fails to reply or promptly reply to such a request.

(D) Following the hearing, the court shall determine which of the agencies established by a preponderance of the evidence that costs set forth in their itemized statements were incurred as described in division (C) of this section and that the offender has assets available for reimbursement purposes. The court also shall determine whether the offender has assets available to reimburse all such agencies, in whole or in part, for their established costs, and if it determines that the assets are available, it shall order the offender, as part of the offender's sentence, to reimburse the agencies from the offender's assets for all or a specified portion of their established costs.

Sec. 2935.01. As used in this chapter:

(A) "Magistrate" has the same meaning as in section 2931.01 of the Revised Code.

(B) "Peace officer" includes, except as provided in section 2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to section 737.04 of the Revised Code; member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code; state university law enforcement officer appointed under section 3345.04 of the Revised Code; enforcement agent of the department of public safety designated under section 5502.14 of the Revised Code; employee of the department of taxation to whom investigation powers have been delegated under section 5743.45 of the Revised Code; employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest

officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code; individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code; veterans' home police officer appointed under section 5907.02 of the Revised Code; special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code; police constable of any township; police officer of a township or joint ~~township~~ police district; a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended; the house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code; and an assistant house of representatives sergeant at arms; officer or employee of the bureau of criminal identification and investigation established pursuant to section 109.51 of the Revised Code who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the officer's or employee's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program and who is providing assistance upon request to a law enforcement officer or emergency assistance to a peace officer pursuant to section 109.54 or 109.541 of the Revised Code; a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code; and, for the purpose of arrests within those areas, for the purposes of Chapter 5503. of the Revised Code, and the filing of and service of process relating to those offenses witnessed or investigated by them, the superintendent and troopers of the state highway patrol.

(C) "Prosecutor" includes the county prosecuting attorney and any assistant prosecutor designated to assist the county prosecuting attorney, and, in the case of courts inferior to courts of common pleas, includes the village solicitor, city director of law, or similar chief legal officer of a municipal corporation, any such officer's assistants, or any attorney

designated by the prosecuting attorney of the county to appear for the prosecution of a given case.

(D) "Offense," except where the context specifically indicates otherwise, includes felonies, misdemeanors, and violations of ordinances of municipal corporations and other public bodies authorized by law to adopt penal regulations.

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, police officer of a township or joint ~~township~~ police district, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, veterans' home police officer appointed under section 5907.02 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, or a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended, shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's, state fire marshal law enforcement officer's, or individual's territorial jurisdiction, a

law of this state.

(3) The house sergeant at arms, if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, and an assistant house sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (D)(1)(a) of section 101.311 of the Revised Code or while providing security pursuant to division (D)(1)(f) of section 101.311 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on

mental health appointed under section 5119.51 of the Revised Code alleging that a person who had been hospitalized, institutionalized, or confined in any facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code.

(3)(a) For purposes of division (B)(1) of this section, a peace officer described in division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's own knowledge and observation of the facts and circumstances of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division (B)(3)(a)(i)

of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense, it is the preferred course of action in this state that the officer arrest and detain that person pursuant to division (B)(1) of this section until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division (A) of this section, in

addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear;

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense.

(e)(i) A peace officer described in division (A) of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order, that the victim of the offense specifically consent to the filing of charges against the person who has committed the offense or sign a complaint against the person who has committed the offense.

(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at

that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to Chapter 2981. of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, section 2981.12 of the Revised Code shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this section, a peace officer described in division (A) of this section arrests and detains a person pursuant to division (B)(1) of this section, or if, pursuant to division (B)(3)(h) of this section, a peace officer described in division (A) of this section seizes a deadly weapon, the officer, to the extent described in and in accordance with section 9.86 or 2744.03 of the Revised Code, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A)(1), (2), (3), (4), or (5) of section 4506.15 or a violation of section 4511.19 of the Revised Code has been committed by a person

operating a motor vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A) of this section, township constable, police officer of a township or joint ~~township~~ police district, state university law enforcement officer appointed under section 3345.04 of the Revised Code, peace officer of the department of natural resources, individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code, the house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, or an assistant house sergeant at arms is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the following apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed;

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its

territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to section 4510.036 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint ~~township~~ police district created under section ~~505.481~~ 505.482 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint ~~township~~ police district, in the case of a member of a township police district or joint ~~township~~ police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships and municipal corporations that created the joint ~~township~~ police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed

by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer or state fire marshal law enforcement officer.

(F)(1) A department of mental health special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of mental health special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution.

(2)(a) If a department of mental health special police officer or a department of developmental disabilities special police officer finds any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code committing a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution, or if there is reasonable ground to believe that a

violation of section 2921.34 of the Revised Code has been committed that involves an escape from the premises of an institution under the jurisdiction of the department of mental health or the department of developmental disabilities and if a department of mental health special police officer or a department of developmental disabilities special police officer has reasonable cause to believe that a particular person who has been hospitalized, institutionalized, or confined in the institution pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of the violation, the special police officer, outside of the premises of the institution, may pursue, arrest, and detain that person for that violation of section 2921.34 of the Revised Code, until a warrant can be obtained, if both of the following apply:

(i) The pursuit takes place without unreasonable delay after the offense is committed;

(ii) The pursuit is initiated within the premises of the institution from which the violation of section 2921.34 of the Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the execution of a written statement by the administrator of the institution in which a person had been hospitalized, institutionalized, or confined pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the premises of the institution in violation of section 2921.34 of the Revised Code constitutes reasonable ground to believe that the violation was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of mental health special police officer" means a special police officer of the department of mental health designated under section 5119.14 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(2) A "department of developmental disabilities special police officer" means a special police officer of the department of developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

(8) "Portion of any street or highway" means all lanes of the street or highway irrespective of direction of travel, including designated turn lanes, and any berm, median, or shoulder.

Sec. 2945.371. (A) If the issue of a defendant's competence to stand trial is raised or if a defendant enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the defendant's present mental condition or, in the case of a plea of not guilty by reason of insanity, of the defendant's mental condition at the time of the offense charged. An examiner shall conduct the evaluation.

(B) If the court orders more than one evaluation under division (A) of this section, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations. If a defendant enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defendant, the court shall inform the defendant that the defendant may have independent expert evaluation and that, if the defendant is unable to obtain independent expert evaluation, it will be obtained for the defendant at public expense if the defendant is indigent.

(C) If the court orders an evaluation under division (A) of this section, the defendant shall be available at the times and places established by the examiners who are to conduct the evaluation. The court may order a defendant who has been released on bail or recognizance to submit to an evaluation under this section. If a defendant who has been released on bail

or recognizance refuses to submit to a complete evaluation, the court may amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and deliver the defendant to a center, program, or facility operated or certified by the department of mental health or the department of developmental disabilities where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days.

(D) A defendant who has not been released on bail or recognizance may be evaluated at the defendant's place of detention. Upon the request of the examiner, the court may order the sheriff to transport the defendant to a program or facility operated or certified by the department of mental health or the department of developmental disabilities, where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days, and to return the defendant to the place of detention after the evaluation. A municipal court may make an order under this division only upon the request of a certified forensic center examiner.

(E) If a court orders the evaluation to determine a defendant's mental condition at the time of the offense charged, the court shall inform the examiner of the offense with which the defendant is charged.

(F) In conducting an evaluation of a defendant's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the defendant suffered, at the time of the commission of the offense, from the "battered woman syndrome."

(G) The examiner shall file a written report with the court within thirty days after entry of a court order for evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the following:

(1) The examiner's findings;

(2) The facts in reasonable detail on which the findings are based;

(3) If the evaluation was ordered to determine the defendant's competence to stand trial, all of the following findings or recommendations that are applicable:

(a) Whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense;

(b) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, whether the defendant presently is mentally ill or mentally retarded and, if the examiner's opinion

is that the defendant presently is mentally retarded, whether the defendant appears to be a mentally retarded person subject to institutionalization by court order;

(c) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the examiner's opinion as to the likelihood of the defendant becoming capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense within one year if the defendant is provided with a course of treatment;

(d) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant presently is mentally ill or mentally retarded, the examiner's recommendation as to the least restrictive ~~treatment~~ placement or commitment alternative, consistent with the defendant's treatment needs for restoration to competency and with the safety of the community;

(e) If the defendant is charged with a misdemeanor offense that is not an offense of violence and the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant is presently mentally ill or mentally retarded, the examiner's recommendation as to whether the defendant is amenable to engagement in mental health treatment or developmental disability services.

(4) If the evaluation was ordered to determine the defendant's mental condition at the time of the offense charged, the examiner's findings as to whether the defendant, at the time of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged.

(H) If the examiner's report filed under division (G) of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that in the examiner's opinion the defendant appears to be a mentally retarded person subject to institutionalization by court order, the court shall order the defendant to undergo a separate mental retardation evaluation conducted by a psychologist designated by the director of developmental disabilities. Divisions (C) to (F) of this section apply in relation to a separate mental retardation evaluation conducted under this division. The psychologist appointed under this division to conduct the separate mental retardation

evaluation shall file a written report with the court within thirty days after the entry of the court order requiring the separate mental retardation evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the information described in divisions (G)(1) to (4) of this section. If the court orders a separate mental retardation evaluation of a defendant under this division, the court shall not conduct a hearing under divisions (B) to (H) of section 2945.37 of the Revised Code regarding that defendant until a report of the separate mental retardation evaluation conducted under this division has been filed. Upon the filing of that report, the court shall conduct the hearing within the period of time specified in division (C) of section 2945.37 of the Revised Code.

(I) An examiner appointed under divisions (A) and (B) of this section or under division (H) of this section to evaluate a defendant to determine the defendant's competence to stand trial also may be appointed to evaluate a defendant who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.

(J) No statement that a defendant makes in an evaluation or hearing under divisions (A) to (H) of this section relating to the defendant's competence to stand trial or to the defendant's mental condition at the time of the offense charged shall be used against the defendant on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the prosecutor or defense counsel may call as a witness any person who evaluated the defendant or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the prosecutor or defense counsel from calling other witnesses or presenting other evidence on competency or insanity issues.

(K) Persons appointed as examiners under divisions (A) and (B) of this section or under division (H) of this section shall be paid a reasonable amount for their services and expenses, as certified by the court. The certified amount shall be paid by the county in the case of county courts and courts of common pleas and by the legislative authority, as defined in section 1901.03 of the Revised Code, in the case of municipal courts.

Sec. 2945.38. (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. If the court finds the defendant competent to stand trial and the defendant is

receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the defendant's competence to stand trial, unless the defendant's attending physician advises the court against continuation of the drugs, other medication, or treatment.

(B)(1)(a) If, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial and that there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order the defendant to undergo treatment. If the defendant has been charged with a felony offense and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(b) The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the defendant, if determined to require mental health treatment or continuing evaluation and treatment, shall be committed to the department of mental health for treatment or continuing evaluation and treatment ~~shall occur~~ at a hospital, facility, or agency, as determined to be clinically appropriate by the department of mental health and, if determined to require treatment or continuing evaluation and treatment for a developmental disability, shall receive treatment or continuing evaluation and treatment at an institution or facility operated by the department of ~~mental health or the department of~~ developmental disabilities, at a facility certified by ~~either of those departments~~ the department of developmental disabilities as being qualified to treat ~~mental illness or~~ mental retardation, at a public or private community mental ~~health or mental~~ retardation facility, or by a ~~psychiatrist or another~~ mental ~~health or mental~~ retardation professional. The order may restrict the defendant's freedom of movement as the court considers necessary. The prosecutor in the defendant's case shall send to the chief clinical officer of the hospital ~~or,~~ facility, or agency where the defendant is placed by the department of mental health, or to the

managing officer of the institution, the director of the ~~program~~ facility, or the person to which the defendant is committed, copies of relevant police reports and other background information that pertains to the defendant and is available to the prosecutor unless the prosecutor determines that the release of any of the information in the police reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person.

In committing the defendant to the department of mental health, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and, if the court finds that restrictions on the defendant's freedom of movement are necessary, shall specify the least restrictive limitations on the person's freedom of movement determined to be necessary to protect public safety. In determining ~~placement~~ commitment alternatives for defendants determined to require treatment or continuing evaluation and treatment for developmental disabilities, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety and treatment goals. In weighing these factors, the court shall give preference to protecting public safety.

(c) If the defendant is found incompetent to stand trial, if the chief clinical officer of the hospital ~~or,~~ facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the ~~program~~ facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment under division (B)(1)(b) of this section determines that medication is necessary to restore the defendant's competency to stand trial, and if the defendant lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition if the petition was filed in a municipal court or a county court regarding an incompetent defendant charged with a misdemeanor or within ten days of the filing of the petition if the petition was filed in a court of common pleas regarding an incompetent defendant charged with a felony offense. Following the hearing, the court

may authorize the involuntary administration of medication or may dismiss the petition.

(d) If the defendant is charged with a misdemeanor offense that is not an offense of violence, the prosecutor may hold the charges in abeyance while the defendant engages in mental health treatment or developmental disability services.

(2) If the court finds that the defendant is incompetent to stand trial and that, even if the defendant is provided with a course of treatment, there is not a substantial probability that the defendant will become competent to stand trial within one year, the court shall order the discharge of the defendant, unless upon motion of the prosecutor or on its own motion, the court either seeks to retain jurisdiction over the defendant pursuant to section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code alleging that the defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the defendant's mental condition that were prepared pursuant to section 2945.371 of the Revised Code.

The trial court may issue the temporary order of detention that a probate court may issue under section 5122.11 or 5123.71 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. or 5123. of the Revised Code.

(C) No defendant shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable:

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses:

(a) Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment may be imposed;

(b) An offense of violence that is a felony of the first or second degree;

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C)(1)(a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree.

(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C)(1) of this section;

(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree;

(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor.

(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.

(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to ~~a hospital~~ the department of mental health with restrictions on the defendant's freedom of movement or ~~other~~ is committed to an institution ~~by the court under this section~~ or facility for the treatment of developmental disabilities shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the defendant ordered under division (B)(1)(a) of this section informs the court that the treatment or continuing evaluation and treatment cannot be provided at the hospital or facility where the defendant is placed by the department of mental health or the institution or facility to which the defendant is committed. The chief clinical officer of the hospital or facility where the defendant is placed by the department of mental health or the managing officer of the institution or director of the facility to which the defendant is committed, or a designee of ~~either~~ any of those persons, may grant a defendant movement to a medical facility for an emergency medical situation with appropriate supervision to ensure the safety of the defendant, staff, and community during that emergency medical situation. The chief clinical officer of the hospital or facility where the defendant is placed by the department of mental health or the managing officer of the institution or director of the facility to which the defendant is committed shall notify the court within twenty-four hours of the defendant's movement to the medical facility for an emergency medical situation under this division.

(F) The person who supervises the treatment or continuing evaluation and treatment of a defendant ordered to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall file a written report with the court at the following times:

(1) Whenever the person believes the defendant is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense;

(2) For a felony offense, fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, and, for a misdemeanor offense, ten days before the expiration of the maximum time for treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense if the defendant is provided with a course of treatment, if in the examiner's opinion the defendant remains mentally ill or mentally retarded, and if the maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least restrictive ~~treatment~~ placement or commitment alternative that is consistent with the defendant's treatment needs for restoration to competency and with the safety of the community. The court shall provide copies of the report to the prosecutor and defense counsel.

(H) If a defendant is committed pursuant to division (B)(1) of this section, within ten days after the treating physician of the defendant or the examiner of the defendant who is employed or retained by the treating facility advises that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense

even if the defendant is provided with a course of treatment, within ten days after the expiration of the maximum time for treatment as specified in division (C) of this section, within ten days after the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, within thirty days after a defendant's request for a hearing that is made after six months of treatment, or within thirty days after being advised by the treating physician or examiner that the defendant is competent to stand trial, whichever is the earliest, the court shall conduct another hearing to determine if the defendant is competent to stand trial and shall do whichever of the following is applicable:

(1) If the court finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law.

(2) If the court finds that the defendant is incompetent to stand trial, but that there is a substantial probability that the defendant will become competent to stand trial if the defendant is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change the ~~facility or program at which the treatment is to be continued~~ least restrictive limitations on the defendant's freedom of movement, and, if applicable, shall specify whether the treatment for developmental disabilities is to be continued at the same or a different facility or ~~program~~ institution.

(3) If the court finds that the defendant is incompetent to stand trial, if the defendant is charged with an offense listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 2945.39, 2945.401, and 2945.402 of the Revised Code.

(4) If the court finds that the defendant is incompetent to stand trial, if the most serious offense with which the defendant is charged is a misdemeanor or a felony other than a felony listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, the court shall dismiss the indictment, information, or complaint against the defendant. A dismissal under this division is not a bar to further prosecution based on the same conduct. The court shall discharge the

defendant unless the court or prosecutor files an affidavit in probate court for civil commitment pursuant to Chapter 5122. or 5123. of the Revised Code. If an affidavit for civil commitment is filed, the court may detain the defendant for ten days pending civil commitment. All of the following provisions apply to persons charged with a misdemeanor or a felony other than a felony listed in division (C)(1) of this section who are committed by the probate court subsequent to the court's or prosecutor's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the entity, hospital, or facility, the managing officer of the institution~~, the director of the program~~, or the person to which the defendant is committed or admitted shall do all of the following:

(i) Notify the prosecutor, in writing, of the discharge of the defendant, send the notice at least ten days prior to the discharge unless the discharge is by the probate court, and state in the notice the date on which the defendant will be discharged;

(ii) Notify the prosecutor, in writing, when the defendant is absent without leave or is granted unsupervised, off-grounds movement, and send this notice promptly after the discovery of the absence without leave or prior to the granting of the unsupervised, off-grounds movement, whichever is applicable;

(iii) Notify the prosecutor, in writing, of the change of the defendant's commitment or admission to voluntary status, send the notice promptly upon learning of the change to voluntary status, and state in the notice the date on which the defendant was committed or admitted on a voluntary status.

(b) Upon receiving notice that the defendant will be granted unsupervised, off-grounds movement, the prosecutor either shall re-indict the defendant or promptly notify the court that the prosecutor does not intend to prosecute the charges against the defendant.

(I) If a defendant is convicted of a crime and sentenced to a jail or workhouse, the defendant's sentence shall be reduced by the total number of days the defendant is confined for evaluation to determine the defendant's competence to stand trial or treatment under this section and sections 2945.37 and 2945.371 of the Revised Code or by the total number of days the defendant is confined for evaluation to determine the defendant's mental condition at the time of the offense charged.

Sec. 2945.39. (A) If a defendant who is charged with an offense described in division (C)(1) of section 2945.38 of the Revised Code is found incompetent to stand trial, after the expiration of the maximum time for treatment as specified in division (C) of that section or after the court finds

that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, one of the following applies:

(1) The court or the prosecutor may file an affidavit in probate court for civil commitment of the defendant in the manner provided in Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may detain the defendant for ten days pending civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, ~~the director of the program,~~ or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions.

(2) On the motion of the prosecutor or on its own motion, the court may retain jurisdiction over the defendant if, at a hearing, the court finds both of the following by clear and convincing evidence:

(a) The defendant committed the offense with which the defendant is charged.

(b) The defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order.

(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the defendant, the court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense charged, and any history of the defendant that is relevant to the defendant's ability to conform to the law.

(C) If the court conducts a hearing as described in division (A)(2) of this section and if the court does not make both findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall dismiss the indictment, information, or complaint against the defendant. Upon the dismissal, the court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may order that the defendant be detained for up to ten days pending the civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for

civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, ~~the director of the program,~~ or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions. A dismissal of charges under this division is not a bar to further criminal proceedings based on the same conduct.

(D)(1) If the court conducts a hearing as described in division (A)(2) of this section and if the court makes the findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall commit the defendant, if determined to require mental health treatment, to ~~a hospital operated by~~ the department of mental health for treatment at a hospital, facility, or agency as determined clinically appropriate by the department of mental health or, if determined to require treatment for developmental disabilities, to a facility operated by the department of developmental disabilities, or another ~~medical or psychiatric~~ facility, as appropriate. In committing the defendant to the department of mental health, the court shall specify the least restrictive limitations on the defendant's freedom of movement determined to be necessary to protect public safety. In determining the place and nature of the commitment to a facility operated by the department of developmental disabilities or another facility for treatment of developmental disabilities, the court shall order the least restrictive commitment alternative available that is consistent with public safety and the welfare of the defendant. In weighing these factors, the court shall give preference to protecting public safety.

(2) If a court makes a commitment of a defendant under division (D)(1) of this section, the prosecutor shall send to the hospital, facility, or agency where the defendant is placed by the department of mental health or to the defendant's place of commitment all reports of the defendant's current mental condition and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A)(2) of this section, copies of relevant police reports, and copies of any prior arrest and conviction records that pertain to the defendant and that the prosecutor possesses. The prosecutor shall send the reports of the defendant's current mental condition in every case of commitment, and, unless the prosecutor determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the prosecutor also shall send the

other relevant information. ~~Upon admission of a defendant committed under division (D)(1) of this section, the place of commitment shall send to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the defendant were filed a copy of all reports of the defendant's current mental condition and a copy of the other relevant information provided by the prosecutor under this division, including, if provided, a transcript of the hearing held pursuant to division (A)(2) of this section, the relevant police reports, and the prior arrest and conviction records that pertain to the defendant and that the prosecutor possesses.~~

(3) If a court makes a commitment under division (D)(1) of this section, all further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code.

Sec. 2945.40. (A) If a person is found not guilty by reason of insanity, the verdict shall state that finding, and the trial court shall conduct a full hearing to determine whether the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. Prior to the hearing, if the trial judge believes that there is probable cause that the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or mentally retarded person subject to institutionalization by court order, the trial judge may issue a temporary order of detention for that person to remain in effect for ten court days or until the hearing, whichever occurs first.

Any person detained pursuant to a temporary order of detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend all hearings conducted pursuant to sections 2945.37 to 2945.402 of the Revised Code. At any hearing conducted pursuant to one of those sections, the court shall inform the person that the person has all of the

following rights:

(1) The right to be represented by counsel and to have that counsel provided at public expense if the person is indigent, with the counsel to be appointed by the court under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code;

(2) The right to have independent expert evaluation and to have that independent expert evaluation provided at public expense if the person is indigent;

(3) The right to subpoena witnesses and documents, to present evidence on the person's behalf, and to cross-examine witnesses against the person;

(4) The right to testify in the person's own behalf and to not be compelled to testify;

(5) The right to have copies of any relevant medical or mental health document in the custody of the state or of any place of commitment other than a document for which the court finds that the release to the person of information contained in the document would create a substantial risk of harm to any person.

(D) The hearing under division (A) of this section shall be open to the public, and the court shall conduct the hearing in accordance with the Rules of Civil Procedure. The court shall make and maintain a full transcript and record of the hearing proceedings. The court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense in relation to which the person was found not guilty by reason of insanity, and any history of the person that is relevant to the person's ability to conform to the law.

(E) Upon completion of the hearing under division (A) of this section, if the court finds there is not clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the court shall discharge the person, unless a detainer has been placed upon the person by the department of rehabilitation and correction, in which case the person shall be returned to that department.

(F) If, at the hearing under division (A) of this section, the court finds by clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order ~~or~~, the court shall commit the person to the department of mental health for placement in a hospital, facility, or agency as determined clinically appropriate by the department of

mental health. If, at the hearing under division (A) of this section, the court finds by clear and convincing evidence that the person is a mentally retarded person subject to institutionalization by court order, it shall commit the person to a ~~hospital operated by the department of mental health, a~~ facility operated by the department of developmental disabilities~~,~~ or another ~~medical or psychiatric~~ facility, as appropriate~~, and further~~. Further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code. In committing the person to the department of mental health, the court shall specify the least restrictive limitations to the defendant's freedom of movement determined to be necessary to protect public safety. In determining the place and nature of the commitment of a mentally retarded person subject to institutionalization by court order, the court shall order the least restrictive commitment alternative available that is consistent with public safety and the welfare of the person. In weighing these factors, the court shall give preference to protecting public safety.

(G) If a court makes a commitment of a person under division (F) of this section, the prosecutor shall send to the hospital, facility, or agency where the person is placed by the department of mental health or to the defendant's place of commitment all reports of the person's current mental condition, and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A) of this section, copies of relevant police reports, and copies of any prior arrest and conviction records that pertain to the person and that the prosecutor possesses. The prosecutor shall send the reports of the person's current mental condition in every case of commitment, and, unless the prosecutor determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the prosecutor also shall send the other relevant information. ~~Upon admission of a person committed under division (F) of this section, the place of commitment shall send to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the person were filed a copy of all reports of the person's current mental condition and a copy of the other relevant information provided by the prosecutor under this division, including, if provided, a transcript of the hearing held pursuant to division (A) of this section, the relevant police reports, and the prior arrest and conviction records that pertain to the person and that the prosecutor possesses.~~

(H) A person who is committed pursuant to this section shall not

voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.

Sec. 2945.401. (A) A defendant found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code or a person found not guilty by reason of insanity and committed pursuant to section 2945.40 of the Revised Code shall remain subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section. If the jurisdiction is terminated under this division because of the final termination of the commitment resulting from the expiration of the maximum prison term or term of imprisonment described in division (J)(1)(b) of this section, the court or prosecutor may file an affidavit for the civil commitment of the defendant or person pursuant to Chapter 5122. or 5123. of the Revised Code.

(B) A hearing conducted under any provision of sections 2945.37 to 2945.402 of the Revised Code shall not be conducted in accordance with Chapters 5122. and 5123. of the Revised Code. Any person who is committed pursuant to section 2945.39 or 2945.40 of the Revised Code shall not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. All other provisions of Chapters 5122. and 5123. of the Revised Code regarding hospitalization or institutionalization shall apply to the extent they are not in conflict with this chapter. A commitment under section 2945.39 or 2945.40 of the Revised Code shall not be terminated and the conditions of the commitment shall not be changed except as otherwise provided in division (D)(2) of this section with respect to a mentally retarded person subject to institutionalization by court order or except by order of the trial court.

(C) The ~~hospital,~~ department of mental health or the institution or facility~~, or program~~ to which a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code shall report in writing to the trial court, at the times specified in this division, as to whether the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order and, in the case of a defendant committed under section 2945.39 of the Revised Code, as to whether the defendant remains incompetent to stand trial. The ~~hospital~~ department, institution, or facility~~, or program~~ shall make the reports after the initial six months of treatment and every two years after the initial report is made. The trial court

shall provide copies of the reports to the prosecutor and to the counsel for the defendant or person. Within thirty days after its receipt pursuant to this division of a report from ~~a hospital~~ the department, institution, or facility~~, or program~~, the trial court shall hold a hearing on the continued commitment of the defendant or person or on any changes in the conditions of the commitment of the defendant or person. The defendant or person may request a change in the conditions of confinement, and the trial court shall conduct a hearing on that request if six months or more have elapsed since the most recent hearing was conducted under this section.

(D)(1) Except as otherwise provided in division (D)(2) of this section, when a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code, at any time after evaluating the risks to public safety and the welfare of the defendant or person, the ~~chief clinical officer~~ designee of the department of mental health or the managing officer of the institution or director of the ~~hospital,~~ facility~~, or program~~ to which the defendant or person is committed may recommend a termination of the defendant's or person's commitment or a change in the conditions of the defendant's or person's commitment.

Except as otherwise provided in division (D)(2) of this section, if the ~~chief clinical officer~~ designee of the department of mental health recommends on-grounds unsupervised movement, off-grounds supervised movement, or nonsecured status for the defendant or person or termination of the defendant's or person's commitment, the following provisions apply:

(a) If the ~~chief clinical officer~~ department's designee recommends on-grounds unsupervised movement or off-grounds supervised movement, the ~~chief clinical officer~~ department's designee shall file with the trial court an application for approval of the movement and shall send a copy of the application to the prosecutor. Within fifteen days after receiving the application, the prosecutor may request a hearing on the application and, if a hearing is requested, shall so inform the ~~chief clinical officer~~ department's designee. If the prosecutor does not request a hearing within the fifteen-day period, the trial court shall approve the application by entering its order approving the requested movement or, within five days after the expiration of the fifteen-day period, shall set a date for a hearing on the application. If the prosecutor requests a hearing on the application within the fifteen-day period, the trial court shall hold a hearing on the application within thirty days after the hearing is requested. If the trial court, within five days after the expiration of the fifteen-day period, sets a date for a hearing on the application, the trial court shall hold the hearing within thirty days after setting the hearing date. At least fifteen days before any hearing is held

under this division, the trial court shall give the prosecutor written notice of the date, time, and place of the hearing. At the conclusion of each hearing conducted under this division, the trial court either shall approve or disapprove the application and shall enter its order accordingly.

(b) If the ~~chief clinical officer~~ department's designee recommends termination of the defendant's or person's commitment at any time or if the ~~chief clinical officer~~ department's designee recommends the first of any nonsecured status for the defendant or person, the ~~chief clinical officer~~ department's designee shall send written notice of this recommendation to the trial court and to the local forensic center. The local forensic center shall evaluate the committed defendant or person and, within thirty days after its receipt of the written notice, shall submit to the trial court and the ~~chief clinical officer~~ department's designee a written report of the evaluation. The trial court shall provide a copy of the ~~chief clinical officer's~~ department's designee's written notice and of the local forensic center's written report to the prosecutor and to the counsel for the defendant or person. Upon the local forensic center's submission of the report to the trial court and the ~~chief clinical officer~~ department's designee, all of the following apply:

(i) If the forensic center disagrees with the recommendation of the ~~chief clinical officer~~ department's designee, it shall inform the ~~chief clinical officer~~ department's designee and the trial court of its decision and the reasons for the decision. The ~~chief clinical officer~~ department's designee, after consideration of the forensic center's decision, shall either withdraw, proceed with, or modify and proceed with the recommendation. If the ~~chief clinical officer~~ department's designee proceeds with, or modifies and proceeds with, the recommendation, the ~~chief clinical officer~~ department's designee shall proceed in accordance with division (D)(1)(b)(iii) of this section.

(ii) If the forensic center agrees with the recommendation of the ~~chief clinical officer~~ department's designee, it shall inform the ~~chief clinical officer~~ department's designee and the trial court of its decision and the reasons for the decision, and the ~~chief clinical officer~~ department's designee shall proceed in accordance with division (D)(1)(b)(iii) of this section.

(iii) If the forensic center disagrees with the recommendation of the ~~chief clinical officer~~ department's designee and the ~~chief clinical officer~~ department's designee proceeds with, or modifies and proceeds with, the recommendation or if the forensic center agrees with the recommendation of the ~~chief clinical officer~~ department's designee, the ~~chief clinical officer~~ department's designee shall work with ~~the board~~ community mental health agencies, programs, facilities, or boards of alcohol, drug addiction, and

mental health services ~~or community mental health board serving the area, as appropriate,~~ to develop a plan to implement the recommendation. If the defendant or person is on medication, the plan shall include, but shall not be limited to, a system to monitor the defendant's or person's compliance with the prescribed medication treatment plan. The system shall include a schedule that clearly states when the defendant or person shall report for a medication compliance check. The medication compliance checks shall be based upon the effective duration of the prescribed medication, taking into account the route by which it is taken, and shall be scheduled at intervals sufficiently close together to detect a potential increase in mental illness symptoms that the medication is intended to prevent.

The ~~chief clinical officer, after consultation with the board of alcohol, drug addiction, and mental health services or the community mental health board serving the area,~~ department's designee shall send the recommendation and plan developed under division (D)(1)(b)(iii) of this section, in writing, to the trial court, the prosecutor and the counsel for the committed defendant or person. The trial court shall conduct a hearing on the recommendation and plan developed under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) and (d) and (E) to (J) of this section apply regarding the hearing.

(c) If the ~~chief clinical officer's~~ department's designee's recommendation is for nonsecured status or termination of commitment, the prosecutor may obtain an independent expert evaluation of the defendant's or person's mental condition, and the trial court may continue the hearing on the recommendation for a period of not more than thirty days to permit time for the evaluation.

The prosecutor may introduce the evaluation report or present other evidence at the hearing in accordance with the Rules of Evidence.

(d) The trial court shall schedule the hearing on a ~~chief clinical officer's~~ department's designee's recommendation for nonsecured status or termination of commitment and shall give reasonable notice to the prosecutor and the counsel for the defendant or person. Unless continued for independent evaluation at the prosecutor's request or for other good cause, the hearing shall be held within thirty days after the trial court's receipt of the recommendation and plan.

(2)(a) Division (D)(1) of this section does not apply to on-grounds unsupervised movement of a defendant or person who has been committed under section 2945.39 or 2945.40 of the Revised Code, who is a mentally retarded person subject to institutionalization by court order, and who is being provided residential habilitation, care, and treatment in a facility

operated by the department of developmental disabilities.

(b) If, pursuant to section 2945.39 of the Revised Code, the trial court commits a defendant who is found incompetent to stand trial and who is a mentally retarded person subject to institutionalization by court order, if the defendant is being provided residential habilitation, care, and treatment in a facility operated by the department of developmental disabilities, if an individual who is conducting a survey for the department of health to determine the facility's compliance with the certification requirements of the medicaid program under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the defendant's receipt of the residential habilitation, care, and treatment in the facility as being inappropriate under the certification requirements, if the defendant's receipt of the residential habilitation, care, and treatment in the facility potentially jeopardizes the facility's continued receipt of federal medicaid moneys, and if as a result of the citation the chief clinical officer of the facility determines that the conditions of the defendant's commitment should be changed, the department of developmental disabilities may cause the defendant to be removed from the particular facility and, after evaluating the risks to public safety and the welfare of the defendant and after determining whether another type of placement is consistent with the certification requirements, may place the defendant in another facility that the department selects as an appropriate facility for the defendant's continued receipt of residential habilitation, care, and treatment and that is a no less secure setting than the facility in which the defendant had been placed at the time of the citation. Within three days after the defendant's removal and alternative placement under the circumstances described in division (D)(2)(b) of this section, the department of developmental disabilities shall notify the trial court and the prosecutor in writing of the removal and alternative placement.

The trial court shall set a date for a hearing on the removal and alternative placement, and the hearing shall be held within twenty-one days after the trial court's receipt of the notice from the department of developmental disabilities. At least ten days before the hearing is held, the trial court shall give the prosecutor, the department of developmental disabilities, and the counsel for the defendant written notice of the date, time, and place of the hearing. At the hearing, the trial court shall consider the citation issued by the individual who conducted the survey for the department of health to be prima-facie evidence of the fact that the defendant's commitment to the particular facility was inappropriate under the certification requirements of the medicaid program under Chapter 5111.

of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and potentially jeopardizes the particular facility's continued receipt of federal medicaid moneys. At the conclusion of the hearing, the trial court may approve or disapprove the defendant's removal and alternative placement. If the trial court approves the defendant's removal and alternative placement, the department of developmental disabilities may continue the defendant's alternative placement. If the trial court disapproves the defendant's removal and alternative placement, it shall enter an order modifying the defendant's removal and alternative placement, but that order shall not require the department of developmental disabilities to replace the defendant for purposes of continued residential habilitation, care, and treatment in the facility associated with the citation issued by the individual who conducted the survey for the department of health.

(E) In making a determination under this section regarding nonsecured status or termination of commitment, the trial court shall consider all relevant factors, including, but not limited to, all of the following:

(1) Whether, in the trial court's view, the defendant or person currently represents a substantial risk of physical harm to the defendant or person or others;

(2) Psychiatric and medical testimony as to the current mental and physical condition of the defendant or person;

(3) Whether the defendant or person has insight into the dependant's or person's condition so that the defendant or person will continue treatment as prescribed or seek professional assistance as needed;

(4) The grounds upon which the state relies for the proposed commitment;

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of society;

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered.

(F) At any hearing held pursuant to division (C) or (D)(1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code.

(G) In a hearing held pursuant to division (C) or (D)(1) of this section,

the prosecutor has the burden of proof as follows:

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order;

(2) For a recommendation for a change in the conditions of the commitment to a less restrictive status, to show by clear and convincing evidence that the proposed change represents a threat to public safety or a threat to the safety of any person.

(H) In a hearing held pursuant to division (C) or (D)(1) or (2) of this section, the prosecutor shall represent the state or the public interest.

(I) At the conclusion of a hearing conducted under division (D)(1) of this section regarding a recommendation from the ~~chief clinical officer~~ designee of the department of mental health, managing officer of the institution, or director of a ~~hospital, program, or~~ facility, the trial court may approve, disapprove, or modify the recommendation and shall enter an order accordingly.

(J)(1) A defendant or person who has been committed pursuant to section 2945.39 or 2945.40 of the Revised Code continues to be under the jurisdiction of the trial court until the final termination of the commitment. For purposes of division (J) of this section, the final termination of a commitment occurs upon the earlier of one of the following:

(a) The defendant or person no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, as determined by the trial court;

(b) The expiration of the maximum prison term or term of imprisonment that the defendant or person could have received if the defendant or person had been convicted of the most serious offense with which the defendant or person is charged or in relation to which the defendant or person was found not guilty by reason of insanity;

(c) The trial court enters an order terminating the commitment under the circumstances described in division (J)(2)(a)(ii) of this section.

(2)(a) If a defendant is found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code, if neither of the circumstances described in divisions (J)(1)(a) and (b) of this section applies to that defendant, and if a report filed with the trial court pursuant to division (C) of this section indicates that the defendant presently is competent to stand trial or if, at any other time during the period of the defendant's commitment, the prosecutor, the counsel for the defendant, or the ~~chief clinical officer~~ designee of the department of mental health or the

managing officer of the institution or director of the ~~hospital,~~ facility~~, or program~~ to which the defendant is committed files an application with the trial court alleging that the defendant presently is competent to stand trial and requesting a hearing on the competency issue or the trial court otherwise has reasonable cause to believe that the defendant presently is competent to stand trial and determines on its own motion to hold a hearing on the competency issue, the trial court shall schedule a hearing on the competency of the defendant to stand trial, shall give the prosecutor, the counsel for the defendant, and the ~~chief clinical officer~~ department's designee or the managing officer of the institution or the director of the facility to which the defendant is committed notice of the date, time, and place of the hearing at least fifteen days before the hearing, and shall conduct the hearing within thirty days of the filing of the application or of its own motion. If, at the conclusion of the hearing, the trial court determines that the defendant presently is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense, the trial court shall order that the defendant is competent to stand trial and shall be proceeded against as provided by law with respect to the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code and shall enter whichever of the following additional orders is appropriate:

(i) If the trial court determines that the defendant remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the ~~hospital,~~ department of mental health or to an institution or facility~~, or program~~ for the treatment of developmental disabilities be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code.

(ii) If the trial court determines that the defendant no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the ~~hospital,~~ department of mental health or to an institution or facility~~, or program~~ for the treatment of developmental disabilities shall not be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code. This order shall be a final termination of the commitment for purposes of division (J)(1)(c) of this section.

(b) If, at the conclusion of the hearing described in division (J)(2)(a) of this section, the trial court determines that the defendant remains incapable

of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the trial court shall order that the defendant continues to be incompetent to stand trial, that the defendant's commitment to the ~~hospital,~~ department of mental health or to an institution or facility~~, or program~~ for the treatment of developmental disabilities shall be continued, and that the defendant remains subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section.

Sec. 2945.402. (A) In approving a conditional release, the trial court may set any conditions on the release with respect to the treatment, evaluation, counseling, or control of the defendant or person that the court considers necessary to protect the public safety and the welfare of the defendant or person. The trial court may revoke a defendant's or person's conditional release and order ~~rehospitalization~~ reinstatement of the previous placement or reinstitutionalization at any time the conditions of the release have not been satisfied, provided that the revocation shall be in accordance with this section.

(B) A conditional release is a commitment. The hearings on continued commitment as described in section 2945.401 of the Revised Code apply to a defendant or person on conditional release.

(C) A person, agency, or facility that is assigned to monitor a defendant or person on conditional release immediately shall notify the trial court on learning that the defendant or person being monitored has violated the terms of the conditional release. Upon learning of any violation of the terms of the conditional release, the trial court may issue a temporary order of detention or, if necessary, an arrest warrant for the defendant or person. Within ten court days after the defendant's or person's detention or arrest, the trial court shall conduct a hearing to determine whether the conditional release should be modified or terminated. At the hearing, the defendant or person shall have the same rights as are described in division (C) of section 2945.40 of the Revised Code. The trial court may order a continuance of the ten-court-day period for no longer than ten days for good cause shown or for any period on motion of the defendant or person. If the trial court fails to conduct the hearing within the ten-court-day period and does not order a continuance in accordance with this division, the defendant or person shall be restored to the prior conditional release status.

(D) The trial court shall give all parties reasonable notice of a hearing conducted under this section. At the hearing, the prosecutor shall present the case demonstrating that the defendant or person violated the terms of the

conditional release. If the court finds by a preponderance of the evidence that the defendant or person violated the terms of the conditional release, the court may continue, modify, or terminate the conditional release and shall enter its order accordingly.

Sec. 2949.14. Upon conviction of a nonindigent person for a felony, the clerk of the court of common pleas shall make and certify under ~~his~~ the clerk's hand and seal of the court, a complete itemized bill of the costs made in such prosecution, including the sum paid by the board of county commissioners, certified by the county auditor, for the arrest and return of the person on the requisition of the governor, or on the request of the governor to the president of the United States, or on the return of the fugitive by a designated agent pursuant to a waiver of extradition except in cases of parole violation. ~~Such bill of costs shall be presented by such clerk to the prosecuting attorney, who shall examine each item therein charged and certify to it if correct and legal. Upon certification by the prosecuting attorney, the~~ The clerk shall attempt to collect the costs from the person convicted.

Sec. 2981.11. (A)(1) Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of a law enforcement agency shall be kept safely by the agency, pending the time it no longer is needed as evidence or for another lawful purpose, and shall be disposed of pursuant to sections 2981.12 and 2981.13 of the Revised Code.

(2) This chapter does not apply to the custody and disposal of any of the following:

(a) Vehicles subject to forfeiture under Title XLV of the Revised Code, except as provided in division (A)(6) of section 2981.12 of the Revised Code;

(b) Abandoned junk motor vehicles or other property of negligible value;

(c) Property held by a department of rehabilitation and correction institution that is unclaimed, that does not have an identified owner, that the owner agrees to dispose of, or that is identified by the department as having little value;

(d) Animals taken, and devices used in unlawfully taking animals, under section 1531.20 of the Revised Code;

(e) Controlled substances sold by a peace officer in the performance of the officer's official duties under section 3719.141 of the Revised Code;

(f) Property recovered by a township law enforcement agency under sections 505.105 to 505.109 of the Revised Code;

(g) Property held and disposed of under an ordinance of the municipal corporation or under sections 737.29 to 737.33 of the Revised Code, except that a municipal corporation that has received notice of a citizens' reward program as provided in division (F) of section 2981.12 of the Revised Code and disposes of property under an ordinance shall pay twenty-five per cent of any moneys acquired from any sale or auction to the citizens' reward program.

(B)(1) Each law enforcement agency that has custody of any property that is subject to this section shall adopt and comply with a written internal control policy that does all of the following:

(a) Provides for keeping detailed records as to the amount of property acquired by the agency and the date property was acquired;

(b) Provides for keeping detailed records of the disposition of the property, which shall include, but not be limited to, both of the following:

(i) The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.

(ii) The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each general type of expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

(c) Complies with section 2981.13 of the Revised Code if the agency has a law enforcement trust fund or similar fund created under that section.

(2) Each law enforcement agency that during any calendar year has any seized or forfeited property covered by this section in its custody, including amounts distributed under section 2981.13 of the Revised Code to its law enforcement trust fund or a similar fund created for the state highway patrol, department of public safety, department of taxation, or state board of pharmacy, shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public records kept by the agency pursuant to this section for that calendar year. The agency shall send a copy of the cumulative report to the attorney general not later than the first day of March in the calendar year following the calendar year covered by the report.

(3) The records kept under the internal control policy shall be open to public inspection during the agency's regular business hours. The policy adopted under this section and each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised

Code.

(4) Not later than the fifteenth day of April in each calendar year in which reports are sent to the attorney general under division (B)(2) of this section, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notice that indicates that the attorney general received reports that cover the previous calendar year, that the reports are open for inspection under section 149.43 of the Revised Code, and that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(C) A law enforcement agency with custody of property to be disposed of under section 2981.12 or 2981.13 of the Revised Code shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to possession, it is sufficient notice to advertise in a newspaper of general circulation in the county and to briefly describe the nature of the property in custody and inviting persons to view and establish their right to it.

(D) As used in sections 2981.11 to 2981.13 of the Revised Code:

(1) "Citizens' reward program" has the same meaning as in section 9.92 of the Revised Code.

(2) "Law enforcement agency" includes correctional institutions.

(3) "Township law enforcement agency" means an organized police department of a township, a township police district, a joint ~~township~~ police district, or the office of a township constable.

Sec. 2981.12. (A) Unclaimed or forfeited property in the custody of a law enforcement agency, other than property described in division (A)(2) of section 2981.11 of the Revised Code, shall be disposed of by order of any court of record that has territorial jurisdiction over the political subdivision that employs the law enforcement agency, as follows:

(1) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(2) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to division (B) of this section. The agency ~~shall destroy~~ may sell other firearms and dangerous ordnance ~~or~~ to a federally licensed

firearms dealer in a manner that the court considers proper. The agency shall destroy any firearms or dangerous ordnance not given to a law enforcement agency or sold or shall send them to the bureau of criminal identification and investigation for destruction by the bureau.

(3) Obscene materials shall be destroyed.

(4) Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under Chapters 4301. and 4303. of the Revised Code or otherwise forfeited to the state for an offense under section 4301.45 or 4301.53 of the Revised Code shall be sold by the division of liquor control if the division determines that it is fit for sale or shall be placed in the custody of the investigations unit in the department of public safety and be used for training relating to law enforcement activities. The department, with the assistance of the division of liquor control, shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under Title XLIII of the Revised Code has not been paid in relation to the beer, intoxicating liquor, or alcohol, any moneys acquired from the sale shall first be used to pay the tax. All other money collected under this division shall be paid into the state treasury. Any beer, intoxicating liquor, or alcohol that the division determines to be unfit for sale shall be destroyed.

(5) Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the inmates' industrial and entertainment fund of the institution if the sender is not known.

(6)(a) Any mobile instrumentality forfeited under this chapter may be given to the law enforcement agency that initially seized the mobile instrumentality for use in performing its duties, if the agency wants the mobile instrumentality. The agency shall take the mobile instrumentality subject to any security interest or lien on the mobile instrumentality.

(b) Vehicles and vehicle parts forfeited under sections 4549.61 to 4549.63 of the Revised Code may be given to a law enforcement agency for use in performing its duties. Those parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives of them may be sold or disposed of as provided by rules of the director of public safety. Parts from which a vehicle identification number or derivative of it has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.

(7) Computers, computer networks, computer systems, and computer

software suitable for police work may be given to a law enforcement agency for that purpose or disposed of under division (B) of this section.

(B) Unclaimed or forfeited property that is not described in division (A) of this section or division (A)(2) of section 2981.11 of the Revised Code, with court approval, may be used by the law enforcement agency in possession of it. If it is not used by the agency, it may be sold without appraisal at a public auction to the highest bidder for cash or disposed of in another manner that the court considers proper.

(C) Except as provided in divisions (A) and (F) of this section and after compliance with division (D) of this section when applicable, any moneys acquired from the sale of property disposed of pursuant to this section shall be placed in the general revenue fund of the state, or the general fund of the county, the township, or the municipal corporation of which the law enforcement agency involved is an agency.

(D) If the property was in the possession of the law enforcement agency in relation to a delinquent child proceeding in a juvenile court, ten per cent of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code. A juvenile court shall not specify a program, except as provided in this division, unless the program is in the same county as the court or in a contiguous county. If no certified program is located in any of those counties, the juvenile court may specify a certified program anywhere in Ohio. The remaining ninety per cent of the proceeds or cash shall be applied as provided in division (C) of this section.

Each treatment program that receives in any calendar year forfeited money under this division shall file an annual report for that year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the program is located and of any other county from which the program received forfeited money. The program shall file the report on or before the first day of March in the calendar year following the calendar year in which the program received the money. The report shall include statistics on the number of persons the program served, identify the types of treatment services it provided to them, and include a specific accounting of the purposes for which it used the money so received. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the program.

(E) Each certified alcohol and drug addiction treatment program that

receives in any calendar year money under this section or under section 2981.13 of the Revised Code as the result of a juvenile forfeiture order shall file an annual report for that calendar year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the program is located and of any other county from which the program received the money. The program shall file the report on or before the first day of March in the calendar year following the year in which the program received the money. The report shall include statistics on the number of persons served with the money, identify the types of treatment services provided, and specifically account for how the money was used. No information in the report shall identify or enable a person to determine the identity of anyone served by the program.

As used in this division, "juvenile-related forfeiture order" means any forfeiture order issued by a juvenile court under section 2981.04 or 2981.05 of the Revised Code and any disposal of property ordered by a court under section 2981.11 of the Revised Code regarding property that was in the possession of a law enforcement agency in relation to a delinquent child proceeding in a juvenile court.

(F) Each board of county commissioners that recognizes a citizens' reward program under section 9.92 of the Revised Code shall notify each law enforcement agency of that county and of a township or municipal corporation wholly located in that county of the recognition by filing a copy of its resolution conferring that recognition with each of those agencies. When the board recognizes a citizens' reward program and the county includes a part, but not all, of the territory of a municipal corporation, the board shall so notify the law enforcement agency of that municipal corporation of the recognition of the citizens' reward program only if the county contains the highest percentage of the municipal corporation's population.

Upon being so notified, each law enforcement agency shall pay twenty-five per cent of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens' reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

Receiving funds under this section or section 2981.11 of the Revised

Code does not make the citizens' reward program a governmental unit or public office for purposes of section 149.43 of the Revised Code.

(G) Any property forfeited under this chapter shall not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.

Sec. 2981.13. (A) Except as otherwise provided in this section, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to this chapter shall be disposed of, used, or sold pursuant to section 2981.12 of the Revised Code. If the property is to be sold under that section, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(B) If the contraband or instrumentality forfeited under this chapter is sold, any moneys acquired from a sale and any proceeds forfeited under this chapter shall be applied in the following order:

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more certified alcohol and drug addiction treatment programs as provided in division (D) of section 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation: the law enforcement trust fund of the county sheriff, municipal corporation, township, or park district created under section 511.18 or 1545.01 of the Revised Code; the state highway patrol contraband, forfeiture, and other fund; the department of public safety investigative unit contraband, forfeiture, and other fund; the department of taxation enforcement fund; the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code; the medicaid fraud investigation and prosecution fund; or the treasurer of state for deposit into the peace officer training commission fund if any other state law enforcement agency substantially conducted the investigation. In the

case of property forfeited for medicaid fraud, any remaining amount shall be used by the attorney general to investigate and prosecute medicaid fraud offenses.

If the prosecutor declines to accept any of the remaining amounts, the amounts shall be applied to the fund of the agency that substantially conducted the investigation.

(c) If more than one law enforcement agency is substantially involved in the seizure of property forfeited under this chapter, the court ordering the forfeiture shall equitably divide the amounts, after calculating any distribution to the law enforcement trust fund of the prosecutor pursuant to division (B)(4) of this section, among the entities that the court determines were substantially involved in the seizure.

(C)(1) A law enforcement trust fund shall be established by the prosecutor of each county who intends to receive any remaining amounts pursuant to this section, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township or joint police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police force or law enforcement department, for the purposes of this section.

There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the medicaid fraud investigation and prosecution fund, the department of taxation enforcement fund, and the peace officer training commission fund, for the purposes of this section.

Amounts distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, by the joint police district board only to the joint police district, and by the board of park commissioners only to the park district police force or law enforcement department.

(2)(a) No amounts shall be allocated to a fund created under this section or used by an agency unless the agency has adopted a written internal control policy that addresses the use of moneys received from the appropriate fund. The appropriate fund shall be expended only in accordance with that policy and, subject to the requirements specified in this

section, only for the following purposes:

(i) To pay the costs of protracted or complex investigations or prosecutions;

(ii) To provide reasonable technical training or expertise;

(iii) To provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse;

(iv) To pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory;

(v) For other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, department of taxation, board of township trustees, or board of park commissioners determines to be appropriate.

(b) The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory.

(c) The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the state board of pharmacy, of any political subdivision, or of any office of a prosecutor or county sheriff that are unrelated to law enforcement.

(d) Forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer training.

(3) Any of the following offices or agencies that receive amounts under this section during any calendar year shall file a report with the specified entity, not later than the thirty-first day of January of the next calendar year, verifying that the moneys were expended only for the purposes authorized by this section or other relevant statute and specifying the amounts

expended for each authorized purpose:

(a) Any sheriff or prosecutor shall file the report with the county auditor.

(b) Any municipal corporation police department shall file the report with the legislative authority of the municipal corporation.

(c) Any township police department, township or joint police district police force, or office of the constable shall file the report with the board of township trustees of the township.

(d) Any park district police force or law enforcement department shall file the report with the board of park commissioners of the park district.

(e) The superintendent of the state highway patrol and the tax commissioner shall file the report with the attorney general.

(f) The executive director of the state board of pharmacy shall file the report with the attorney general, verifying that cash and forfeited proceeds paid into the board of pharmacy drug law enforcement fund were used only in accordance with section 4729.65 of the Revised Code.

(g) The peace officer training commission shall file a report with the attorney general, verifying that cash and forfeited proceeds paid into the peace officer training commission fund pursuant to this section during the prior calendar year were used by the commission during the prior calendar year only to pay the costs of peace officer training.

(D) The written internal control policy of a county sheriff, prosecutor, municipal corporation police department, township police department, township or joint police district police force, office of the constable, or park district police force or law enforcement department shall provide that at least ten per cent of the first one hundred thousand dollars of amounts deposited during each calendar year in the agency's law enforcement trust fund under this section, and at least twenty per cent of the amounts exceeding one hundred thousand dollars that are so deposited, shall be used in connection with community preventive education programs. The manner of use shall be determined by the sheriff, prosecutor, department, police force, or office of the constable after receiving and considering advice on appropriate community preventive education programs from the county's board of alcohol, drug addiction, and mental health services, from the county's alcohol and drug addiction services board, or through appropriate community dialogue.

The financial records kept under the internal control policy shall specify the amount deposited during each calendar year in the portion of that amount that was used pursuant to this division, and the programs in connection with which the portion of that amount was so used.

As used in this division, "community preventive education programs" include, but are not limited to, DARE programs and other programs designed to educate adults or children with respect to the dangers associated with using drugs of abuse.

(E) Upon the sale, under this section or section 2981.12 of the Revised Code, of any property that is required by law to be titled or registered, the state shall issue an appropriate certificate of title or registration to the purchaser. If the state is vested with title and elects to retain property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration.

(F) Any failure of a law enforcement officer or agency, prosecutor, court, or the attorney general to comply with this section in relation to any property seized does not affect the validity of the seizure and shall not be considered to be the basis for suppressing any evidence resulting from the seizure, provided the seizure itself was lawful.

Sec. 3109.16. (A) The children's trust fund board, upon the recommendation of the director of job and family services, shall approve the employment of an executive director who will administer the programs of the board. ~~The~~

(B) The department of job and family services shall provide budgetary, procurement, accounting, and other related management functions for the board and may adopt rules in accordance with Chapter 119. of the Revised Code for these purposes. An amount not to exceed three per cent of the total amount of fees deposited in the children's trust fund in each fiscal year may be used for costs directly related to these administrative functions of the department. Each fiscal year, the board shall approve a budget for administrative expenditures for the next fiscal year.

(C) The board may request that the department adopt rules the board considers necessary for the purpose of carrying out the board's responsibilities under this section, and the department may adopt those rules. The department may, after consultation with the board and the executive director, adopt any other rules to assist the board in carrying out its responsibilities under this section. In either case, the rules shall be adopted under Chapter 119. of the Revised Code.

(D) The board shall meet at least quarterly at the call of the chairperson to conduct its official business. All business transactions of the board shall be conducted in public meetings. Eight members of the board constitute a quorum. A majority of the board members is required to adopt the state plan for the allocation of funds from the children's trust fund. A majority of the quorum is required to make all other decisions of the board.

~~The~~ (E) With respect to funding, all of the following apply:

(1) The board may apply for and accept federal and other funds for the purpose of funding child abuse and child neglect prevention programs. ~~In addition, the~~

(2) The board may solicit and accept gifts, money, and other donations from any public or private source, including individuals, philanthropic foundations or organizations, corporations, or corporation endowments. ~~The~~

(3) The board may develop private-public partnerships to support the mission of the children's trust fund.

(4) The acceptance and use of federal and other funds shall not entail any commitment or pledge of state funds, nor obligate the general assembly to continue the programs or activities for which the federal and other funds are made available. ~~All~~

(5) All funds received in the manner described in this section shall be transmitted to the treasurer of state, who shall credit them to the children's trust fund created in section 3109.14 of the Revised Code.

Sec. 3111.04. (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother, father, or alleged father is a recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the alleged father's personal representative.

(B) An agreement does not bar an action under this section.

(C) If an action under this section is brought before the birth of the child and if the action is contested, all proceedings, except service of process and the taking of depositions to perpetuate testimony, may be stayed until after the birth.

(D) A recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, shall cooperate with the child support enforcement agency of the county in which a child resides to obtain an administrative determination pursuant to sections 3111.38 to 3111.54 of the Revised Code, or, if necessary, a court determination pursuant to sections 3111.01 to 3111.18 of the Revised Code, of the existence or nonexistence of a parent and child relationship between the father and the child. If the recipient fails to cooperate, the agency may commence an action to determine the existence or nonexistence of a parent and child relationship between the father and the child pursuant to sections 3111.01 to 3111.18 of the Revised Code.

(E) As used in this section, "public assistance" means all of the following:

(1) Medicaid under Chapter 5111. of the Revised Code;

(2) Ohio works first under Chapter 5107. of the Revised Code;

(3) Disability financial assistance under Chapter 5115. of the Revised Code~~;~~

~~(4) Children's buy-in program under sections 5101.5211 to 5101.5216 of the Revised Code~~.

Sec. 3113.06. No father, or mother when she is charged with the maintenance, of a child under eighteen years of age, or a mentally or physically handicapped child under age twenty-one, who is legally a ward of a public children services agency or is the recipient of aid pursuant to ~~sections 5101.5211 to 5101.5216 or~~ Chapter 5107. or 5115. of the Revised Code, shall neglect or refuse to pay such agency the reasonable cost of maintaining such child when such father or mother is able to do so by reason of property, labor, or earnings.

An offense under this section shall be held committed in the county in which the agency is located. The agency shall file charges against any parent who violates this section, unless the agency files charges under section 2919.21 of the Revised Code, or unless charges of nonsupport are filed by a relative or guardian of the child, or unless an action to enforce support is brought under Chapter 3115. of the Revised Code.

Sec. 3119.54. A party to a child support order issued in accordance with section 3119.30 of the Revised Code shall notify any physician, hospital, or other provider of medical services that provides medical services to the child who is the subject of the child support order of the number of any health insurance or health care policy, contract, or plan that covers the child if the child is eligible for medical assistance under ~~sections 5101.5211 to 5101.5216 or~~ Chapter 5111. of the Revised Code. The party shall include in the notice the name and address of the insurer. Any physician, hospital, or other provider of medical services for which medical assistance is available under ~~sections 5101.5211 to 5101.5216 or~~ Chapter 5111. of the Revised Code who is notified under this section of the existence of a health insurance or health care policy, contract, or plan with coverage for children who are eligible for medical assistance shall first bill the insurer for any services provided for those children. If the insurer fails to pay all or any part of a claim filed under this section and the services for which the claim is filed are covered by ~~sections 5101.5211 to 5101.5216 or~~ Chapter 5111. of the Revised Code, the physician, hospital, or other medical services provider shall bill the remaining unpaid costs of the services in accordance with

~~sections 5101.5211 to 5101.5216 or~~ Chapter 5111. of the Revised Code.

Sec. 3121.48. The office of child support shall ~~maintain~~ administer a ~~separate account~~ fund for the deposit of support payments it receives as trustee for remittance to the persons entitled to receive the support payments. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury.

Sec. 3123.44. (A) Notice shall be sent to an individual described in section 3123.42 of the Revised Code in compliance with section 3121.23 of the Revised Code. The notice shall specify that a court or child support enforcement agency has determined the individual to be in default under a child support order or that the individual is an obligor who has failed to comply with a subpoena or warrant issued by a court or agency with respect to a proceeding to enforce a child support order, that a notice containing the individual's name and social security number or other identification number may be sent to every board that has authority to issue or has issued the individual a license, and that, if the board receives that notice and determines that the individual is the individual named in that notice and the board has not received notice under section 3123.45 or 3123.46 of the Revised Code, all of the following will occur:

~~(A)~~(1) The board will not issue any license to the individual or renew any license of the individual.

~~(B)~~(2) The board will suspend any license of the individual if it determines that the individual is the individual named in the notice sent to the board under section 3123.43 of the Revised Code.

~~(C)~~(3) If the individual is the individual named in the notice, the board will not issue any license to the individual, and will not reinstate a suspended license, until the board receives a notice under section 3123.45 or 3123.46 of the Revised Code.

(B) If an agency makes the determination described in division (A) of section 3123.42 of the Revised Code, it shall not send the notice described in division (A) of this section unless both of the following are the case:

(1) At least ninety days have elapsed since the final and enforceable determination of default;

(2) In the preceding ninety days, the obligor has failed to pay at least fifty per cent of the total monthly obligation due through means other than those described in sections 3123.81 to 3123.85 of the Revised Code.

(C) The department of job and family services shall adopt rules pursuant to section 3123.63 of the Revised Code establishing a uniform pre-suspension notice form that shall be used by agencies that send notice as required by this section.

Sec. 3123.45. A child support enforcement agency that sent a notice to a board of an individual's default under a child support order shall send to each board to which the agency sent the notice a further notice that the individual is not in default if it determines that the individual is not in default or any of the following occurs:

(A) The individual makes full payment to the office of child support in the department of job and family services or, pursuant to sections 3125.27 to 3125.30 of the Revised Code, to the child support enforcement agency of the arrearage ~~that was the basis for the court or agency determination that the individual was in default~~ as of the date the payment is made.

(B) ~~An~~ If division (A) is not possible, the individual has presented to the agency sufficient evidence of current employment or of an account in a financial institution, the agency has confirmed the individual's employment or the existence of the account, and an appropriate withholding or deduction notice ~~or other appropriate order~~ described in section 3121.03~~, 3121.04, 3121.05, 3121.06, or 3121.12~~ of the Revised Code has been issued to collect current support and any arrearage due under the child support order that was in default~~, and the individual is complying with the notice or order~~.

(C) ~~A new child support order has been issued or the child support order that was in default, has been modified to collect current support and any arrearage due under the child support order that was in default, and the individual is complying with the new or modified child support order~~ If divisions (A) and (B) are not possible, the individual presents evidence to the agency sufficient to establish that the individual is unable to work due to circumstances beyond the individual's control.

(D) If divisions (A), (B), and (C) are not possible, the individual enters into and complies with a written agreement with the agency that requires the obligor to comply with either of the following:

(1) A family support program administered or approved by the agency;

(2) A program to establish compliance with a seek work order issued pursuant to section 3123.03 of the Revised Code.

(E) If divisions (A), (B), (C), and (D) are not possible, the individual pays the balance of the total monthly obligation due for the ninety-day period preceding the date the agency sent the notice described in section 3123.44 of the Revised Code.

The agency shall send the notice under this section not later than seven days after the agency determines the individual is not in default or that any of the circumstances specified in this section has occurred.

Sec. 3123.55. (A) Notice shall be sent to the individual described in section ~~3123.54~~ 3123.53 of the Revised Code in compliance with section

3121.23 of the Revised Code. The notice shall specify that a court or child support enforcement agency has determined the individual to be in default under a child support order or that the individual is an obligor under a child support order who has failed to comply with a subpoena or warrant issued by a court or agency with respect to a proceeding to enforce a child support order, that a notice containing the individual's name and social security number or other identification number may be sent to the registrar of motor vehicles, and that, if the registrar receives that notice and determines that the individual is the individual named in that notice and the registrar has not received notice under section 3123.56 or 3123.57 of the Revised Code, all of the following will occur:

~~(A)~~(1) The registrar and all deputy registrars will be prohibited from issuing to the individual a driver's or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit.

~~(B)~~(2) The registrar and all deputy registrars will be prohibited from renewing for the individual a driver's or commercial driver's license, motorcycle operator's license or endorsement, or commercial driver's temporary instruction permit.

~~(C)~~(3) If the individual holds a driver's or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit, the registrar will impose a class F suspension under division (B)(6) of section 4510.02 of the Revised Code if the registrar determines that the individual is the individual named in the notice sent pursuant to section 3123.54 of the Revised Code.

~~(D)~~(4) If the individual is the individual named in the notice, the individual will not be issued or have renewed any license, endorsement, or permit, and no suspension will be lifted with respect to any license, endorsement, or permit listed in this section until the registrar receives a notice under section 3123.56 or 3123.57 of the Revised Code.

(B) If an agency makes the determination described in division (A) of section 3123.53 of the Revised Code, it shall not send the notice described in division (A) of this section unless both of the following are the case:

(1) At least ninety days have elapsed since the final and enforceable determination of default;

(2) In the preceding ninety days, the obligor has failed to pay at least fifty per cent of the total monthly obligation due through means other than those described in sections 3123.81 to 3123.85 of the Revised Code.

(C) The department of job and family services shall adopt rules pursuant to section 3123.63 of the Revised Code establishing a uniform

pre-suspension notice form that shall be used by agencies that send notice as required by this section.

Sec. 3123.56. A child support enforcement agency that sent a notice under section 3123.54 of the Revised Code of an individual's default under a child support order shall send to the registrar of motor vehicles a notice that the individual is not in default if it determines that the individual is not in default or any of the following occurs:

(A) The individual makes full payment to the office of child support or, pursuant to sections 3125.27 to 3125.30 of the Revised Code, to the child support enforcement agency of the arrearage ~~that was the basis for the court or agency determination that the individual was in default~~ as of the date the payment is made.

(B) ~~An~~ If division (A) is not possible, the individual has presented to the agency sufficient evidence of current employment or of an account in a financial institution, the agency has confirmed the individual's employment or the existence of the account, and an appropriate withholding or deduction notice ~~or other appropriate order~~ described in section 3121.03~~, 3121.04, 3121.05, 3121.06, or 3121.12~~ of the Revised Code has been issued to collect current support and any arrearage due under the child support order that was in default~~, and the individual is complying with the notice or order~~.

(C) ~~A new child support order has been issued or the child support order that was in default has been modified to collect current support and any arrearage due under the child support order that was in default, and the individual is complying with the new or modified child support order~~ If divisions (A) and (B) are not possible, the individual presents evidence to the agency sufficient to establish that the individual is unable to work due to circumstances beyond the individual's control.

(D) If divisions (A), (B), and (C) are not possible, the individual enters into and complies with a written agreement with the agency that requires the obligor to comply with either of the following:

(1) A family support program administered or approved by the agency;

(2) A program to establish compliance with a seek work order issued pursuant to section 3123.03 of the Revised Code.

(E) If divisions (A), (B), (C), and (D) are not possible, the individual pays the balance of the total monthly obligation due for the ninety-day period preceding the date the agency sent the notice described in section 3123.55 of the Revised Code.

The agency shall send the notice under this section not later than seven days after it determines the individual is not in default or that any of the circumstances specified in this section has occurred.

Sec. 3123.58. (A) On receipt of a notice pursuant to section 3123.54 of the Revised Code, the registrar of motor vehicles shall determine whether the individual named in the notice holds or has applied for a driver's license or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit. If the registrar determines that the individual holds or has applied for a license, permit, or endorsement and the individual is the individual named in the notice and does not receive a notice pursuant to section 3123.56 or 3123.57 of the Revised Code, the registrar immediately shall provide notice of the determination to each deputy registrar. The registrar or a deputy registrar may not issue to the individual a driver's or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit and may not renew for the individual a driver's or commercial driver's license, motorcycle operator's license or endorsement, or commercial driver's temporary instruction permit. The registrar or a deputy registrar also shall impose a class F suspension of the license, permit, or endorsement held by the individual under division (B)(6) of section 4510.02 of the Revised Code.

~~(B) Prior to the date specified in section 3123.52 of the Revised Code, the registrar of motor vehicles or a deputy registrar shall do only the following with respect to an individual if the registrar makes the determination required under division (A) of this section and no notice is received concerning the individual under section 3123.56 or 3123.57 of the Revised Code:~~

~~(1) Refuse to issue or renew the individual's commercial driver's license or commercial driver's temporary instruction permit;~~

~~(2) Impose a class F suspension under division (B)(6) of section 4510.02 of the Revised Code on the individual with respect to the license or permit held by the individual.~~

Sec. 3123.59. Not later than seven days after receipt of a notice pursuant to section 3123.56 or 3123.57 of the Revised Code, the registrar of motor vehicles shall notify each deputy registrar of the notice. The registrar and each deputy registrar shall then, if the individual otherwise is eligible for the license, permit, or endorsement and wants the license, permit, or endorsement, issue a license, permit, or endorsement to, or renew a license, permit, or endorsement of, the individual, or, if the registrar imposed a class F suspension of the individual's license, permit, or endorsement pursuant to division (A) of section 3123.58 of the Revised Code, remove the suspension. ~~On and after the date specified in section 3123.52 of the~~

~~Revised Code, the registrar or a deputy registrar shall remove, after receipt of a notice under section 3123.56 or 3123.57 of the Revised Code, a class F suspension imposed on an individual with respect to a license or permit pursuant to division (B) of section 3123.58 of the Revised Code.~~ The registrar or a deputy registrar may charge a fee of not more than twenty-five dollars for issuing or renewing or removing the suspension of a license, permit, or endorsement pursuant to this section. The fees collected by the registrar pursuant to this section shall be paid into the state bureau of motor vehicles fund established in section 4501.25 of the Revised Code.

Sec. 3123.591. A child support enforcement agency may, pursuant to rules adopted under section 3123.63 of the Revised Code, direct the registrar of motor vehicles to eliminate from the abstract maintained by the bureau of motor vehicles any reference to the suspension of an individual's license, permit, or endorsement imposed under section 3123.58 of the Revised Code.

Sec. 3123.63. The director of job and family services ~~may~~ shall adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 3123.41 to 3123.50, ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60, and 3123.62 of the Revised Code. The rules shall include both of the following:

(A) Requirements concerning the contents of, and the conditions for issuance of, a notice required by section 3123.44 or 3123.55 of the Revised Code. The rules shall require the contents of the notice to include information about the effect of a license suspension and appropriate steps that an individual can take to avoid license suspension.

(B) Requirements establishing standards for confirming an individual's employment or the existence of an account pursuant to sections 3123.45 and 3123.56 of the Revised Code.

(C) Requirements concerning the authority of a child support enforcement agency to direct the registrar of motor vehicles to eliminate from the abstract maintained by the bureau of motor vehicles any reference to the suspension of an individual's license, permit, or endorsement imposed under section 3123.58 of the Revised Code.

Sec. 3301.07. The state board of education shall exercise under the acts of the general assembly general supervision of the system of public education in the state. In addition to the powers otherwise imposed on the state board under the provisions of law, the board shall have the powers described in this section.

(A) The state board shall exercise policy forming, planning, and evaluative functions for the public schools of the state except as otherwise provided by law.

(B)(1) The state board shall exercise leadership in the improvement of

public education in this state, and administer the educational policies of this state relating to public schools, and relating to instruction and instructional material, building and equipment, transportation of pupils, administrative responsibilities of school officials and personnel, and finance and organization of school districts, educational service centers, and territory. Consultative and advisory services in such matters shall be provided by the board to school districts and educational service centers of this state.

(2) The state board also shall develop a standard of financial reporting which shall be used by each school district board of education and educational service center governing board to make its financial information and annual budgets for each school building under its control available to the public in a format understandable by the average citizen. The format shall show, among other things, at the district and educational service center level or at the school building level, as determined appropriate by the department of education, revenue by source; expenditures for salaries, wages, and benefits of employees, showing such amounts separately for classroom teachers, other employees required to hold licenses issued pursuant to sections 3319.22 to 3319.31 of the Revised Code, and all other employees; expenditures other than for personnel, by category, including utilities, textbooks and other educational materials, equipment, permanent improvements, pupil transportation, extracurricular athletics, and other extracurricular activities; and per pupil expenditures.

(C) The state board shall administer and supervise the allocation and distribution of all state and federal funds for public school education under the provisions of law, and may prescribe such systems of accounting as are necessary and proper to this function. It may require county auditors and treasurers, boards of education, educational service center governing boards, treasurers of such boards, teachers, and other school officers and employees, or other public officers or employees, to file with it such reports as it may prescribe relating to such funds, or to the management and condition of such funds.

(D)(1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, XLVII, and LI of the Revised Code a reference is made to standards prescribed under this section or division (D) of this section, that reference shall be construed to refer to the standards prescribed under division (D)(2) of this section, unless the context specifically indicates a different meaning or intent.

(2) The state board shall formulate and prescribe minimum standards to be applied to all elementary and secondary schools in this state for the purpose of requiring a general education of high quality. Such standards

shall provide adequately for: the licensing of teachers, administrators, and other professional personnel and their assignment according to training and qualifications; efficient and effective instructional materials and equipment, including library facilities; the proper organization, administration, and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; buildings, grounds, health and sanitary facilities and services; admission of pupils, and such requirements for their promotion from grade to grade as will assure that they are capable and prepared for the level of study to which they are certified; requirements for graduation; and such other factors as the board finds necessary.

In the formulation and administration of such standards for nonpublic schools the board shall also consider the particular needs, methods and objectives of those schools, provided they do not conflict with the provision of a general education of a high quality and provided that regular procedures shall be followed for promotion from grade to grade of pupils who have met the educational requirements prescribed.

In the formulation and administration of such standards as they relate to instructional materials and equipment in public schools, including library materials, the board shall require that the material and equipment be aligned with and promote skills expected under the statewide academic standards adopted under section 3301.079 of the Revised Code.

(3) In addition to the minimum standards required by division (D)(2) of this section, the state board ~~shall~~ may formulate and prescribe the following additional minimum operating standards for school districts:

(a) Standards for the effective and efficient organization, administration, and supervision of each school district so that it becomes a thinking and learning organization according to principles of systems design and collaborative professional learning communities research as defined by the superintendent of public instruction, including a focus on the personalized and individualized needs of each student; a shared responsibility among school boards, administrators, faculty, and staff to develop a common vision, mission, and set of guiding principles; a shared responsibility among school boards, administrators, faculty, and staff to engage in a process of collective inquiry, action orientation, and experimentation to ensure the academic success of all students; commitment to teaching and learning strategies that utilize technological tools and emphasize inter-disciplinary, real-world, project-based, and technology-oriented learning experiences to meet the individual needs of every student; commitment to high expectations for every student and commitment to closing the achievement

gap so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code; commitment to the use of assessments to diagnose the needs of each student; effective connections and relationships with families and others that support student success; and commitment to the use of positive behavior intervention supports throughout a district to ensure a safe and secure learning environment for all students;

(b) Standards for the establishment of business advisory councils under section 3313.82 of the Revised Code;

(c) Standards for school district ~~organizational units, as defined in sections 3306.02 and 3306.04 of the Revised Code,~~ buildings that may require:

(i) The effective and efficient organization, administration, and supervision of each school district ~~organizational unit~~ building so that it becomes a thinking and learning organization according to principles of systems design and collaborative professional learning communities research as defined by the state superintendent, including a focus on the personalized and individualized needs of each student; a shared responsibility among ~~organizational unit~~ building administrators, faculty, and staff to develop a common vision, mission, and set of guiding principles; a shared responsibility among ~~organizational unit~~ building administrators, faculty, and staff to engage in a process of collective inquiry, action orientation, and experimentation to ensure the academic success of all students; commitment to job embedded professional development and professional mentoring and coaching; established periods of time for teachers to pursue planning time for the development of lesson plans, professional development, and shared learning; commitment to effective management strategies that allow administrators reasonable access to classrooms for observation and professional development experiences; commitment to teaching and learning strategies that utilize technological tools and emphasize inter-disciplinary, real-world, project-based, and technology-oriented learning experiences to meet the individual needs of every student; commitment to high expectations for every student and commitment to closing the achievement gap so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code; commitment to the use of assessments to diagnose the needs of each student; effective connections and relationships with families and others that support student success; commitment to the use of positive behavior intervention supports throughout the ~~organizational unit~~ building to ensure a safe and secure

learning environment for all students;

(ii) A school ~~organizational unit~~ building leadership team to coordinate positive behavior intervention supports, learning environments, thinking and learning systems, collaborative planning, planning time, student academic interventions, student extended learning opportunities, and other activities identified by the team and approved by the district board of education. The team shall include the building principal, representatives from each collective bargaining unit, ~~the building lead~~ a classroom teacher, parents, business representatives, and others that support student success.

(E) The state board may require as part of the health curriculum information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts pursuant to Chapter 2108. of the Revised Code and may provide the information to high schools, educational service centers, and joint vocational school district boards of education;

(F) The state board shall prepare and submit annually to the governor and the general assembly a report on the status, needs, and major problems of the public schools of the state, with recommendations for necessary legislative action and a ten-year projection of the state's public and nonpublic school enrollment, by year and by grade level.

(G) The state board shall prepare and submit to the director of budget and management the biennial budgetary requests of the state board of education, for its agencies and for the public schools of the state.

(H) The state board shall cooperate with federal, state, and local agencies concerned with the health and welfare of children and youth of the state.

(I) The state board shall require such reports from school districts and educational service centers, school officers, and employees as are necessary and desirable. The superintendents and treasurers of school districts and educational service centers shall certify as to the accuracy of all reports required by law or state board or state department of education rules to be submitted by the district or educational service center and which contain information necessary for calculation of state funding. Any superintendent who knowingly falsifies such report shall be subject to license revocation pursuant to section 3319.31 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the state board shall adopt procedures, standards, and guidelines for the education of children with disabilities pursuant to Chapter 3323. of the Revised Code, including procedures, standards, and guidelines governing programs and services operated by county boards of developmental disabilities pursuant to section 3323.09 of the Revised Code.

(K) For the purpose of encouraging the development of special programs of education for academically gifted children, the state board shall employ competent persons to analyze and publish data, promote research, advise and counsel with boards of education, and encourage the training of teachers in the special instruction of gifted children. The board may provide financial assistance out of any funds appropriated for this purpose to boards of education and educational service center governing boards for developing and conducting programs of education for academically gifted children.

(L) The state board shall require that all public schools emphasize and encourage, within existing units of study, the teaching of energy and resource conservation as recommended to each district board of education by leading business persons involved in energy production and conservation, beginning in the primary grades.

(M) The state board shall formulate and prescribe minimum standards requiring the use of phonics as a technique in the teaching of reading in grades kindergarten through three. In addition, the state board shall provide in-service training programs for teachers on the use of phonics as a technique in the teaching of reading in grades kindergarten through three.

(N) The state board may adopt rules necessary for carrying out any function imposed on it by law, and may provide rules as are necessary for its government and the government of its employees, and may delegate to the superintendent of public instruction the management and administration of any function imposed on it by law. It may provide for the appointment of board members to serve on temporary committees established by the board for such purposes as are necessary. Permanent or standing committees shall not be created.

(O) Upon application from the board of education of a school district, the superintendent of public instruction may issue a waiver exempting the district from compliance with the standards adopted under divisions (B)(2) and (D) of this section, as they relate to the operation of a school operated by the district. The state board shall adopt standards for the approval or disapproval of waivers under this division. The state superintendent shall consider every application for a waiver, and shall determine whether to grant or deny a waiver in accordance with the state board's standards. For each waiver granted, the state superintendent shall specify the period of time during which the waiver is in effect, which shall not exceed five years. A district board may apply to renew a waiver.

Sec. 3301.071. (A)(1) In the case of nontax-supported schools, standards for teacher certification prescribed under section 3301.07 of the Revised Code shall provide for certification, without further educational

requirements, of any administrator, supervisor, or teacher who has attended and received a bachelor's degree from a college or university accredited by a national or regional association in the United States except that, at the discretion of the state board of education, this requirement may be met by having an equivalent degree from a foreign college or university of comparable standing.

(2) In the case of nonchartered, nontax-supported schools, the standards for teacher certification prescribed under section 3301.07 of the Revised Code shall provide for certification, without further educational requirements, of any administrator, supervisor, or teacher who has attended and received a diploma from a "bible college" or "bible institute" described in division (E) of section 1713.02 of the Revised Code.

(3) A certificate issued under division (A)(3) of this section shall be valid only for teaching foreign language, music, religion, computer technology, or fine arts.

Notwithstanding division (A)(1) of this section, the standards for teacher certification prescribed under section 3301.07 of the Revised Code shall provide for certification of a person as a teacher upon receipt by the state board of an affidavit signed by the chief administrative officer of a chartered nonpublic school seeking to employ the person, stating that the person meets one of the following conditions:

(a) The person has specialized knowledge, skills, or expertise that qualifies the person to provide instruction.

(b) The person has provided to the chief administrative officer evidence of at least three years of teaching experience in a public or nonpublic school.

(c) The person has provided to the chief administrative officer evidence of completion of a teacher training program named in the affidavit.

(B) Each person applying for a certificate under this section for purposes of serving in a nonpublic school chartered by the state board under section 3301.16 of the Revised Code shall pay a fee in the amount established under division (A) of section 3319.51 of the Revised Code. Any fees received under this division shall be paid into the state treasury to the credit of the state board of education certification fund established under division (B) of section 3319.51 of the Revised Code.

(C) A person applying for or holding any certificate pursuant to this section for purposes of serving in a nonpublic school chartered by the state board is subject to sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code and sections 3319.31 and 3319.311 of the Revised Code.

(D) Divisions (B) and (C) of this section and sections 3319.291,

3319.31, and 3319.311 of the Revised Code do not apply to any administrators, supervisors, or teachers in nonchartered, nontax-supported schools.

Sec. 3301.079. (A)(1) Not later than June 30, 2010, and ~~at least once every five years~~ periodically thereafter, the state board of education shall adopt statewide academic standards with emphasis on coherence, focus, and rigor for each of grades kindergarten through twelve in English language arts, mathematics, science, and social studies.

The standards shall specify the following:

(a) The core academic content and skills that students are expected to know and be able to do at each grade level that will allow each student to be prepared for postsecondary instruction and the workplace for success in the twenty-first century;

(b) ~~The development of skill sets as they relate to creativity and innovation, critical thinking and problem-solving, and communication and collaboration;~~

~~(c)~~ The development of skill sets that promote information, media, and technological literacy;

~~(d) The development of skill sets that promote personal management, productivity and accountability, and leadership and responsibility;~~

~~(e)~~(c) Interdisciplinary, project-based, real-world learning opportunities.

(2) After completing the standards required by division (A)(1) of this section, the state board shall adopt standards and model curricula for instruction in ~~computer literacy~~ technology, financial literacy and entrepreneurship, fine arts, and foreign language for grades kindergarten through twelve. The standards shall meet the same requirements prescribed in divisions (A)(1)(a) to ~~(e)~~(c) of this section.

(3) The state board shall adopt the most recent standards developed by the national association for sport and physical education for physical education in grades kindergarten through twelve or shall adopt its own standards for physical education in those grades and revise and update them periodically.

The department shall employ a full-time physical education coordinator to provide guidance and technical assistance to districts, community schools, and STEM schools in implementing the physical education standards adopted under this division. The superintendent of public instruction shall determine that the person employed as coordinator is qualified for the position, as demonstrated by possessing an adequate combination of education, license, and experience.

(4) When academic standards have been completed for any subject area

required by this section, the state board shall inform all school districts, all community schools established under Chapter 3314. of the Revised Code, all STEM schools established under Chapter 3326. of the Revised Code, and all nonpublic schools required to administer the assessments prescribed by sections 3301.0710 and 3301.0712 of the Revised Code of the content of those standards.

(B) Not later than March 31, 2011, the state board shall adopt a model curriculum for instruction in each subject area for which updated academic standards are required by division (A)(1) of this section and for each of grades kindergarten through twelve that is sufficient to meet the needs of students in every community. The model curriculum shall be aligned with the standards, to ensure that the academic content and skills specified for each grade level are taught to students, and shall demonstrate vertical articulation and emphasize coherence, focus, and rigor. When any model curriculum has been completed, the state board shall inform all school districts, community schools, and STEM schools of the content of that model curriculum.

All school districts, community schools, and STEM schools may utilize the state standards and the model curriculum established by the state board, together with other relevant resources, examples, or models to ensure that students have the opportunity to attain the academic standards. Upon request, the department of education shall provide technical assistance to any district, community school, or STEM school in implementing the model curriculum.

Nothing in this section requires any school district to utilize all or any part of a model curriculum developed under this division.

(C) The state board shall develop achievement assessments aligned with the academic standards and model curriculum for each of the subject areas and grade levels required by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised Code.

When any achievement assessment has been completed, the state board shall inform all school districts, community schools, STEM schools, and nonpublic schools required to administer the assessment of its completion, and the department of education shall make the achievement assessment available to the districts and schools.

(D)(1) The state board shall adopt a diagnostic assessment aligned with the academic standards and model curriculum for each of grades kindergarten through two in English language arts and mathematics and for grade three in English language arts. The diagnostic assessment shall be designed to measure student comprehension of academic content and

mastery of related skills for the relevant subject area and grade level. Any diagnostic assessment shall not include components to identify gifted students. Blank copies of diagnostic assessments shall be public records.

(2) When each diagnostic assessment has been completed, the state board shall inform all school districts of its completion and the department of education shall make the diagnostic assessment available to the districts at no cost to the district. School districts shall administer the diagnostic assessment pursuant to section 3301.0715 of the Revised Code beginning the first school year following the development of the assessment.

(E) The state board shall not adopt a diagnostic or achievement assessment for any grade level or subject area other than those specified in this section.

(F) Whenever the state board or the department of education consults with persons for the purpose of drafting or reviewing any standards, diagnostic assessments, achievement assessments, or model curriculum required under this section, the state board or the department shall first consult with parents of students in kindergarten through twelfth grade and with active Ohio classroom teachers, other school personnel, and administrators with expertise in the appropriate subject area. Whenever practicable, the state board and department shall consult with teachers recognized as outstanding in their fields.

If the department contracts with more than one outside entity for the development of the achievement assessments required by this section, the department shall ensure the interchangeability of those assessments.

(G) The fairness sensitivity review committee, established by rule of the state board of education, shall not allow any question on any achievement or diagnostic assessment developed under this section or any proficiency test prescribed by former section 3301.0710 of the Revised Code, as it existed prior to September 11, 2001, to include, be written to promote, or inquire as to individual moral or social values or beliefs. The decision of the committee shall be final. This section does not create a private cause of action.

(H) Not later than forty-five days prior to the initial deadline established under division (A)(1) of this section and the deadline established under division (B) of this section, the superintendent of public instruction shall present the academic standards or model curricula, as applicable, to the respective committees of the house of representatives and senate that consider education legislation.

(I) As used in this section:

(1) "Coherence" means a reflection of the structure of the discipline

being taught.

(2) "Focus" means limiting the number of items included in a curriculum to allow for deeper exploration of the subject matter.

(3) "Rigor" means more challenging and demanding when compared to international standards.

(4) "Vertical articulation" means key academic concepts and skills associated with mastery in particular content areas should be articulated and reinforced in a developmentally appropriate manner at each grade level so that over time students acquire a depth of knowledge and understanding in the core academic disciplines.

Sec. 3301.0710. The state board of education shall adopt rules establishing a statewide program to assess student achievement. The state board shall ensure that all assessments administered under the program are aligned with the academic standards and model curricula adopted by the state board and are created with input from Ohio parents, Ohio classroom teachers, Ohio school administrators, and other Ohio school personnel pursuant to section 3301.079 of the Revised Code.

The assessment program shall be designed to ensure that students who receive a high school diploma demonstrate at least high school levels of achievement in English language arts, mathematics, science, and social studies~~, and other skills necessary in the twenty-first century~~.

(A)(1) The state board shall prescribe all of the following:

(a) Two statewide achievement assessments, one each designed to measure the level of English language arts and mathematics skill expected at the end of third grade;

(b) Two statewide achievement assessments, one each designed to measure the level of English language arts and mathematics skill expected at the end of fourth grade;

(c) Four statewide achievement assessments, one each designed to measure the level of English language arts, mathematics, science, and social studies skill expected at the end of fifth grade;

(d) Two statewide achievement assessments, one each designed to measure the level of English language arts and mathematics skill expected at the end of sixth grade;

(e) Two statewide achievement assessments, one each designed to measure the level of English language arts and mathematics skill expected at the end of seventh grade;

(f) Four statewide achievement assessments, one each designed to measure the level of English language arts, mathematics, science, and social studies skill expected at the end of eighth grade.

(2) The state board shall determine and designate at least three ranges of scores on each of the achievement assessments described in divisions (A)(1) and (B)(1) of this section. Each range of scores shall be deemed to demonstrate a level of achievement so that any student attaining a score within such range has achieved one of the following:

(a) An advanced level of skill;

(b) A proficient level of skill;

(c) A limited level of skill.

(B)(1) The assessments prescribed under division (B)(1) of this section shall collectively be known as the Ohio graduation tests. The state board shall prescribe five statewide high school achievement assessments, one each designed to measure the level of reading, writing, mathematics, science, and social studies skill expected at the end of tenth grade. The state board shall designate a score in at least the range designated under division (A)(2)(b) of this section on each such assessment that shall be deemed to be a passing score on the assessment as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code until the assessment system prescribed by section 3301.0712 of the Revised Code is implemented in accordance with rules adopted by the state board under division ~~(E)~~(D) of that section.

(2) The state board shall prescribe an assessment system in accordance with section 3301.0712 of the Revised Code that shall replace the Ohio graduation tests in the manner prescribed by rules adopted by the state board under division ~~(E)~~(D) of that section.

(3) The state board may enter into a reciprocal agreement with the appropriate body or agency of any other state that has similar statewide achievement assessment requirements for receiving high school diplomas, under which any student who has met an achievement assessment requirement of one state is recognized as having met the similar requirement of the other state for purposes of receiving a high school diploma. For purposes of this section and sections 3301.0711 and 3313.61 of the Revised Code, any student enrolled in any public high school in this state who has met an achievement assessment requirement specified in a reciprocal agreement entered into under this division shall be deemed to have attained at least the applicable score designated under this division on each assessment required by division (B)(1) or (2) of this section that is specified in the agreement.

(C) The superintendent of public instruction shall designate dates and times for the administration of the assessments prescribed by divisions (A) and (B) of this section.

In prescribing administration dates pursuant to this division, the superintendent shall designate the dates in such a way as to allow a reasonable length of time between the administration of assessments prescribed under this section and any administration of the national assessment of educational progress given to students in the same grade level pursuant to section 3301.27 of the Revised Code or federal law.

(D) The state board shall prescribe a practice version of each Ohio graduation test described in division (B)(1) of this section that is of comparable length to the actual test.

(E) Any committee established by the department of education for the purpose of making recommendations to the state board regarding the state board's designation of scores on the assessments described by this section shall inform the state board of the probable percentage of students who would score in each of the ranges established under division (A)(2) of this section on the assessments if the committee's recommendations are adopted by the state board. To the extent possible, these percentages shall be disaggregated by gender, major racial and ethnic groups, limited English proficient students, economically disadvantaged students, students with disabilities, and migrant students.

If the state board intends to make any change to the committee's recommendations, the state board shall explain the intended change to the Ohio accountability task force established by section 3302.021 of the Revised Code. The task force shall recommend whether the state board should proceed to adopt the intended change. Nothing in this division shall require the state board to designate assessment scores based upon the recommendations of the task force.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all assessments required by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any assessment administered pursuant to division (B)(10) of this section. Each assessment so furnished shall include the data verification code of the student to whom the assessment will be administered, as assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code. In furnishing the practice versions of Ohio graduation tests prescribed by division (D) of section 3301.0710 of the Revised Code, the department shall make the tests available on its web site for reproduction by districts. In awarding contracts for grading assessments, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of assessments and prescribing the manner in which the assessments prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the English language arts assessments prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that assessment under division (A)(2)(b) of section 3301.0710 of the Revised Code.

(2) Administer the mathematics assessment prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade.

(3) Administer the assessments prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(4) Administer the assessments prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade.

(5) Administer the assessments prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade.

(6) Administer the assessments prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(7) Administer the assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section, administer any assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code as follows:

(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that assessment designated under that division;

(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such assessment, at any time such assessment is administered in the district.

(9) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall administer any assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that assessment designated under that division. A board of a joint vocational school district may also administer such an assessment to any student described in division (B)(8)(b) of this section.

(10) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code or has a three-year average graduation rate of not more than seventy-five per cent, administer each assessment prescribed by division (D) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2005.

Except as provided in section 3313.614 of the Revised Code for administration of an assessment to a person who has fulfilled the curriculum requirement for a high school diploma but has not passed one or more of the required assessments, the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code and the practice assessments prescribed under division (D) of that section and required to be administered under divisions (B)(8), (9), and (10) of this section shall not be administered after the assessment system prescribed by division (B)(2) of section 3301.0710 and section 3301.0712 of the Revised Code is implemented under rule of the state board adopted under division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code.

(11) Administer the assessments prescribed by division (B)(2) of section 3301.0710 and section 3301.0712 of the Revised Code in accordance with the timeline and plan for implementation of those assessments prescribed by rule of the state board adopted under division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code.

(C)(1)(a) ~~Any~~ In the case of a student receiving special education services under Chapter 3323. of the Revised Code, the individualized education program developed for the student under that chapter shall specify the manner in which the student will participate in the assessments administered under this section. The individualized education program may ~~be excused~~ excuse the student from taking any particular assessment required to be administered under this section if ~~the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that assessment and~~ it instead

specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking an assessment unless no reasonable accommodation can be made to enable the student to take the assessment.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the assessment it replaces in order to allow for the student's results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

(c) Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular assessment required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that assessment. In the case of any student so excused from taking an assessment, the chartered nonpublic school shall not prohibit the student from taking the assessment.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking an assessment administered under this section on the date scheduled, but that assessment shall be administered to the excused student not later than nine days following the scheduled date. The district board shall annually report the number of students who have not taken one or more of the assessments required by this section to the state board of education not later than the thirtieth day of June.

(3) As used in this division, "limited English proficient student" has the same meaning as in 20 U.S.C. 7801.

No school district board shall excuse any limited English proficient student from taking any particular assessment required to be administered under this section, except that any limited English proficient student who has been enrolled in United States schools for less than one full school year shall not be required to take any reading, writing, or English language arts assessment. However, no board shall prohibit a limited English proficient student who is not required to take an assessment under this division from taking the assessment. A board may permit any limited English proficient student to take an assessment required to be administered under this section with appropriate accommodations, as determined by the department. For

each limited English proficient student, each school district shall annually assess that student's progress in learning English, in accordance with procedures approved by the department.

The governing authority of a chartered nonpublic school may excuse a limited English proficient student from taking any assessment administered under this section. However, no governing authority shall prohibit a limited English proficient student from taking the assessment.

(D)(1) In the school year next succeeding the school year in which the assessments prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on the assessment.

(2) Following any administration of the assessments prescribed by division (D) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has a three-year average graduation rate of not more than seventy-five per cent shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the assessments. In determining which high schools shall provide intervention services based on the resources available, the district shall consider each school's graduation rate and scores on the practice assessments. The district also shall consider the scores received by ninth grade students on the English language arts and mathematics assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services under this division shall provide intervention services to any student whose results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio graduation tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

(E) Except as provided in section 3313.608 of the Revised Code and

division (M) of this section, no school district board of education shall utilize any student's failure to attain a specified score on an assessment administered under this section as a factor in any decision to deny the student promotion to a higher grade level. However, a district board may choose not to promote to the next grade level any student who does not take an assessment administered under this section or make up an assessment as provided by division (C)(2) of this section and who is not exempt from the requirement to take the assessment under division (C)(3) of this section.

(F) No person shall be charged a fee for taking any assessment administered under this section.

(G)(1) Each school district board shall designate one location for the collection of assessments administered in the spring under division (B)(1) of this section and those administered under divisions (B)(2) to (7) of this section. Each district board shall submit the assessments to the entity with which the department contracts for the scoring of the assessments as follows:

(a) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was less than two thousand five hundred, not later than the Friday after all of the assessments have been administered;

(b) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was two thousand five hundred or more, but less than seven thousand, not later than the Monday after all of the assessments have been administered;

(c) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was seven thousand or more, not later than the Tuesday after all of the assessments have been administered.

However, any assessment that a student takes during the make-up period described in division (C)(2) of this section shall be submitted not later than the Friday following the day the student takes the assessment.

(2) The department or an entity with which the department contracts for the scoring of the assessment shall send to each school district board a list of the individual scores of all persons taking an assessment prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code within sixty days after its administration, but in no case shall the scores be returned later than the fifteenth day of June following the administration. For assessments administered under this section by a joint vocational school district, the department or entity shall also send to each city, local, or exempted village school district a list of the individual scores of any

students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

(H) Individual scores on any assessments administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate results in any manner that conflicts with rules for the ethical use of assessments adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department or an entity with which the department contracts for the scoring of the assessment shall not release any individual scores on any assessment administered under this section. The state board of education shall adopt rules to ensure the protection of student confidentiality at all times. The rules may require the use of the data verification codes assigned to students pursuant to division (D)(2) of section 3301.0714 of the Revised Code to protect the confidentiality of student scores.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any assessment prescribed under this section to students of the city, exempted village, or local school district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any assessment prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any assessment of students pursuant to such an agreement shall be in

lieu of any assessment of such students or persons pursuant to this section.

(K)(1) As a condition of compliance with section 3313.612 of the Revised Code, each chartered nonpublic school that educates students in grades nine through twelve shall administer the assessments prescribed by divisions (B)(1) and (2) of section 3301.0710 of the Revised Code. Any chartered nonpublic school may participate in the assessment program by administering any of the assessments prescribed by division (A) of section 3301.0710 of the Revised Code. The chief administrator of the school shall specify which assessments the school will administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which assessments are administered and shall include a pledge that the nonpublic school will administer the specified assessments in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the assessments prescribed by section 3301.0710 or 3301.0712 of the Revised Code to each chartered nonpublic school that participates under this division.

(L)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code. Each superintendent shall administer the assessments in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with division (C)(1)(a) of this section.

(2) The department of education shall furnish the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code to each superintendent.

(M) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least the proficient range on the mathematics assessment described by division (A)(1)(a) of section 3301.0710 of the Revised Code or on an assessment described by division (A)(1)(b), (c), (d), (e), or (f) of section 3301.0710 of the Revised Code as a factor in retaining that student in the current grade level.

(N)(1) In the manner specified in divisions (N)(3) and (4) of this section, the assessments required by division (A)(1) of section 3301.0710 of the Revised Code shall become public records pursuant to section 149.43 of the Revised Code on the first day of July following the school year that the assessments were administered.

(2) The department may field test proposed questions with samples of students to determine the validity, reliability, or appropriateness of questions

for possible inclusion in a future year's assessment. The department also may use anchor questions on assessments to ensure that different versions of the same assessment are of comparable difficulty.

Field test questions and anchor questions shall not be considered in computing scores for individual students. Field test questions and anchor questions may be included as part of the administration of any assessment required by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code.

(3) Any field test question or anchor question administered under division (N)(2) of this section shall not be a public record. Such field test questions and anchor questions shall be redacted from any assessments which are released as a public record pursuant to division (N)(1) of this section.

(4) This division applies to the assessments prescribed by division (A) of section 3301.0710 of the Revised Code.

(a) The first administration of each assessment, as specified in former section 3301.0712 of the Revised Code, shall be a public record.

(b) For subsequent administrations of each assessment prior to the 2011-2012 school year, not less than forty per cent of the questions on the assessment that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future assessment and those questions shall not be public records and shall be redacted from the assessment prior to its release as a public record. However, for each redacted question, the department shall inform each city, local, and exempted village school district of the statewide academic standard adopted by the state board of education under section 3301.079 of the Revised Code and the corresponding benchmark to which the question relates. The preceding sentence does not apply to field test questions that are redacted under division (N)(3) of this section.

(c) The administrations of each assessment in the 2011-2012 school year and later shall not be a public record.

(5) Each assessment prescribed by division (B)(1) of section 3301.0710 of the Revised Code shall not be a public record.

(O) As used in this section:

(1) "Three-year average" means the average of the most recent consecutive three school years of data.

(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has

departed the country.

(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins.

Sec. 3301.0712. (A) The state board of education, the superintendent of public instruction, and the chancellor of the Ohio board of regents shall develop a system of college and work ready assessments as described in divisions (B)(1) ~~to (3)~~ and (2) of this section to assess whether each student upon graduating from high school is ready to enter college or the workforce. The system shall replace the Ohio graduation tests prescribed in division (B)(1) of section 3301.0710 of the Revised Code as a measure of student academic performance and a prerequisite for eligibility for a high school diploma in the manner prescribed by rule of the state board adopted under division ~~(E)~~(D) of this section.

(B) The college and work ready assessment system shall consist of the following:

(1) A nationally standardized assessment that measures ~~competencies in science, mathematics, and English language arts~~ college and career readiness selected jointly by the state superintendent and the chancellor.

(2) A series of end-of-course examinations in the areas of science, mathematics, English language arts, and social studies selected jointly by the state superintendent and the chancellor in consultation with faculty in the appropriate subject areas at institutions of higher education of the university system of Ohio. For each subject area, the state superintendent and chancellor shall select multiple assessments that school districts, public schools, and chartered nonpublic schools may use as end-of-course examinations. Those assessments shall include nationally recognized subject area assessments, such as advanced placement examinations, SAT subject tests, international baccalaureate examinations, and other assessments of college and work readiness.

~~(3) A senior project completed by a student or a group of students. The purpose of the senior project is to assess the student's:~~

~~(a) Mastery of core knowledge in a subject area chosen by the student;~~

~~(b) Written and verbal communication skills;~~

~~(c) Critical thinking and problem-solving skills;~~

~~(d) Real-world and interdisciplinary learning;~~

~~(e) Creative and innovative thinking;~~

~~(f) Acquired technology, information, and media skills;~~

~~(g) Personal management skills such as self-direction, time management, work ethic, enthusiasm, and the desire to produce a high quality product.~~

~~The state superintendent and the chancellor jointly shall develop standards for the senior project for students participating in dual enrollment programs.~~

(C)~~(1) The state superintendent and the chancellor jointly shall designate the scoring rubrics and the required overall composite score for the assessment system to assess whether each student is college or work ready.~~

~~(2) Each senior project shall be judged by the student's high school in accordance with rubrics designated by the state superintendent and the chancellor.~~

~~(D)~~ Not later than thirty days after the state board adopts the model curricula required by division (B) of section 3301.079 of the Revised Code, the state board shall convene a group of national experts, state experts, and local practitioners to provide advice, guidance, and recommendations for the alignment of standards and model curricula to the assessments and in the design of the end-of-course examinations ~~and scoring rubrics~~ prescribed by this section.

~~(E)~~(D) Upon completion of the development of the assessment system, the state board shall adopt rules prescribing all of the following:

(1) A timeline and plan for implementation of the assessment system, including a phased implementation if the state board determines such a phase-in is warranted;

(2) The date after which a person entering ninth grade shall ~~attain at least the composite score for~~ meet the requirements of the entire assessment system as a prerequisite for a high school diploma under ~~sections~~ section 3313.61, 3313.612, or 3325.08 of the Revised Code;

(3) The date after which a person shall ~~attain at least the composite score for~~ meet the requirements of the entire assessment system as a prerequisite for a diploma of adult education under section 3313.611 of the Revised Code;

(4) Whether and the extent to which a person may be excused from a social studies end-of-course examination under division (H) of section 3313.61 and division (B)(2) of section 3313.612 of the Revised Code;

(5) The date after which a person who has fulfilled the curriculum

requirement for a diploma but has not passed one or more of the required assessments at the time the person fulfilled the curriculum requirement shall ~~attain at least the composite score for~~ meet the requirements of the entire assessment system as a prerequisite for a high school diploma under division (B) of section 3313.614 of the Revised Code;

(6) The extent to which the assessment system applies to students enrolled in a dropout recovery and prevention program for purposes of division (F) of section 3313.603 and section 3314.36 of the Revised Code.

No rule adopted under this division shall be effective earlier than one year after the date the rule is filed in final form pursuant to Chapter 119. of the Revised Code.

~~(F)~~(E) Not later than forty-five days prior to the state board's adoption of a resolution directing the department of education to file the rules prescribed by division ~~(E)~~(D) of this section in final form under section 119.04 of the Revised Code, the superintendent of public instruction shall present the assessment system developed under this section to the respective committees of the house of representatives and senate that consider education legislation.

Sec. 3301.0714. (A) The state board of education shall adopt rules for a statewide education management information system. The rules shall require the state board to establish guidelines for the establishment and maintenance of the system in accordance with this section and the rules adopted under this section. The guidelines shall include:

(1) Standards identifying and defining the types of data in the system in accordance with divisions (B) and (C) of this section;

(2) Procedures for annually collecting and reporting the data to the state board in accordance with division (D) of this section;

(3) Procedures for annually compiling the data in accordance with division (G) of this section;

(4) Procedures for annually reporting the data to the public in accordance with division (H) of this section.

(B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following:

(1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes:

(a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or

enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for students with disabilities, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for students with a specific type of disability. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional services used in determining cost units pursuant to division (C)(3) of this section.

(b) The numbers of students receiving support or extracurricular services for each of the support services or extracurricular programs offered by the school district, such as counseling services, health services, and extracurricular sports and fine arts programs. The categories of services required by the guidelines under this division shall be the same as the categories of services used in determining cost units pursuant to division (C)(4)(a) of this section.

(c) Average student grades in each subject in grades nine through twelve;

(d) Academic achievement levels as assessed under sections 3301.0710, 3301.0711, and 3301.0712 of the Revised Code;

(e) The number of students designated as having a disabling condition pursuant to division (C)(1) of section 3301.0711 of the Revised Code;

(f) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;

(g) Attendance rates and the average daily attendance for the year. For purposes of this division, a student shall be counted as present for any field trip that is approved by the school administration.

(h) Expulsion rates;

(i) Suspension rates;

(j) Dropout rates;

(k) Rates of retention in grade;

(l) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;

(m) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that

is consistent with nationally accepted reporting requirements;

(n) Results of diagnostic assessments administered to kindergarten students as required under section 3301.0715 of the Revised Code to permit a comparison of the academic readiness of kindergarten students. However, no district shall be required to report to the department the results of any diagnostic assessment administered to a kindergarten student if the parent of that student requests the district not to report those results.

(2) Personnel and classroom enrollment data for each school district, including:

(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and administrative support service used pursuant to division (C)(3) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(b) The total number of employees and the number of full-time equivalent employees providing each category of service used pursuant to divisions (C)(4)(a) and (b) of this section, and the total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category used pursuant to division (C)(4)(c) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(c) The total number of regular classroom teachers teaching classes of regular education and the average number of pupils enrolled in each such class, in each of grades kindergarten through five in the district as a whole and in each school building in the school district.

(d) The number of lead teachers employed by each school district and each school building.

(3)(a) Student demographic data for each school district, including information regarding the gender ratio of the school district's pupils, the racial make-up of the school district's pupils, the number of limited English proficient students in the district, and an appropriate measure of the number of the school district's pupils who reside in economically disadvantaged households. The demographic data shall be collected in a manner to allow

correlation with data collected under division (B)(1) of this section. Categories for data collected pursuant to division (B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government.

(b) With respect to each student entering kindergarten, whether the student previously participated in a public preschool program, a private preschool program, or a head start program, and the number of years the student participated in each of these programs.

(4) Any data required to be collected pursuant to federal law.

(C) The education management information system shall include cost accounting data for each district as a whole and for each school building in each school district. The guidelines adopted under this section shall require the cost data for each school district to be maintained in a system of mutually exclusive cost units and shall require all of the costs of each school district to be divided among the cost units. The guidelines shall require the system of mutually exclusive cost units to include at least the following:

(1) Administrative costs for the school district as a whole. The guidelines shall require the cost units under this division (C)(1) to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil in formula ADM in the school district, as determined pursuant to section 3317.03 of the Revised Code.

(2) Administrative costs for each school building in the school district. The guidelines shall require the cost units under this division (C)(2) to be designed so that each of them may be compiled and reported in terms of average expenditure per full-time equivalent pupil receiving instructional or support services in each building.

(3) Instructional services costs for each category of instructional service provided directly to students and required by guidelines adopted pursuant to division (B)(1)(a) of this section. The guidelines shall require the cost units under division (C)(3) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each instructional services category required by guidelines adopted under division (B)(1)(a) of this section that is provided directly to students by a classroom teacher;

(b) The cost of the instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia

aide, or librarian, provided directly to students in conjunction with each instructional services category;

(c) The cost of the administrative support services related to each instructional services category, such as the cost of personnel that develop the curriculum for the instructional services category and the cost of personnel supervising or coordinating the delivery of the instructional services category.

(4) Support or extracurricular services costs for each category of service directly provided to students and required by guidelines adopted pursuant to division (B)(1)(b) of this section. The guidelines shall require the cost units under division (C)(4) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each support or extracurricular services category required by guidelines adopted under division (B)(1)(b) of this section that is provided directly to students by a licensed employee, such as services provided by a guidance counselor or any services provided by a licensed employee under a supplemental contract;

(b) The cost of each such services category provided directly to students by a nonlicensed employee, such as janitorial services, cafeteria services, or services of a sports trainer;

(c) The cost of the administrative services related to each services category in division (C)(4)(a) or (b) of this section, such as the cost of any licensed or nonlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of each services category.

(D)(1) The guidelines adopted under this section shall require school districts to collect information about individual students, staff members, or both in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines may also require school districts to report information about individual staff members in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines shall not authorize school districts to request social security numbers of individual students. The guidelines shall prohibit the reporting under this section of a student's name, address, and social security number to the state board of education or the department of

education. The guidelines shall also prohibit the reporting under this section of any personally identifiable information about any student, except for the purpose of assigning the data verification code required by division (D)(2) of this section, to any other person unless such person is employed by the school district or the information technology center operated under section 3301.075 of the Revised Code and is authorized by the district or technology center to have access to such information or is employed by an entity with which the department contracts for the scoring of assessments administered under section 3301.0711 of the Revised Code. The guidelines may require school districts to provide the social security numbers of individual staff members.

(2) The guidelines shall provide for each school district or community school to assign a data verification code that is unique on a statewide basis over time to each student whose initial Ohio enrollment is in that district or school and to report all required individual student data for that student utilizing such code. The guidelines shall also provide for assigning data verification codes to all students enrolled in districts or community schools on the effective date of the guidelines established under this section.

Individual student data shall be reported to the department through the information technology centers utilizing the code but, except as provided in sections 3310.11, 3310.42, 3313.978, 3310.63, and 3317.20 of the Revised Code, at no time shall the state board or the department have access to information that would enable any data verification code to be matched to personally identifiable student data.

Each school district shall ensure that the data verification code is included in the student's records reported to any subsequent school district, community school, or state institution of higher education, as defined in section 3345.011 of the Revised Code, in which the student enrolls. Any such subsequent district or school shall utilize the same identifier in its reporting of data under this section.

The director of health shall request and receive, pursuant to sections 3301.0723 and 3701.62 of the Revised Code, a data verification code for a child who is receiving services under division (A)(2) of section 3701.61 of the Revised Code.

(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be

compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section.

(F) Beginning with the school year that begins July 1, 1991, the board of education of each school district shall annually collect and report to the state board, in accordance with the guidelines established by the board, the data required pursuant to this section. A school district may collect and report these data notwithstanding section 2151.357 or 3319.321 of the Revised Code.

(G) The state board shall, in accordance with the procedures it adopts, annually compile the data reported by each school district pursuant to division (D) of this section. The state board shall design formats for profiling each school district as a whole and each school building within each district and shall compile the data in accordance with these formats. These profile formats shall:

(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district;

(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section.

(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall be sent to each school district.

(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education.

(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are

available and the date on which the reports will be available.

(I) Any data that is collected or maintained pursuant to this section and that identifies an individual pupil is not a public record for the purposes of section 149.43 of the Revised Code.

(J) As used in this section:

(1) "School district" means any city, local, exempted village, or joint vocational school district and, in accordance with section 3314.17 of the Revised Code, any community school. As used in division (L) of this section, "school district" also includes any educational service center or other educational entity required to submit data using the system established under this section.

(2) "Cost" means any expenditure for operating expenses made by a school district excluding any expenditures for debt retirement except for payments made to any commercial lending institution for any loan approved pursuant to section 3313.483 of the Revised Code.

(K) Any person who removes data from the information system established under this section for the purpose of releasing it to any person not entitled under law to have access to such information is subject to section 2913.42 of the Revised Code prohibiting tampering with data.

(L)(1) In accordance with division (L)(2) of this section and the rules adopted under division (L)(10) of this section, the department of education may sanction any school district that reports incomplete or inaccurate data, reports data that does not conform to data requirements and descriptions published by the department, fails to report data in a timely manner, or otherwise does not make a good faith effort to report data as required by this section.

(2) If the department decides to sanction a school district under this division, the department shall take the following sequential actions:

(a) Notify the district in writing that the department has determined that data has not been reported as required under this section and require the district to review its data submission and submit corrected data by a deadline established by the department. The department also may require the district to develop a corrective action plan, which shall include provisions for the district to provide mandatory staff training on data reporting procedures.

(b) Withhold up to ten per cent of the total amount of state funds due to the district for the current fiscal year and, if not previously required under division (L)(2)(a) of this section, require the district to develop a corrective action plan in accordance with that division;

(c) Withhold an additional amount of up to twenty per cent of the total

amount of state funds due to the district for the current fiscal year;

(d) Direct department staff or an outside entity to investigate the district's data reporting practices and make recommendations for subsequent actions. The recommendations may include one or more of the following actions:

(i) Arrange for an audit of the district's data reporting practices by department staff or an outside entity;

(ii) Conduct a site visit and evaluation of the district;

(iii) Withhold an additional amount of up to thirty per cent of the total amount of state funds due to the district for the current fiscal year;

(iv) Continue monitoring the district's data reporting;

(v) Assign department staff to supervise the district's data management system;

(vi) Conduct an investigation to determine whether to suspend or revoke the license of any district employee in accordance with division (N) of this section;

(vii) If the district is issued a report card under section 3302.03 of the Revised Code, indicate on the report card that the district has been sanctioned for failing to report data as required by this section;

(viii) If the district is issued a report card under section 3302.03 of the Revised Code and incomplete or inaccurate data submitted by the district likely caused the district to receive a higher performance rating than it deserved under that section, issue a revised report card for the district;

(ix) Any other action designed to correct the district's data reporting problems.

(3) Any time the department takes an action against a school district under division (L)(2) of this section, the department shall make a report of the circumstances that prompted the action. The department shall send a copy of the report to the district superintendent or chief administrator and maintain a copy of the report in its files.

(4) If any action taken under division (L)(2) of this section resolves a school district's data reporting problems to the department's satisfaction, the department shall not take any further actions described by that division. If the department withheld funds from the district under that division, the department may release those funds to the district, except that if the department withheld funding under division (L)(2)(c) of this section, the department shall not release the funds withheld under division (L)(2)(b) of this section and, if the department withheld funding under division (L)(2)(d) of this section, the department shall not release the funds withheld under division (L)(2)(b) or (c) of this section.

(5) Notwithstanding anything in this section to the contrary, the department may use its own staff or an outside entity to conduct an audit of a school district's data reporting practices any time the department has reason to believe the district has not made a good faith effort to report data as required by this section. If any audit conducted by an outside entity under division (L)(2)(d)(i) or (5) of this section confirms that a district has not made a good faith effort to report data as required by this section, the district shall reimburse the department for the full cost of the audit. The department may withhold state funds due to the district for this purpose.

(6) Prior to issuing a revised report card for a school district under division (L)(2)(d)(viii) of this section, the department may hold a hearing to provide the district with an opportunity to demonstrate that it made a good faith effort to report data as required by this section. The hearing shall be conducted by a referee appointed by the department. Based on the information provided in the hearing, the referee shall recommend whether the department should issue a revised report card for the district. If the referee affirms the department's contention that the district did not make a good faith effort to report data as required by this section, the district shall bear the full cost of conducting the hearing and of issuing any revised report card.

(7) If the department determines that any inaccurate data reported under this section caused a school district to receive excess state funds in any fiscal year, the district shall reimburse the department an amount equal to the excess funds, in accordance with a payment schedule determined by the department. The department may withhold state funds due to the district for this purpose.

(8) Any school district that has funds withheld under division (L)(2) of this section may appeal the withholding in accordance with Chapter 119. of the Revised Code.

(9) In all cases of a disagreement between the department and a school district regarding the appropriateness of an action taken under division (L)(2) of this section, the burden of proof shall be on the district to demonstrate that it made a good faith effort to report data as required by this section.

(10) The state board of education shall adopt rules under Chapter 119. of the Revised Code to implement division (L) of this section.

(M) No information technology center or school district shall acquire, change, or update its student administration software package to manage and report data required to be reported to the department unless it converts to a student software package that is certified by the department.

(N) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke a license as defined under division (A) of section 3319.31 of the Revised Code that has been issued to any school district employee found to have willfully reported erroneous, inaccurate, or incomplete data to the education management information system.

(O) No person shall release or maintain any information about any student in violation of this section. Whoever violates this division is guilty of a misdemeanor of the fourth degree.

(P) The department shall disaggregate the data collected under division (B)(1)(n) of this section according to the race and socioeconomic status of the students assessed. No data collected under that division shall be included on the report cards required by section 3302.03 of the Revised Code.

(Q) If the department cannot compile any of the information required by division (C)(5) of section 3302.03 of the Revised Code based upon the data collected under this section, the department shall develop a plan and a reasonable timeline for the collection of any data necessary to comply with that division.

Sec. 3301.16. Pursuant to standards prescribed by the state board of education as provided in division (D) of section 3301.07 of the Revised Code, the state board shall classify and charter school districts and individual schools within each district except that no charter shall be granted to a nonpublic school unless the school complies with section 3313.612 of the Revised Code.

In the course of considering the charter of a new school district created under section 3311.26 or 3311.38 of the Revised Code, the state board shall require the party proposing creation of the district to submit to the board a map, certified by the county auditor of the county in which the proposed new district is located, showing the boundaries of the proposed new district. In the case of a proposed new district located in more than one county, the map shall be certified by the county auditor of each county in which the proposed district is located.

The state board shall revoke the charter of any school district or school which fails to meet the standards for elementary and high schools as prescribed by the board. The state board shall also revoke the charter of any nonpublic school that does not comply with section 3313.612 of the Revised Code. ~~The state board may revoke the charter of any school district that fails to meet the operating standards established under division (D)(3) of section 3301.07 of the Revised Code.~~

In the issuance and revocation of school district or school charters, the

state board shall be governed by the provisions of Chapter 119. of the Revised Code.

No school district, or individual school operated by a school district, shall operate without a charter issued by the state board under this section.

In case a school district charter is revoked pursuant to this section, the state board may dissolve the school district and transfer its territory to one or more adjacent districts. An equitable division of the funds, property, and indebtedness of the school district shall be made by the state board among the receiving districts. The board of education of a receiving district shall accept such territory pursuant to the order of the state board. Prior to dissolving the school district, the state board shall notify the appropriate educational service center governing board and all adjacent school district boards of education of its intention to do so. Boards so notified may make recommendations to the state board regarding the proposed dissolution and subsequent transfer of territory. Except as provided in section 3301.161 of the Revised Code, the transfer ordered by the state board shall become effective on the date specified by the state board, but the date shall be at least thirty days following the date of issuance of the order.

A high school is one of higher grade than an elementary school, in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which also offers other subjects of study more advanced than those taught in the elementary schools and such other subjects as may be approved by the state board of education.

An elementary school is one in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which offers such other subjects as may be approved by the state board of education. In districts wherein a junior high school is maintained, the elementary schools in that district may be considered to include only the work of the first six school years inclusive, plus the kindergarten year.

~~A high school or an elementary school may consist of less than one or more than one organizational unit, as defined in sections 3306.02 and 3306.04 of the Revised Code.~~

Sec. 3301.162. (A) If the governing authority of a chartered nonpublic school intends to close the school, the governing authority shall notify all of the following of that intent prior to closing the school:

(1) The department of education;

(2) The school district that receives auxiliary services funding under division ~~(I)~~(E) of section 3317.024 of the Revised Code on behalf of the students enrolled in the school;

(3) The accrediting association that most recently accredited the school

for purposes of chartering the school in accordance with the rules of the state board of education, if applicable.

The notice shall include the school year and, if possible, the actual date the school will close.

(B) The chief administrator of each chartered nonpublic school that closes shall deposit the school's records with either:

(1) The accrediting association that most recently accredited the school for purposes of chartering the school in accordance with the rules of the state board, if applicable;

(2) The school district that received auxiliary services funding under division ~~(I)~~(E) of section 3317.024 of the Revised Code on behalf of the students enrolled in the school.

The school district that receives the records may charge for and receive a one-time reimbursement from auxiliary services funding under division ~~(I)~~(E) of section 3317.024 of the Revised Code for costs the district incurred to store the records.

Sec. 3301.70. (A) The state board of education is the designated state agency responsible for the coordination and administration of sections 110 to 118 of the "National and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C. 12401 to 12431, as amended. With the assistance of the Ohio ~~community~~ commission on service ~~council~~ and volunteerism created in section 121.40 of the Revised Code, the state board shall coordinate with other state agencies to apply for funding under the act when appropriate.

(B) With the assistance of the Ohio ~~community~~ commission on service ~~council~~ and volunteerism, the state board of education shall develop a plan to assist school districts in the implementation of section 3313.605 of the Revised Code and other community service activities of school districts. The state board shall encourage the development of school district programs meeting the requirements for funding under the National and Community Service Act of 1990. The plan shall include the investigation of funding from all available sources for school community service education programs, including funds available under the National and Community Service Act of 1990, and the provision of technical assistance to school districts for the implementation of community service education programs. The plan shall also provide for technical assistance to be given to school boards to assist in obtaining funds for community service education programs from any source.

(C) With the assistance of the Ohio ~~community~~ commission on service ~~council~~ and volunteerism, the state board of education shall do all of the

following:

(1) Disseminate information about school district community service education programs to other school districts and to statewide organizations involved with or promoting volunteerism;

(2) Recruit additional school districts to develop community service education programs;

(3) Identify or develop model community service programs, teacher training courses, and community service curricula and teaching materials for possible use by school districts in their programs.

Sec. 3301.921. The healthy choices for healthy children council shall do all of the following:

(A) Monitor progress in improving student health and wellness;

(B) Make periodic policy recommendations to the state board of education regarding ways to improve the nutritional standards for food and beverages prescribed by sections 3313.816 and 3313.817 of the Revised Code. If, on or after ~~the effective date of this section~~ September 17, 2010, the United States department of agriculture adopts regulations for the sale of food or beverages in schools, the council, within sixty days after their adoption, shall review the regulations and, based on that review, make recommendations for changes to the nutritional standards prescribed by those sections.

(C) Make periodic recommendations to the department of education for the development of a clearinghouse of best practices in the areas of student nutrition, physical activity for students, and body mass index screenings;

(D) ~~Assist the department of health in developing a list of resources regarding health risks associated with weight status for distribution to parents and guardians under division (E) of section 3313.674 of the Revised Code;~~

~~(E)~~ Regularly review developments in science and nutrition to ensure the council remains informed for purposes of making recommendations under divisions (B) and (C) of this section.

Sec. 3302.02. Not later than one year after the adoption of rules under division ~~(E)~~(D) of section 3301.0712 of the Revised Code and at least every sixth year thereafter, upon recommendations of the superintendent of public instruction, the state board of education shall establish performance indicators for the report cards required by division (C) of section 3302.03 of the Revised Code. In establishing these indicators, the superintendent shall consider inclusion of student performance on assessments prescribed under section 3301.0710 or 3301.0712 of the Revised Code, rates of student improvement on such assessments, student attendance, the breadth of

coursework available within the district, and other indicators of student success. Not later than December 31, 2011, the state board, upon recommendation of the superintendent, shall establish a performance indicator reflecting the level of services provided to, and the performance of, students identified as gifted under Chapter 3324. of the Revised Code.

The superintendent shall inform the Ohio accountability task force established under section 3302.021 of the Revised Code of the performance indicators the superintendent establishes under this section and the rationale for choosing each indicator and for determining how a school district or building meets that indicator.

The superintendent shall not establish any performance indicator for passage of the third or fourth grade English language arts assessment that is solely based on the assessment given in the fall for the purpose of determining whether students have met the reading guarantee provisions of section 3313.608 of the Revised Code.

Sec. 3302.031. In addition to the report cards required under section 3302.03 of the Revised Code, the department of education shall annually prepare the following reports for each school district and make a copy of each report available to the superintendent of each district:

(A) A funding and expenditure accountability report which shall consist of the amount of state aid payments the school district will receive during the fiscal year under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code and any other fiscal data the department determines is necessary to inform the public about the financial status of the district;

(B) A school safety and discipline report which shall consist of statistical information regarding student safety and discipline in each school building, including the number of suspensions and expulsions disaggregated according to race and gender;

(C) A student equity report which shall consist of at least a description of the status of teacher qualifications, library and media resources, textbooks, classroom materials and supplies, and technology resources for each district. To the extent possible, the information included in the report required under this division shall be disaggregated according to grade level, race, gender, disability, and scores attained on assessments required under section 3301.0710 of the Revised Code.

(D) A school enrollment report which shall consist of information about the composition of classes within each district by grade and subject disaggregated according to race, gender, and scores attained on assessments required under section 3301.0710 of the Revised Code;

(E) A student retention report which shall consist of the number of

students retained in their respective grade levels in the district disaggregated by grade level, subject area, race, gender, and disability;

(F) A school district performance report which shall describe for the district and each building within the district the extent to which the district or building meets each of the applicable performance indicators established under section 3302.02 of the Revised Code, the number of performance indicators that have been achieved, and the performance index score. In calculating the rates of achievement on the performance indicators and the performance index scores for each report, the department shall exclude all students with disabilities.

Sec. 3302.032. (A) Not later than December 31, 2011, the state board of education shall establish a measure of the following:

(1) Student success in meeting the benchmarks contained in the physical education standards adopted under division (A)(3) of section 3301.079 of the Revised Code;

(2) Compliance with the requirements for local wellness policies prescribed by section 204 of the "Child Nutrition and WIC Reauthorization Act of 2004," 42 U.S.C. 1751 note;

(3) ~~Whether a school district or building is complying with section 3313.674 of the Revised Code instead of operating under a waiver from the requirements of that section;~~

~~(4)~~ Whether a school district or building is participating in the physical activity pilot program administered under section 3313.6016 of the Revised Code.

(B) The measure shall be included on the school district and building report cards issued under section 3302.03 of the Revised Code, beginning with the report cards issued for the 2012-2013 school year, but it shall not be a factor in the performance ratings issued under that section.

(C) The department of education may accept, receive, and expend gifts, devises, or bequests of money for the purpose of establishing the measure required by this section.

Sec. 3302.04. (A) The department of education shall establish a system of intensive, ongoing support for the improvement of school districts and school buildings. In accordance with the model of differentiated accountability described in section 3302.041 of the Revised Code, the system shall give priority to districts and buildings that have been declared to be under an academic watch or in a state of academic emergency under section 3302.03 of the Revised Code and shall include services provided to districts and buildings through regional service providers, such as educational service centers.

(B) This division does not apply to any school district after June 30, 2008.

When a school district has been notified by the department pursuant to division (A) of section 3302.03 of the Revised Code that the district or a building within the district has failed to make adequate yearly progress for two consecutive school years, the district shall develop a three-year continuous improvement plan for the district or building containing each of the following:

(1) An analysis of the reasons for the failure of the district or building to meet any of the applicable performance indicators established under section 3302.02 of the Revised Code that it did not meet and an analysis of the reasons for its failure to make adequate yearly progress;

(2) Specific strategies that the district or building will use to address the problems in academic achievement identified in division (B)(1) of this section;

(3) Identification of the resources that the district will allocate toward improving the academic achievement of the district or building;

(4) A description of any progress that the district or building made in the preceding year toward improving its academic achievement;

(5) An analysis of how the district is utilizing the professional development standards adopted by the state board pursuant to section 3319.61 of the Revised Code;

(6) Strategies that the district or building will use to improve the cultural competency, as defined pursuant to section 3319.61 of the Revised Code, of teachers and other educators.

No three-year continuous improvement plan shall be developed or adopted pursuant to this division unless at least one public hearing is held within the affected school district or building concerning the final draft of the plan. Notice of the hearing shall be given two weeks prior to the hearing by publication in one newspaper of general circulation within the territory of the affected school district or building. Copies of the plan shall be made available to the public.

(C) When a school district or building has been notified by the department pursuant to division (A) of section 3302.03 of the Revised Code that the district or building is under an academic watch or in a state of academic emergency, the district or building shall be subject to any rules establishing intervention in academic watch or emergency school districts or buildings.

(D)(1) Within one hundred twenty days after any school district or building is declared to be in a state of academic emergency under section

3302.03 of the Revised Code, the department may initiate a site evaluation of the building or school district.

(2) Division (D)(2) of this section does not apply to any school district after June 30, 2008.

If any school district that is declared to be in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code or encompasses a building that is declared to be in a state of academic emergency or in a state of academic watch fails to demonstrate to the department satisfactory improvement of the district or applicable buildings or fails to submit to the department any information required under rules established by the state board of education, prior to approving a three-year continuous improvement plan under rules established by the state board of education, the department shall conduct a site evaluation of the school district or applicable buildings to determine whether the school district is in compliance with minimum standards established by law or rule.

(3) Site evaluations conducted under divisions (D)(1) and (2) of this section shall include, but not be limited to, the following:

(a) Determining whether teachers are assigned to subject areas for which they are licensed or certified;

(b) Determining pupil-teacher ratios;

(c) Examination of compliance with minimum instruction time requirements for each school day and for each school year;

(d) Determining whether materials and equipment necessary to implement the curriculum approved by the school district board are available;

(e) Examination of whether the teacher and principal evaluation ~~system reflects the evaluation system guidelines adopted by the state board of education under section 3319.112~~ systems comply with sections 3319.02 and 3319.111 of the Revised Code;

(f) Examination of the adequacy of efforts to improve the cultural competency, as defined pursuant to section 3319.61 of the Revised Code, of teachers and other educators.

(E) This division applies only to school districts that operate a school building that fails to make adequate yearly progress for two or more consecutive school years. It does not apply to any such district after June 30, 2008, except as provided in division (D)(2) of section 3313.97 of the Revised Code.

(1) For any school building that fails to make adequate yearly progress for two consecutive school years, the district shall do all of the following:

(a) Provide written notification of the academic issues that resulted in

the building's failure to make adequate yearly progress to the parent or guardian of each student enrolled in the building. The notification shall also describe the actions being taken by the district or building to improve the academic performance of the building and any progress achieved toward that goal in the immediately preceding school year.

(b) If the building receives funds under Title 1, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, in accordance with section 3313.97 of the Revised Code, offer all students enrolled in the building the opportunity to enroll in an alternative building within the district that is not in school improvement status as defined by the "No Child Left Behind Act of 2001." Notwithstanding Chapter 3327. of the Revised Code, the district shall spend an amount equal to twenty per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under this division, unless the district can satisfy all demand for transportation with a lesser amount. If an amount equal to twenty per cent of the funds the district receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for transportation, the district shall grant priority over all other students to the lowest achieving students among the subgroup described in division (B)(3) of section 3302.01 of the Revised Code in providing transportation. Any district that does not receive funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, shall not be required to provide transportation to any student who enrolls in an alternative building under this division.

(2) For any school building that fails to make adequate yearly progress for three consecutive school years, the district shall do both of the following:

(a) If the building receives funds under Title 1, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, in accordance with section 3313.97 of the Revised Code, provide all students enrolled in the building the opportunity to enroll in an alternative building within the district that is not in school improvement status as defined by the "No Child Left Behind Act of 2001." Notwithstanding Chapter 3327. of the Revised Code, the district shall provide transportation for students who enroll in alternative buildings under this division to the extent required under division (E)(2) of this section.

(b) If the building receives funds under Title 1, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to

6339, from the district, offer supplemental educational services to students who are enrolled in the building and who are in the subgroup described in division (B)(3) of section 3302.01 of the Revised Code.

The district shall spend a combined total of an amount equal to twenty per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under division (E)(1)(b) or (E)(2)(a) of this section and to pay the costs of the supplemental educational services provided to students under division (E)(2)(b) of this section, unless the district can satisfy all demand for transportation and pay the costs of supplemental educational services for those students who request them with a lesser amount. In allocating funds between the requirements of divisions (E)(1)(b) and (E)(2)(a) and (b) of this section, the district shall spend at least an amount equal to five per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under division (E)(1)(b) or (E)(2)(a) of this section, unless the district can satisfy all demand for transportation with a lesser amount, and at least an amount equal to five per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to pay the costs of the supplemental educational services provided to students under division (E)(2)(b) of this section, unless the district can pay the costs of such services for all students requesting them with a lesser amount. If an amount equal to twenty per cent of the funds the district receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for transportation under divisions (E)(1)(b) and (E)(2)(a) of this section and to pay the costs of all of the supplemental educational services provided to students under division (E)(2)(b) of this section, the district shall grant priority over all other students in providing transportation and in paying the costs of supplemental educational services to the lowest achieving students among the subgroup described in division (B)(3) of section 3302.01 of the Revised Code.

Any district that does not receive funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, shall not be required to provide transportation to any student who enrolls in an alternative building under division (E)(2)(a) of this section or to pay the costs of supplemental educational services provided to any student under division (E)(2)(b) of this section.

No student who enrolls in an alternative building under division

(E)(2)(a) of this section shall be eligible for supplemental educational services under division (E)(2)(b) of this section.

(3) For any school building that fails to make adequate yearly progress for four consecutive school years, the district shall continue to comply with division (E)(2) of this section and shall implement at least one of the following options with respect to the building:

(a) Institute a new curriculum that is consistent with the statewide academic standards adopted pursuant to division (A) of section 3301.079 of the Revised Code;

(b) Decrease the degree of authority the building has to manage its internal operations;

(c) Appoint an outside expert to make recommendations for improving the academic performance of the building. The district may request the department to establish a state intervention team for this purpose pursuant to division (G) of this section.

(d) Extend the length of the school day or year;

(e) Replace the building principal or other key personnel;

(f) Reorganize the administrative structure of the building.

(4) For any school building that fails to make adequate yearly progress for five consecutive school years, the district shall continue to comply with division (E)(2) of this section and shall develop a plan during the next succeeding school year to improve the academic performance of the building, which shall include at least one of the following options:

(a) Reopen the school as a community school under Chapter 3314. of the Revised Code;

(b) Replace personnel;

(c) Contract with a nonprofit or for-profit entity to operate the building;

(d) Turn operation of the building over to the department;

(e) Other significant restructuring of the building's governance.

(5) For any school building that fails to make adequate yearly progress for six consecutive school years, the district shall continue to comply with division (E)(2) of this section and shall implement the plan developed pursuant to division (E)(4) of this section.

(6) A district shall continue to comply with division (E)(1)(b) or (E)(2) of this section, whichever was most recently applicable, with respect to any building formerly subject to one of those divisions until the building makes adequate yearly progress for two consecutive school years.

(F) This division applies only to school districts that have been identified for improvement by the department pursuant to the "No Child Left Behind Act of 2001." It does not apply to any such district after June

30, 2008.

(1) If a school district has been identified for improvement for one school year, the district shall provide a written description of the continuous improvement plan developed by the district pursuant to division (B) of this section to the parent or guardian of each student enrolled in the district. If the district does not have a continuous improvement plan, the district shall develop such a plan in accordance with division (B) of this section and provide a written description of the plan to the parent or guardian of each student enrolled in the district.

(2) If a school district has been identified for improvement for two consecutive school years, the district shall continue to implement the continuous improvement plan developed by the district pursuant to division (B) or (F)(1) of this section.

(3) If a school district has been identified for improvement for three consecutive school years, the department shall take at least one of the following corrective actions with respect to the district:

(a) Withhold a portion of the funds the district is entitled to receive under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339;

(b) Direct the district to replace key district personnel;

(c) Institute a new curriculum that is consistent with the statewide academic standards adopted pursuant to division (A) of section 3301.079 of the Revised Code;

(d) Establish alternative forms of governance for individual school buildings within the district;

(e) Appoint a trustee to manage the district in place of the district superintendent and board of education.

The department shall conduct individual audits of a sampling of districts subject to this division to determine compliance with the corrective actions taken by the department.

(4) If a school district has been identified for improvement for four consecutive school years, the department shall continue to monitor implementation of the corrective action taken under division (F)(3) of this section with respect to the district.

(5) If a school district has been identified for improvement for five consecutive school years, the department shall take at least one of the corrective actions identified in division (F)(3) of this section with respect to the district, provided that the corrective action the department takes is different from the corrective action previously taken under division (F)(3) of this section with respect to the district.

(G) The department may establish a state intervention team to evaluate all aspects of a school district or building, including management, curriculum, instructional methods, resource allocation, and scheduling. Any such intervention team shall be appointed by the department and shall include teachers and administrators recognized as outstanding in their fields. The intervention team shall make recommendations regarding methods for improving the performance of the district or building.

The department shall not approve a district's request for an intervention team under division (E)(3) of this section if the department cannot adequately fund the work of the team, unless the district agrees to pay for the expenses of the team.

(H) The department shall conduct individual audits of a sampling of community schools established under Chapter 3314. of the Revised Code to determine compliance with this section.

(I) The state board shall adopt rules for implementing this section.

Sec. 3302.042. (A) This section shall operate as a pilot project that applies to any school that has been ranked according to performance index score under section 3302.21 of the Revised Code in the lowest five per cent of all public school buildings statewide for three or more consecutive school years and is operated by the Columbus city school district. The pilot project shall commence once the department of education establishes implementation guidelines for the pilot project in consultation with the Columbus city school district.

(B) Except as provided in division (D) of this section, if the parents or guardians of at least fifty per cent of the students enrolled in a school to which this section applies, or if the parents or guardians of at least fifty per cent of the total number of students enrolled in that school and the schools of lower grade levels whose students typically matriculate into that school, sign and file with the school district treasurer a petition requesting the district board of education to implement one of the following reforms in the school, and if the validity and sufficiency of the petition is certified in accordance with division (C) of this section, the board shall implement the requested reform in the next school year:

(1) Reopen the school as a community school under Chapter 3314. of the Revised Code;

(2) Replace at least seventy per cent of the school's personnel who are related to the school's poor academic performance or, at the request of the petitioners, retain not more than thirty per cent of the personnel;

(3) Contract with another school district or a nonprofit or for-profit entity with a demonstrated record of effectiveness to operate the school;

(4) Turn operation of the school over to the department;

(5) Any other major restructuring of the school that makes fundamental reforms in the school's staffing or governance.

(C) Not later than thirty days after receipt of a petition under division (B) of this section, the district treasurer shall verify the validity and sufficiency of the signatures on the petition and certify to the district board whether the petition contains the necessary number of valid signatures to require the board to implement the reform requested by the petitioners. If the treasurer certifies to the district board that the petition does not contain the necessary number of valid signatures, any person who signed the petition may file an appeal with the county auditor within ten days after the certification. Not later than thirty days after the filing of an appeal, the county auditor shall conduct an independent verification of the validity and sufficiency of the signatures on the petition and certify to the district board whether the petition contains the necessary number of valid signatures to require the board to implement the requested reform. If the treasurer or county auditor certifies that the petition contains the necessary number of valid signatures, the district board shall notify the superintendent of public instruction and the state board of education of the certification.

(D) The district board shall not implement the reform requested by the petitioners in any of the following circumstances:

(1) The district board has determined that the request is for reasons other than improving student academic achievement or student safety.

(2) The state superintendent has determined that implementation of the requested reform would not comply with the model of differentiated accountability described in section 3302.041 of the Revised Code.

(3) The petitioners have requested the district board to implement the reform described in division (B)(4) of this section and the department has not agreed to take over the school's operation.

(4) When all of the following have occurred:

(a) After a public hearing on the matter, the district board issued a written statement explaining the reasons that it is unable to implement the requested reform and agreeing to implement one of the other reforms described in division (B) of this section.

(b) The district board submitted its written statement to the state superintendent and the state board along with evidence showing how the alternative reform the district board has agreed to implement will enable the school to improve its academic performance.

(c) Both the state superintendent and the state board have approved implementation of the alternative reform.

(E) Beginning not later than six months after the first petition under this section has been resolved, the department of education shall annually evaluate the pilot program and submit a report to the general assembly under section 101.68 of the Revised Code. Such reports shall contain its recommendations to the general assembly with respect to the continuation of the pilot program, its expansion to other school districts, or the enactment of further legislation establishing the program statewide under permanent law.

Sec. 3302.05. The state board of education shall adopt rules freeing school districts declared to be excellent under division (B)(1) or effective under division (B)(2) of section 3302.03 of the Revised Code from specified state mandates. Any mandates included in the rules shall be only those statutes or rules pertaining to state education requirements. The rules shall not exempt districts ~~from any standard or requirement of section 3306.09 of the Revised Code or~~ from any operating standard adopted under division (D)(3) of section 3301.07 of the Revised Code.

Sec. 3302.06. (A) Any school of a city, exempted village, or local school district may apply to the district board of education to be designated as an innovation school. Each application shall include an innovation plan that contains the following:

(1) A statement of the school's mission and an explanation of how the designation would enhance the school's ability to fulfill its mission;

(2) A description of the innovations the school would implement;

(3) An explanation of how implementation of the innovations described in division (A)(2) of this section would affect the school's programs and policies, including any of the following that apply:

(a) The school's educational program;

(b) The length of the school day and the school year;

(c) The school's student promotion policy;

(d) The school's plan for the assessment of students;

(e) The school's budget;

(f) The school's staffing levels.

(4) A description of the improvements in student academic performance that the school expects to achieve by implementing the innovations described in division (A)(2) of this section;

(5) An estimate of the cost savings and increased efficiencies, if any, that the school expects to achieve by implementing the innovations described in division (A)(2) of this section;

(6) A description of any laws in Title XXXIII of the Revised Code, rules adopted by the state board of education, or requirements enacted by the district board that would need to be waived to implement the innovations

described in division (A)(2) of this section;

(7) A description of any provisions of a collective bargaining agreement covering personnel of the school that would need to be waived to implement the innovations described in division (A)(2) of this section;

(8) Evidence that a majority of the administrators assigned to the school and a majority of the teachers assigned to the school consent to seeking the designation and a statement of the level of support for seeking the designation demonstrated by other staff working in the school, students enrolled in the school and their parents, and members of the community in which the school is located.

(B) Two or more schools of the district may apply to the district board to be designated as an innovation school zone, if the schools share common interests based on factors such as geographical proximity or similar educational programs or if the schools serve the same classes of students as they advance to higher grade levels. Each application shall include an innovation plan that contains the information prescribed by divisions (A)(1) to (8) of this section for each participating school and the following additional information:

(1) A description of how innovations in the participating schools would be integrated to achieve results that would be less likely to be achieved by each participating school alone;

(2) An estimate of any economies of scale that would be realized by implementing innovations jointly.

Sec. 3302.061. (A) A school district board of education shall review each application received under section 3302.06 of the Revised Code and, within sixty days after receipt of the application, shall approve or disapprove the application. In reviewing applications, the board shall give preference to applications that propose innovations in one or more of the following areas:

(1) Curriculum;

(2) Student assessments, other than the assessments prescribed by sections 3301.0710 and 3301.0712 of the Revised Code;

(3) Class scheduling;

(4) Accountability measures, including innovations that expand the number and variety of measures used in order to collect more complete data about student academic performance. For this purpose, schools may consider use of measures such as end-of-course examinations, portfolios of student work, nationally or internationally normed assessments, the percentage of students enrolling in post-secondary education, or the percentage of students simultaneously obtaining a high school diploma and an associate's degree or certification to work in an industry or career field.

(5) Provision of student services, including services for students who are disabled, identified as gifted under Chapter 3324. of the Revised Code, limited English proficient, at risk of academic failure or dropping out, or at risk of suspension or expulsion;

(6) Provision of health, counseling, or other social services to students;

(7) Preparation of students for transition to higher education or the workforce;

(8) Teacher recruitment, employment, and evaluation;

(9) Compensation for school personnel;

(10) Professional development;

(11) School governance and the roles and responsibilities of principals;

(12) Use of financial or other resources.

(B)(1) If the board approves an application seeking designation as an innovation school, it shall so designate the school that submitted the application. If the board approves an application seeking designation as an innovation school zone, it shall so designate the participating schools that submitted the application.

(2) If the board disapproves an application, it shall provide a written explanation of the basis for its decision to the school or schools that submitted the application. The school or schools may reapply for designation as an innovation school or innovation school zone at any time.

(C) The board may approve an application that allows an innovation school or a school participating in an innovation school zone to determine the compensation of board employees working in the school, but the total compensation for all such employees shall not exceed the financial resources allocated to the school by the board. The school shall not be required to comply with the salary schedule adopted by the board under section 3317.14 or 3317.141 of the Revised Code. The board may approve an application that allows an innovation school or a school participating in an innovation school zone to remove board employees from the school, but no employee shall be terminated except as provided in section 3319.081 or 3319.16 of the Revised Code.

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

(1) Designate a school as an innovation school by creating an innovation plan for that school and offering the school an opportunity to participate in the plan's creation;

(2) Designate as an innovation school zone two or more schools that share common interests based on factors such as geographical proximity or similar educational programs or that serve the same classes of students as they advance to higher grade levels, by creating an innovation plan for those

schools and offering the schools an opportunity to participate in the plan's creation.

Sec. 3302.062. (A) If a school district board of education approves an application under division (B)(1) of section 3302.061 of the Revised Code or designates an innovation school or innovation school zone under division (D) of that section, the district board shall apply to the state board of education for designation as a school district of innovation by submitting to the state board the innovation plan included in the approved application or created by the district board.

Within sixty days after receipt of the application, the state board shall designate the district as a school district of innovation, unless the state board determines that the submitted innovation plan is not financially feasible or will likely result in decreased academic achievement. If the state board so determines, it shall provide a written explanation of the basis for its determination to the district board. If the district is not designated as a school district of innovation, the district board shall not implement the innovation plan. However, the district board may reapply for designation as a school district of innovation at any time.

(B) A district board may request the state board to make a preliminary review of an innovation plan prior to the district board's formal application for designation as a school district of innovation. In that case, the state board shall review the innovation plan and, within sixty days after the request, recommend to the district board any changes or additions that the state board believes will improve the plan, which may include further innovations or measures to increase the likelihood that the innovations will result in higher academic achievement. The district board may revise the innovation plan prior to making formal application for designation as a school district of innovation.

Sec. 3302.063. (A) Except as provided in division (B) of this section, upon designation of a school district of innovation under section 3302.062 of the Revised Code, the state board of education shall waive any laws in Title XXXIII of the Revised Code or rules adopted by the state board that are specified in the innovation plan submitted by the district board of education as needing to be waived to implement the plan. The waiver shall apply only to the school or schools participating in the innovation plan and shall not apply to the district as a whole, unless each of the district's schools is a participating school. The waiver shall cease to apply to a school if the school's designation as an innovation school is revoked or the innovation school zone in which the school participates has its designation revoked under section 3302.065 of the Revised Code, or if the school is removed

from an innovation school zone under that section or section 3302.064 of the Revised Code.

(B) The state board shall not waive any law or rule regarding the following:

(1) Funding for school districts under Chapter 3317. of the Revised Code;

(2) The requirements of Chapters 3323. and 3324. of the Revised Code for the provision of services to students with disabilities and gifted students;

(3) Requirements related to the provision of career-technical education that are necessary to comply with federal law or maintenance of effort provisions;

(4) Administration of the assessments prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the Revised Code;

(5) Requirements related to the issuance of report cards and the assignment of performance ratings under section 3302.03 of the Revised Code;

(6) Implementation of the model of differentiated accountability under section 3302.041 of the Revised Code;

(7) Requirements for the reporting of data to the department of education;

(8) Criminal records checks of school employees;

(9) The requirements of Chapters 3307. and 3309. regarding the retirement systems for teachers and school employees.

(C) If a district board's revisions to an innovation plan under section 3302.066 of the Revised Code require a waiver of additional laws or state board rules, the state board shall grant a waiver from those laws or rules upon evidence that administrators and teachers have consented to the revisions as required by that section.

Sec. 3302.064. (A) Each collective bargaining agreement entered into by a school district board of education under Chapter 4117. of the Revised Code on or after the effective date of this section shall allow for the waiver of any provision of the agreement specified in the innovation plan approved or created under section 3302.061 of the Revised Code as needing to be waived to implement the plan, in the event the district is designated as a school district of innovation.

(B)(1) In the case of an innovation school, waiver of the provisions specified in the innovation plan shall be contingent upon at least sixty per cent of the members of the bargaining unit covered by the collective bargaining agreement who work in the school voting, by secret ballot, to approve the waiver.

(2) In the case of an innovation school zone, waiver of the provisions specified in the innovation plan shall be contingent upon, in each participating school, at least sixty per cent of the members of the bargaining unit covered by the collective bargaining agreement who work in that school voting, by secret ballot, to approve the waiver. If at least sixty per cent of the members of the bargaining unit in a participating school do not vote to approve the waiver, the board may revise the innovation plan to remove that school from the innovation school zone.

(3) If a board's revisions to an innovation plan under section 3302.066 of the Revised Code require a waiver of additional provisions of the collective bargaining agreement, that waiver shall be contingent upon approval under division (B)(1) or (2) of this section in the same manner as the initial waiver.

(C) A waiver approved under division (B) of this section shall continue to apply relative to any substantially similar provision of a collective bargaining agreement entered into after the approval of the waiver.

(D) A waiver approved under division (B) of this section shall cease to apply to a school if the school's designation as an innovation school is revoked or the innovation school zone in which the school participates has its designation revoked under section 3302.065 of the Revised Code, or if the school is removed from an innovation school zone under that section.

(E) An employee working in an innovation school or a school participating in an innovation school zone who is a member of a bargaining unit that approves a waiver under division (B) of this section may request the board to transfer the employee to another school of the district. The board shall make every reasonable effort to accommodate the employee's request.

Sec. 3302.065. Not later than three years after obtaining designation as a school district of innovation under section 3302.062 of the Revised Code, and every three years thereafter, the district board of education shall review the performance of the innovation school or innovation school zone and determine if it is achieving, or making sufficient progress toward achieving, the improvements in student academic performance that were described in its innovation plan. If the board finds that an innovation school is not achieving, or not making sufficient progress toward achieving, those improvements in student academic performance, the board may revoke the designation as an innovation school. If the board finds that a school participating in an innovation school zone is not achieving, or not making sufficient progress toward achieving, those improvements in student academic performance, the board may remove that school from the

innovation school zone or may revoke the designation of all participating schools as an innovation school zone.

Sec. 3302.066. A school district board of education may revise an innovation plan approved or created under section 3302.061 of the Revised Code, in collaboration with the school or schools participating in the plan, to further improve student academic performance. The revisions may include identifying additional laws in Title XXXIII of the Revised Code, rules adopted by the state board of education, requirements enacted by the district board, or provisions of a collective bargaining agreement that need to be waived. Any revisions to an innovation plan shall require the consent, in each school participating in the plan, of a majority of the administrators assigned to that school and a majority of the teachers assigned to that school.

Sec. 3302.067. The board of education of any district designated as a school district of innovation or any school participating in an innovation plan may accept, receive, and expend gifts, grants, or donations from any public or private entity to support the implementation of the plan.

Sec. 3302.068. Not later than the first day of July each year, the department of education shall issue, and post on its web site, a report on school districts of innovation. The report shall include the following information:

(A) The number of districts designated as school districts of innovation in the preceding school year and the total number of school districts of innovation statewide;

(B) The number of innovation schools in each school district of innovation and the number of district students served by the schools, expressed as a total number and as a percentage of the district's total student population;

(C) The number of innovation school zones in each school district of innovation, the number of schools participating in each zone, and the number of district students served by the participating schools, expressed as a total number and as a percentage of the district's total student population;

(D) An overview of the innovations implemented in innovation schools and innovation school zones;

(E) Data on the academic performance of the students enrolled in an innovation school or an innovation school zone in each school district of innovation, including a comparison of the students' academic performance before and after the district's designation as a school district of innovation;

(F) Recommendations for legislative changes based on the innovations implemented or to enhance the ability of schools and districts to implement

innovations.

Sec. 3302.07. (A) The board of education of any school district, the governing board of any educational service center, or the administrative authority of any chartered nonpublic school may submit to the state board of education an application proposing an innovative education pilot program the implementation of which requires exemptions from specific statutory provisions or rules. If a district or service center board employs teachers under a collective bargaining agreement adopted pursuant to Chapter 4117. of the Revised Code, any application submitted under this division shall include the written consent of the teachers' employee representative designated under division (B) of section 4117.04 of the Revised Code. The exemptions requested in the application shall be limited to any requirement of Title XXXIII of the Revised Code or of any rule of the state board adopted pursuant to that title except that the application may not propose an exemption from any requirement of or rule adopted pursuant to ~~section 3306.09,~~ Chapter 3307. or 3309., sections 3319.07 to 3319.21, or Chapter 3323. of the Revised Code. Furthermore, an exemption from any operating standard adopted under division (B)(2) or (D)~~(3)~~ of section 3301.07 of the Revised Code shall be granted only pursuant to a waiver granted by the superintendent of public instruction under division (O) of that section.

(B) The state board of education shall accept any application submitted in accordance with division (A) of this section. The superintendent of public instruction shall approve or disapprove the application in accordance with standards for approval, which shall be adopted by the state board.

(C) The superintendent of public instruction shall exempt each district or service center board or chartered nonpublic school administrative authority with an application approved under division (B) of this section for a specified period from the statutory provisions or rules specified in the approved application. The period of exemption shall not exceed the period during which the pilot program proposed in the application is being implemented and a reasonable period to allow for evaluation of the effectiveness of the program.

Sec. 3302.12. (A) For any school building that is ranked according to performance index score under section 3302.21 of the Revised Code in the lowest five per cent of all public school buildings statewide for three consecutive years and is declared to be under an academic watch or in a state of academic emergency under section 3302.03 of the Revised Code, the district board of education shall do one of the following at the conclusion of the school year in which the building first becomes subject to this division:

(1) Close the school and direct the district superintendent to reassign the students enrolled in the school to other school buildings that demonstrate higher academic achievement;

(2) Contract with another school district or a nonprofit or for-profit entity with a demonstrated record of effectiveness to operate the school;

(3) Replace the principal and all teaching staff of the school and, upon request from the new principal, exempt the school from all requested policies and regulations of the board regarding curriculum and instruction. The board also shall distribute funding to the school in an amount that is at least equal to the product of the per pupil amount of state and local revenues received by the district multiplied by the student population of the school.

(4) Reopen the school as a conversion community school under Chapter 3314. of the Revised Code.

(B) If an action taken by the board under division (A) of this section causes the district to no longer maintain all grades kindergarten through twelve, as required by section 3311.29 of the Revised Code, the board shall enter into a contract with another school district pursuant to section 3327.04 of the Revised Code for enrollment of students in the schools of that other district to the extent necessary to comply with the requirement of section 3311.29 of the Revised Code. Notwithstanding any provision of the Revised Code to the contrary, if the board enters into and maintains a contract under section 3327.04 of the Revised Code, the district shall not be considered to have failed to comply with the requirement of section 3311.29 of the Revised Code. If, however, the district board fails to or is unable to enter into or maintain such a contract, the state board of education shall take all necessary actions to dissolve the district as provided in division (A) of section 3311.29 of the Revised Code.

Sec. 3302.20. (A) The department of education shall develop standards for determining, from the existing data reported in accordance with sections 3301.0714 and 3314.17 of the Revised Code, the amount of annual operating expenditures for classroom instructional purposes and for nonclassroom purposes for each city, exempted village, local, and joint vocational school district, each community school established under Chapter 3314. that is not an internet- or computer-based community school, each internet- or computer-based community school, and each STEM school established under Chapter 3326. of the Revised Code. Not later than January 1, 2012, the department shall present those standards to the state board of education for consideration. In developing the standards, the department shall adapt existing standards used by professional organizations, research organizations, and other state governments.

The state board shall consider the proposed standards and adopt a final set of standards not later than July 1, 2012.

(B)(1) The department shall categorize all city, exempted village, and local school districts into not less than three nor more than five groups based primarily on average daily student enrollment as reported on the most recent report card issued for each district under section 3302.03 of the Revised Code.

(2) The department shall categorize all joint vocational school districts into not less than three nor more than five groups based primarily on average daily membership as reported under division (D) of section 3317.03 of the Revised Code rounded to the nearest whole number.

(3) The department shall categorize all community schools that are not internet- or computer-based community schools into not less than three nor more than five groups based primarily on average daily student enrollment as reported on the most recent report card issued for each community school under sections 3302.03 and 3314.012 of the Revised Code.

(4) The department shall categorize all internet- or computer-based community schools into a single category.

(5) The department shall categorize all STEM schools into a single category.

(C) Using the standards adopted under division (A) of this section and the data reported under sections 3301.0714 and 3314.17 of the Revised Code, the department shall compute, for fiscal years 2008 through 2012, and annually for each fiscal year thereafter, the following:

(1) The percentage of each district's, community school's, or STEM school's total operating budget spent for classroom instructional purposes;

(2) The statewide average percentage for all districts, community schools, and STEM schools combined spent for classroom instructional purposes;

(3) The average percentage for each of the categories of districts and schools established under division (B) of this section spent for classroom instructional purposes;

(4) The ranking of each district, community school, or STEM school within its respective category established under division (B) of this section according to the following:

(a) From highest to lowest percentage spent for classroom instructional purposes;

(b) From lowest to highest percentage spent for noninstructional purposes.

(D) In its display of rankings within each category under division (C)(4)

of this section, the department shall make the following notations:

(1) Within each category of city, exempted village, and local school districts, the department shall denote each district that is:

(a) Among the twenty per cent of all city, exempted village, and local school districts statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all city, exempted village, and local school districts statewide with the highest performance index scores.

(2) Within each category of joint vocational school districts, the department shall denote each district that is:

(a) Among the twenty per cent of all joint vocational school districts statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all joint vocational school districts statewide with the highest performance measures required for career-technical education under 20 U.S.C. 2323, as ranked under division (A)(3) of section 3302.21 of the Revised Code.

(3) Within each category of community schools that are not internet- or computer-based community schools, the department shall denote each school that is:

(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores.

(4) Within the category of internet- or computer-based community schools, the department shall denote each school that is:

(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores.

(5) Within the category of STEM schools, the department shall denote each school that is:

(a) Among the twenty per cent of all STEM schools statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all STEM schools statewide with the highest performance index scores.

(E) The department shall post in a prominent location on its web site the information prescribed by divisions (C) and (D) of this section. The department also shall include on each district's, community school's, and STEM school's annual report card issued under section 3302.03 of the Revised Code the respective information computed for the district or school

under divisions (C)(1) and (4) of this section, the statewide information computed under division (C)(2) of this section, and the information computed for the district's or school's category under division (C)(3) of this section.

(F) As used in this section:

(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(2) A school district's, community school's, or STEM school's performance index score rank is its performance index score rank as computed under section 3302.21 of the Revised Code.

Sec. 3302.21. (A) The department of education shall develop a system to rank order all city, exempted village, local, and joint vocational school districts, community schools established under Chapter 3314., and STEM schools established under Chapter 3326. of the Revised Code according to the following measures:

(1) Performance index score for each school district, community school, and STEM school and for each separate building of a district, community school, or STEM school. For districts, schools, or buildings to which the performance index score does not apply, the superintendent of public instruction shall develop another measure of student academic performance and use that measure to include those buildings in the ranking so that all districts, schools, and buildings may be reliably compared to each other.

(2) Student performance growth from year to year, using the value-added progress dimension, if applicable, and other measures of student performance growth designated by the superintendent of public instruction for subjects and grades not covered by the value-added progress dimension;

(3) Performance measures required for career-technical education under 20 U.S.C. 2323, if applicable. If a school district is a "VEPD" or "lead district" as those terms are defined in section 3317.023 of the Revised Code, the district's ranking shall be based on the performance of career-technical students from that district and all other districts served by that district, and such fact, including the identity of the other districts served by that district, shall be noted on the report required by division (B) of this section.

(4) Current operating expenditures per pupil;

(5) Of total current operating expenditures, percentage spent for classroom instruction as determined under standards adopted by the state board of education;

(6) Performance of, and opportunities provided to, students identified as gifted using value-added progress dimensions, if applicable, and other

relevant measures as designated by the superintendent of public instruction.

The department shall rank each district, community school, and STEM school annually in accordance with the system developed under this section.

(B) In addition to the reports required by sections 3302.03 and 3302.031 of the Revised Code, not later than the first day of September each year, the department shall issue a report for each city, exempted village, local, and joint vocational school district, each community school, and each STEM school indicating the district's or school's rank on each measure described in divisions (A)(1) to (5) of this section, including each separate building's rank among all public school buildings according to performance index score under division (A)(1) of this section.

Sec. 3302.22. (A) The governor's effective and efficient schools recognition program is hereby created. Each year, the governor shall recognize, in a manner deemed appropriate by the governor, the top ten per cent of all public schools in this state, including schools of city, exempted village, local, or joint vocational school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code.

(B) The top ten per cent of schools shall be determined by the department of education according to standards established by the department. The standards shall include, but need not be limited to, both of the following:

(1) Student performance, as determined by factors including, but not limited to, performance indicators under section 3302.02 of the Revised Code, report cards issued under section 3302.03 of the Revised Code, performance index score rankings under section 3302.21 of the Revised Code, and any other statewide or national assessment or student performance recognition program the department selects;

(2) Fiscal performance, including cost-effective measures taken by the school.

Sec. 3302.25. (A) In accordance with standards prescribed by the state board of education for categorization of school district expenditures adopted under division (A) of section 3302.20 of the Revised Code, the department of education annually shall determine all of the following for the previous fiscal year:

(1) For each school district, the ratio of the district's operating expenditures for instructional purposes compared to its operating expenditures for administrative purposes;

(2) For each school district, the per pupil amount of the district's expenditures for instructional purposes;

(3) For each school district, the per pupil amount of the district's operating expenditures for administrative purposes;

(4) For each school district, the percentage of the district's operating expenditures attributable to school district funds;

(5) The statewide average among all school districts for each of the items described in divisions (A)(1) to (4) of this section.

(B) The department annually shall submit a report to each school district indicating the district's information for each of the items described in divisions (A)(1) to (4) of this section and the statewide averages described in division (A)(5) of this section.

(C) Each school district, upon receipt of the report prescribed by division (B) of this section, shall publish the information contained in that report in a prominent location on the district's web site and publish the report in another fashion so that it is available to all parents of students enrolled in the district and to taxpayers of the district.

Sec. 3302.30. (A) The superintendent of public instruction shall establish a pilot project in Columbiana county under which one or more school districts in that county shall offer a multiple-track high school curriculum for students with differing career plans. The superintendent shall solicit and select districts to participate in the pilot project. Selected districts shall begin offering their career track curricula not later than the school year that begins at least six months after the effective date of this section. No district shall be required to participate in the pilot project.

The curricula provided under the pilot project at each participating district shall offer at least three distinct career tracks, including at least a college preparatory track and a career-technical track. Each track shall comply with the curriculum requirements of section 3313.603 of the Revised Code. The different tracks may be offered at different campuses. Two or more participating districts may offer some or all of their respective curriculum tracks through a cooperative agreement entered into under section 3313.842 of the Revised Code.

The department of education shall provide technical assistance to participating districts in developing the curriculum tracks to offer to students under the pilot project.

Part or all of selected curriculum materials or services may be purchased from other public or private sources.

The state superintendent shall apply for private and other nonstate funds, and may use other available state funds, to support the pilot project. If nonstate funds cannot be obtained or the superintendent of public instruction determines that sufficient funds are not available to support the pilot project,

implementation of this section may be postponed until such time as the superintendent determines that sufficient funds are available.

(B) Each participating school district shall report to the state superintendent data about the operation and results of the pilot project, as required by the superintendent.

(C) Not later than the thirty-first day of December of the third school year in which the pilot project is operating, the state superintendent shall submit a report to the general assembly, in accordance with section 101.68 of the Revised Code, containing the superintendent's evaluation of the results of the pilot project and legislative recommendations whether to continue, expand, or make changes to the pilot project.

Sec. 3304.181. If the total of all funds available from nonfederal sources to support the activities of the rehabilitation services commission does not comply with the expenditure requirements of 34 C.F.R. 361.60 and 361.62 for those activities or would cause the state to lose an allotment or fail to receive a reallotment under 34 C.F.R. 361.65, the commission shall solicit additional funds from, and enter into agreements for the use of those funds with, private or public entities, including local government entities of this state. The commission shall continue to solicit additional funds and enter into agreements until the total funding available is sufficient for the commission to receive federal funds at the maximum amount and in the most advantageous proportion possible.

Any agreement entered into between the commission and a private or public entity to provide funds under this section shall be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the Revised Code.

Sec. 3304.182. Any agreement between the rehabilitation services commission and a private or public entity providing funds under section 3304.181 of the Revised Code may permit the commission to receive a specified percentage of the funds ~~for administration~~, but the percentage shall be not more than ~~thirteen~~ twenty-five per cent of the total funds available under the agreement. The agreement shall not be for less than six months or be discontinued by the commission without the commission first providing three months notice of intent to discontinue the agreement. The commission may terminate an agreement only for good cause.

Any services provided under an agreement entered into under section 3304.181 of the Revised Code shall be provided by a person or government entity that meets the accreditation standards established in rules adopted by the commission under section 3304.16 of the Revised Code.

Sec. 3305.08. Any payment, benefit, or other right accruing to any electing employee under a contract entered into for purposes of an

alternative retirement plan and all moneys, investments, and income of those contracts are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02 ~~or,~~ 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3305.09, and 3305.12 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency law, or other process of law, and shall be unassignable except as specifically provided in this section and sections 3105.171, 3105.65, 3119.80, 3119.81, 3121.02, 3121.03, 3115.32, and 3123.06 of the Revised Code or in any contract the electing employee has entered into for purposes of an alternative retirement plan.

Sec. 3307.20. (A) As used in this section:

(1) "Personal history record" means information maintained by the state teachers retirement board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the state teachers retirement system, or other information the board determines to be confidential.

(2) "Retirant" has the same meaning as in section 3307.50 of the Revised Code.

(B) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(1) The individual's personal records provided for in section 3307.23 of the Revised Code;

(2) The individual's personal history record;

(3) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual.

(C) All medical reports and recommendations under sections 3307.62, 3307.64, and 3307.66 of the Revised Code are privileged, except as follows:

(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or, when necessary for the proper administration of the fund, to the board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(D) Any person who is a member or contributor of the system shall be

furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one request of a person in any one year.

(E) Notwithstanding the exceptions to public inspection in division (B) of this section, the board may furnish the following information:

(1) If a member, former member, retirant, contributor, or former contributor is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with ~~division (A) of~~ section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the

person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of a contributing member or retired teacher member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(7) The system shall provide the notice required by section 3307.373 of the Revised Code to the prosecutor assigned to the case.

(F) A statement that contains information obtained from the system's records that is signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 3307.31. (A) Payments by boards of education and governing authorities of community schools to the state teachers retirement system, as provided in sections 3307.29 and 3307.291 of the Revised Code, shall be made from the amount allocated under section 3314.08~~, Chapter 3306.,~~ or Chapter 3317. of the Revised Code prior to its distribution to the individual school districts or community schools. The amount due from each school district or community school shall be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as may be determined by the state teachers retirement board.

The superintendent shall deduct, from the amount allocated to each district or community school under section 3314.08~~, Chapter 3306.,~~ or Chapter 3317. of the Revised Code, the entire amounts due to the system from such district or school upon the certification to the superintendent by the secretary thereof.

The superintendent shall certify to the director of budget and management the amounts thus due the system for payment.

(B) Payments to the state teachers retirement system by a science, technology, engineering, and mathematics school shall be deducted from the amount allocated under section 3326.33 of the Revised Code and shall be made in the same manner as payments by boards of education under this section.

Sec. 3307.41. The right of an individual to a pension, an annuity, or a retirement allowance itself, the right of an individual to any optional benefit, or any other right or benefit accrued or accruing to any individual under this chapter, the various funds created by section 3307.14 of the Revised Code, and all moneys, investments, and income from moneys or investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local

tax, except income taxes imposed pursuant to section 5748.02 ~~or,~~ 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3307.37, 3307.372, and 3307.373 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter or sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code.

Sec. 3307.64. A disability benefit recipient, notwithstanding section 3319.13 of the Revised Code, shall retain membership in the state teachers retirement system and shall be considered on leave of absence during the first five years following the effective date of a disability benefit.

The state teachers retirement board shall require any disability benefit recipient to submit to an annual medical examination by a physician selected by the board, except that the board may waive the medical examination if the board's physician certifies that the recipient's disability is ongoing. If a disability benefit recipient refuses to submit to a medical examination, the recipient's disability benefit shall be suspended until the recipient withdraws the refusal. If the refusal continues for one year, all the recipient's rights under and to the disability benefit shall be terminated as of the effective date of the original suspension.

After the examination, the examiner shall report and certify to the board whether the disability benefit recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled. If the board concurs in a report by the examining physician that the disability benefit recipient is no longer incapable, the payment of a disability benefit shall be terminated not later than the following thirty-first day of August or upon employment as a teacher prior thereto. If the leave of absence has not expired, the board shall so certify to the disability benefit recipient's last employer before being found disabled that the recipient is no longer physically and mentally incapable of resuming service that is the same or similar to that from which the recipient was found disabled. If the recipient was under contract at the time the recipient was found disabled, the employer by the first day of the next succeeding year shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

A disability benefit shall terminate if the disability benefit recipient

becomes employed as a teacher in any public or private school or institution in this state or elsewhere. An individual receiving a disability benefit from the system shall be ineligible for any employment as a teacher and it shall be unlawful for any employer to employ the individual as a teacher. If any employer should employ or reemploy the individual prior to the termination of a disability benefit, the employer shall file notice of employment with the board designating the date of the employment. If the individual should be paid both a disability benefit and also compensation for teaching service for all or any part of the same month, the secretary of the board shall certify to the employer or to the superintendent of public instruction the amount of the disability benefit received by the individual during the employment, which amount shall be deducted from any amount due the employing district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code or shall be paid by the employer to the annuity and pension reserve fund.

Each disability benefit recipient shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information if the board's physician certifies that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

A disability benefit also may be terminated by the board at the request of the disability benefit recipient.

If disability retirement under section 3307.63 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the teachers' savings fund and the employers' trust fund, respectively. If the total disability benefit paid was less than the amount of the accumulated contributions of the member transferred to the annuity and pension reserve fund at the time of the member's disability retirement, then the difference shall be transferred from the annuity and pension reserve fund to another fund as required. In determining the amount of a member's account following the termination of disability retirement for any reason, the total amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3307.631 of the Revised

Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

If a former disability benefit recipient again becomes a contributor, other than as an other system retirant under section 3307.35 of the Revised Code, to this retirement system, the school employees retirement system, or the public employees retirement system, and completes at least two additional years of service credit, the former disability benefit recipient shall receive credit for the period as a disability benefit recipient.

Sec. 3309.22. (A)(1) As used in this division, "personal history record" means information maintained by the board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 3309.28 of the Revised Code;

(b) Any information identifying by name and address the amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by the system are privileged except as follows:

(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(C) Any person who is a contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one such request of a person in any one year.

(D) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised

Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each contributor whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with ~~division (A) of~~ section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(7) The system shall provide the notice required by section 3309.673 of the Revised Code to the prosecutor assigned to the case.

(E) A statement that contains information obtained from the system's records that is signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 3309.41. (A) A disability benefit recipient shall retain membership status and shall be considered on leave of absence from employment during the first five years following the effective date of a disability benefit, notwithstanding any contrary provisions in Chapter 124. or 3319. of the Revised Code.

(B) The school employees retirement board shall require a disability benefit recipient to undergo an annual medical examination, except that the board may waive the medical examination if the board's physician or physicians certify that the recipient's disability is ongoing. Should any disability benefit recipient refuse to submit to a medical examination, the recipient's disability benefit shall be suspended until withdrawal of the refusal. Should the refusal continue for one year, all the recipient's rights in and to the disability benefit shall be terminated as of the effective date of the original suspension.

(C) On completion of the examination by an examining physician or physicians selected by the board, the physician or physicians shall report and certify to the board whether the disability benefit recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled. If the board concurs in the report that the disability benefit recipient is no longer incapable, the payment of the disability benefit shall be terminated not later than three months after the date of the board's concurrence or upon employment as an employee. If the leave of absence has not expired, the retirement board shall certify to the disability benefit recipient's last employer before being found disabled that the recipient is no longer physically and mentally incapable of resuming service that is the same or similar to that from which the recipient was found disabled. The employer shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto not later than the first day of the first month following termination of the disability benefit, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(D) Each disability benefit recipient shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file

an annual statement of earnings or current medical information on the recipient's condition if the board's physician or physicians certify that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(E) If a disability benefit recipient is employed by an employer covered by this chapter, the recipient's disability benefit shall cease.

(F) If disability retirement under section 3309.40 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the employees' savings fund and the employers' trust fund, respectively. If the total disability benefit paid is less than the amount of the accumulated contributions of the member transferred into the annuity and pension reserve fund at the time of the member's disability retirement, the difference shall be transferred from the annuity and pension reserve fund to another fund as may be required. In determining the amount of a member's account following the termination of disability retirement for any reason, the amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3309.401 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

The board may terminate a disability benefit at the request of the recipient.

(G) If a disability benefit is terminated and a former disability benefit recipient again becomes a contributor, other than as an other system retirant as defined in section 3309.341 of the Revised Code, to this system, the public employees retirement system, or the state teachers retirement system, and completes an additional two years of service credit after the termination of the disability benefit, the former disability benefit recipient shall be entitled to full service credit for the period as a disability benefit recipient.

(H) If any employer employs any member who is receiving a disability benefit, the employer shall file notice of employment with the retirement board, designating the date of employment. In case the notice is not filed, the total amount of the benefit paid during the period of employment prior to notice shall be paid from amounts allocated under ~~Chapters 3306. and~~

Chapter 3317. of the Revised Code prior to its distribution to the school district in which the disability benefit recipient was so employed.

Sec. 3309.48. Any employee who left the service of an employer after attaining age sixty-five or over and such employer had failed or refused to deduct and transmit to the school employees retirement system the employee contributions as required by section 3309.47 of the Revised Code during any year for which membership was compulsory as determined by the school employees retirement board, shall be granted service credit without cost, which shall be considered as total service credit for the purposes of meeting the qualifications for service retirement provided by the law in effect on and retroactive to the first eligible retirement date following the date such employment terminated, but shall not be paid until formal application for such allowance on a form provided by the retirement board is received in the office of the retirement system. The total service credit granted under this section shall not exceed ten years for any such employee.

The liability incurred by the retirement board because of the service credit granted under this section shall be determined by the retirement board, the cost of which shall be equal to an amount that is determined by applying the combined employee and employer rates of contribution against the compensation of such employee at the rates of contribution and maximum salary provisions in effect during such employment for each year for which credit is granted, together with interest at the rate to be credited accumulated contributions at retirement, compounded annually from the first day of the month payment was due the retirement system to and including the month of deposit, the total amount of which shall be collected from the employer. Such amounts shall be certified by the retirement board to the superintendent of public instruction, who shall deduct the amount due the system from any funds due the affected school district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code. The superintendent shall certify to the director of budget and management the amount due the system for payment. The total amount paid shall be deposited into the employers' trust fund, and shall not be considered as accumulated contributions of the employee in the event of the employee's death or withdrawal of funds.

Sec. 3309.51. (A) Each employer shall pay annually into the employers' trust fund, in such monthly or less frequent installments as the school employees retirement board requires, an amount certified by the school employees retirement board, which shall be as required by Chapter 3309. of the Revised Code.

Payments by school district boards of education to the employers' trust fund of the school employees retirement system may be made from the

amounts allocated under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code prior to their distribution to the individual school districts. The amount due from each school district may be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as is determined by the school employees retirement board.

Payments by governing authorities of community schools to the employers' trust fund of the school employees retirement system shall be made from the amounts allocated under section 3314.08 of the Revised Code prior to their distribution to the individual community schools. The amount due from each community school shall be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as determined by the school employees retirement board.

Payments by a science, technology, engineering, and mathematics school to the employers' trust fund of the school employees retirement system shall be made from the amounts allocated under section 3326.33 of the Revised Code prior to their distribution to the school. The amount due from a science, technology, engineering, and mathematics school shall be certified by the secretary of the school employees retirement system to the superintendent of public instruction monthly, or at such times as determined by the school employees retirement board.

(B) The superintendent shall deduct from the amount allocated to each community school under section 3314.08 of the Revised Code, to each school district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code, or to each science, technology, engineering, and mathematics school under section 3326.33 of the Revised Code the entire amounts due to the school employees retirement system from such school or school district upon the certification to the superintendent by the secretary thereof.

(C) Where an employer fails or has failed or refuses to make payments to the employers' trust fund, as provided for under Chapter 3309. of the Revised Code, the secretary of the school employees retirement system may certify to the state superintendent of public instruction, monthly or at such times as is determined by the school employees retirement board, the amount due from such employer, and the superintendent shall deduct from the amount allocated to the employer under section 3314.08 or 3326.33 or Chapter ~~3306. or~~ 3317. of the Revised Code, as applicable, the entire amounts due to the system from the employer upon the certification to the superintendent by the secretary of the school employees retirement system.

(D) The superintendent shall certify to the director of budget and management the amounts thus due the system for payment.

Sec. 3309.66. The right of an individual to a pension, an annuity, or a

retirement allowance itself, the right of an individual to any optional benefit, any other right accrued or accruing to any individual under this chapter, the various funds created by section 3309.60 of the Revised Code, and all moneys, investments, and income from moneys and investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02 ~~or,~~ 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3309.67, 3309.672, and 3309.673 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter and in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code.

Sec. 3310.02. (A) The educational choice scholarship pilot program is hereby established. Under the program, the department of education annually shall pay scholarships to attend chartered nonpublic schools in accordance with section 3310.08 of the Revised Code for up to ~~fourteen thousand~~ the following number of eligible students:

(1) Thirty thousand in the 2011-2012 school year;

(2) Sixty thousand in the 2012-2013 school year and thereafter. ~~If~~

(B) If the number of students who apply for a scholarship exceeds ~~fourteen thousand~~ the number of scholarships available under division (A) of this section for the applicable school year, the department shall award scholarships in the following order of priority:

~~(A)~~(1) First, to eligible students who received scholarships in the prior school year;

~~(B)~~(2) Second, to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, who qualify under division (A) of section 3310.03 of the Revised Code. If the number of students described in ~~this~~ division (B)(2) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under division ~~(A)~~(B)(1) of this section, the department shall select students described in ~~this~~ division (B)(2) of this section by lot to receive any remaining scholarships.

~~(C)~~(3) Third, to other eligible students who qualify under division (A) of section 3310.03 of the Revised Code. If the number of students described in ~~this~~ division (B)(3) of this section who apply for a scholarship exceeds

the number of available scholarships after awards are made under divisions ~~(A)~~(B)(1) and ~~(B)~~(2) of this section, the department shall select students described in ~~this~~ division (B)(3) of this section by lot to receive any remaining scholarships.

(4) Fourth, to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines who qualify under division (B) of section 3310.03 of the Revised Code. If the number of students described in division (B)(4) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (3) of this section, the department shall select students described in division (B)(4) of this section by lot to receive any remaining scholarships.

(5) Fifth, to other eligible students who qualify under division (B) of section 3310.03 of the Revised Code. If the number of students described in division (B)(5) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (4) of this section, the department shall select students described in division (B)(5) of this section by lot to receive any remaining scholarships.

Sec. 3310.03. ~~(A)~~ A student is an "eligible student" for purposes of the educational choice scholarship pilot program if the student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code and the student satisfies one of the ~~following~~ conditions in division (A) or (B) of this section:

(A)(1) The student is enrolled in a school building that is operated by the student's resident district and to which both of the following apply:

(a) The building was declared, in at least two of the three most recent ratings of school buildings published prior to the first day of July of the school year for which a scholarship is sought, to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code;

(b) The building was not declared to be excellent or effective under that section in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(2) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of this section.

(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division

(A)(1) of this section.

(4) The student is enrolled in a school building that is operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of this section in the school year for which the scholarship is sought.

(5) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought, or is enrolled in a community school established under Chapter 3314. of the Revised Code, and all of the following apply to the student's resident district:

(a) The district has in force an intradistrict open enrollment policy under which no student in kindergarten or the community school student's grade level, respectively, is automatically assigned to a particular school building;

(b) In at least two of the three most recent ratings of school districts published prior to the first day of July of the school year for which a scholarship is sought, the district was declared to be in a state of academic emergency under section 3302.03 of the Revised Code;

(c) The district was not declared to be excellent or effective under that section in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(B)(1) The student is enrolled in a school building that is operated by the student's resident district and to which both of the following apply:

(a) The building was ranked, for at least two of the three most recent rankings published under section 3302.21 of the Revised Code prior to the first day of July of the school year for which a scholarship is sought, in the lowest ten per cent of all public school buildings according to performance index score under section 3302.21 of the Revised Code.

(b) The building was not declared to be excellent or effective under section 3302.03 of the Revised Code in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(2) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (B)(1) of this section.

(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (B)(1) of this section.

(4) The student is enrolled in a school building that is operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (B)(1) of this section in the school year for which the scholarship is sought.

(C) A student who receives a scholarship under the educational choice scholarship pilot program remains an eligible student and may continue to receive scholarships in subsequent school years until the student completes grade twelve, so long as all of the following apply:

(1) The student's resident district remains the same, or the student transfers to a new resident district and otherwise would be assigned in the new resident district to a school building described in division (A)(1) or ~~(6)~~(B)(1) of this section;

(2) The student takes each assessment prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school;

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including excused absences.

~~(C)~~(D)(1) The department shall cease awarding first-time scholarships pursuant to divisions (A)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(1) of this section. The department shall cease awarding first-time scholarships pursuant to division (A)(5) of this section with respect to a school district that, in the most recent ratings of school districts published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(5) of this section. ~~However~~

(2) The department shall cease awarding first-time scholarships pursuant to divisions (B)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (B)(1) of this section.

(3) However, students who have received scholarships in the prior school year remain eligible students pursuant to division ~~(B)~~(C) of this section.

~~(D)~~(E) The state board of education shall adopt rules defining excused absences for purposes of division ~~(B)~~(C)(3) of this section.

Sec. 3310.05. A scholarship under the educational choice scholarship pilot program is not available for any student whose resident district is a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code. The two pilot programs are separate and distinct~~. The general assembly has prescribed separate scholarship amounts for the two pilot programs in recognition of their~~, with differing eligibility criteria. The pilot project scholarship program operating under sections 3313.974 to 3313.979 of the Revised Code is a district-wide program that may award scholarships to students who do not attend district schools that face academic challenges, whereas the educational choice scholarship pilot program established under sections 3310.01 to 3310.17 of the Revised Code is limited to students of individual district school buildings that face academic challenges.

Sec. 3310.08. (A) The amount paid for an eligible student under the educational choice scholarship pilot program shall be the lesser of the tuition of the chartered nonpublic school in which the student is enrolled or the maximum amount prescribed in section 3310.09 of the Revised Code.

(B)(1) The department shall pay to the parent of each eligible student for whom a scholarship is awarded under the program, or to the student if at least eighteen years of age, periodic partial payments of the scholarship.

(2) The department shall proportionately reduce or terminate the payments for any student who withdraws from a chartered nonpublic school prior to the end of the school year.

(C)(1) The department shall deduct ~~five thousand two hundred dollars~~ from the payments made to each school district under ~~Chapters 3306. and~~ Chapter 3317.~~,~~ and~~,~~ if necessary, sections 321.24 and 323.156 of the Revised Code, the amount paid under division (B) of this section for each eligible student awarded a scholarship under the ~~educational choice scholarship pilot~~ program who is entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district.

~~The amount deducted under division (C)(1) of this section funds scholarships for students under both the educational choice scholarship pilot program and the pilot project scholarship program under sections 3313.974 to 3313.979 of the Revised Code.~~

(2) If the department reduces or terminates payments to a parent or a student, as prescribed in division (B)(2) of this section, and the student enrolls in the schools of the student's resident district or in a community school, established under Chapter 3314. of the Revised Code, before the end of the school year, the department shall proportionally restore to the resident district the amount deducted for that student under division (C)(1) of this

section.

~~(D) In the case of any school district from which a deduction is made under division (C) of this section, the department shall disclose on the district's SF-3 form, or any successor to that form used to calculate a district's state funding for operating expenses, a comparison of the following:~~

~~(1) The district's state share of the adequacy amount payment, as calculated under section 3306.13 of the Revised Code with the scholarship students included in the district's formula ADM;~~

~~(2) What the district's state share of the adequacy amount payment would have been, as calculated under that section if the scholarship students were not included in the district's formula ADM.~~

~~This comparison shall display both the aggregate difference between the amounts described in divisions (D)(1) and (2) of this section, and the quotient of that aggregate difference divided by the number of eligible students for whom deductions are made under division (C) of this section.~~

Sec. 3310.41. (A) As used in this section:

(1) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program and to which the child's parent owes fees for the services provided to the child:

(a) A school district that is not the school district in which the child is entitled to attend school;

(b) A public entity other than a school district.

(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(3) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(4) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.

(5) "Parent" has the same meaning as in section 3313.64 of the Revised Code, except that "parent" does not mean a parent whose custodial rights have been terminated.

(6) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code.

(7) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has

identified the child as autistic. A child who has been identified as having a "pervasive developmental disorder - not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(c) The child either:

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.

(8) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the department of education to participate in the program established under this section.

(9) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

(B) There is hereby established the autism scholarship program. Under the program, the department of education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the state board of education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by an alternative public provider or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or twenty thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. ~~A~~ The services provided under the scholarship shall include an educational component.

A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the

content of the child's individualized education program are pending. A scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the state board shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this section so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child. ~~A~~

A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) As prescribed in divisions (A)(2)(h), (B)(3)(g), and (B)(10) of section 3317.03 of the Revised Code, a child who is not a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district. As prescribed in divisions (B)(3)(h) and (B)(10) of section 3317.03 of the Revised Code, a child who is a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the preschool scholarship ADM and category six special education ADM of the school district in which the child is entitled to attend school and not in the preschool scholarship ADM or category six special education ADM of any other school district.

(2) In each fiscal year, the department shall deduct from the amounts paid to each school district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM, or preschool scholarship ADM, and in the category six special education ADM of that school district as provided in division (C)(1) of this section. ~~When computing the school district's instructional services support under section 3306.05 of the Revised Code, the department shall add the district's preschool scholarship ADM to the district's formula ADM.~~

The scholarships deducted shall be considered as an approved special education and related services expense of the school district.

(3) From time to time, the department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The department shall approve entities that meet the standards established by rule of the state board for the program established under this section.

(E) The state board shall adopt rules under Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers.

Sec. 3310.51. As used in sections 3310.51 to 3310.64 of the Revised Code:

(A) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program and to which the eligible applicant owes fees for the services provided to the child:

(1) A school district that is not the school district in which the child is entitled to attend school or the child's school district of residence, if different;

(2) A public entity other than a school district.

(B) "Child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.

(C) "Eligible applicant" means any of the following:

(1) Either of the natural or adoptive parents of a qualified special education child, except as otherwise specified in this division. When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment, or when the natural or adoptive parents of the student are living separate and apart under a legal separation decree, and a court has issued an order allocating the parental rights and responsibilities with respect to the child, "eligible

applicant" means the residential parent as designated by the court. If the court issues a shared parenting decree, "eligible applicant" means either parent. "Eligible applicant" does not mean a parent whose custodial rights have been terminated.

(2) The custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural or adoptive parents of the child or to a government agency;

(3) The guardian of a qualified special education child, when a court has appointed a guardian for the child;

(4) The grandparent of a qualified special education child, when the grandparent is the child's attorney in fact under a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code or when the grandparent has executed a caregiver authorization affidavit under sections 3109.65 to 3109.73 of the Revised Code;

(5) The surrogate parent appointed for a qualified special education child pursuant to division (B) of section 3323.05 and section 3323.051 of the Revised Code;

(6) A qualified special education child, if the child does not have a custodian or guardian and the child is at least eighteen years of age.

(D) "Entitled to attend school" means entitled to attend school in a school district under sections 3313.64 and 3313.65 of the Revised Code.

(E) "Formula ADM" and "formula amount" have the same meanings as in section 3317.02 of the Revised Code.

(F) "Qualified special education child" is a child for whom all of the following conditions apply:

(1) The child is at least five years of age and less than twenty-two years of age.

(2) The school district in which the child is entitled to attend school, or the child's school district of residence if different, has identified the child as a child with a disability.

(3) The school district in which the child is entitled to attend school, or the child's school district of residence if different, has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(4) The child either:

(a) Was enrolled in the schools of the school district in which the child is entitled to attend school in any grade from kindergarten through twelve in the school year prior to the school year in which a scholarship is first sought for the child;

(b) Is eligible to enter school in any grade kindergarten through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship is first sought for the child.

(5) The department of education has not approved a scholarship for the child under the educational choice scholarship pilot program, under sections 3310.01 to 3310.17 of the Revised Code, the autism scholarship program, under section 3310.41 of the Revised Code, or the pilot project scholarship program, under sections 3313.974 to 3313.979 of the Revised Code for the same school year in which a scholarship under the Jon Peterson special needs scholarship program is sought.

(6) The child and the child's parents are in compliance with the state compulsory attendance law under Chapter 3321. of the Revised Code.

(G) "Registered private provider" means a nonpublic school or other nonpublic entity that has been registered by the superintendent of public instruction under section 3310.58 of the Revised Code.

(H) "Scholarship" means a scholarship awarded under the Jon Peterson special needs scholarship program pursuant to sections 3310.51 to 3310.64 of the Revised Code.

(I) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code. A community school established under Chapter 3314. of the Revised Code is not a "school district of residence" for purposes of sections 3310.51 to 3310.64 of the Revised Code.

(J) "School year" has the same meaning as in section 3313.62 of the Revised Code.

(K) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

Sec. 3310.52. (A) The Jon Peterson special needs scholarship program is hereby established. Under the program, beginning with the 2012-2013 school year, subject to division (B) of this section, the department of education annually shall pay a scholarship to an eligible applicant for services provided by an alternative public provider or a registered private provider for a qualified special education child. The scholarship shall be used only to pay all or part of the fees for the child to attend the special education program operated by the alternative public provider or registered private provider to implement the child's individualized education program, in lieu of the child's attending the special education program operated by the school district in which the child is entitled to attend school, and other services agreed to by the provider and eligible applicant that are not included in the individualized education program but are associated with educating the child. Upon agreement with the eligible applicant, the

alternative public provider or registered private provider may modify the services provided to the child.

(B) The number of scholarships awarded under the program in any fiscal year shall not exceed five per cent of the total number of students residing in the state identified as children with disabilities during the previous fiscal year.

(C) No scholarship or renewal of a scholarship shall be awarded to an eligible applicant on behalf of a qualified special education child for the next school year, unless on or before the application deadline the eligible applicant completes the application for the scholarship or renewal, in the manner prescribed by the department, and notifies the school district in which the child is entitled to attend school that the eligible applicant has applied for the scholarship or renewal.

The application deadline for academic terms that begin between the first day of July and the thirty-first day of December shall be the fifteenth day of April that precedes the first day of instruction. The application deadline for academic terms that begin between the first day of January and the thirtieth day of June shall be the fifteenth day of November that precedes the first day of instruction.

Sec. 3310.521. (A) As a condition of receiving payments for a scholarship, each eligible applicant shall attest to receipt of the profile prescribed by division (B) of this section. Such attestation shall be made and submitted to the department of education in the form and manner as required by the department.

(B) The alternative public provider or registered private provider that enrolls a qualified special education child shall submit in writing to the eligible applicant to whom a scholarship is awarded on behalf of that child a profile of the provider's special education program, in a form as prescribed by the department, that shall contain the following:

(1) Methods of instruction that will be utilized by the provider to provide services to the qualified special education child;

(2) Qualifications of teachers, instructors, and other persons who will be engaged by the provider to provide services to the qualified special education child.

Sec. 3310.522. In order to maintain eligibility for a scholarship under the program, a student shall take each assessment prescribed by sections 3301.0710 and 3301.0712 of the Revised Code, unless the student is excused from taking that assessment under federal law or the student's individualized education program.

Notwithstanding division (K) of section 3301.0711 of the Revised Code,

each registered private provider that enrolls a student who is awarded a scholarship under this section shall administer each assessment prescribed by sections 3301.0710 and 3301.0712 of the Revised Code to that student, unless the student is excused from taking that assessment, and shall report to the department the results of each assessment so administered.

Nothing in this section requires any chartered nonpublic school that is a registered private provider to administer any achievement assessment, except for an Ohio graduation test prescribed by division (B)(1) of section 3301.0710 of the Revised Code, as required by section 3313.612 of the Revised Code, to any student enrolled in the school who is not a scholarship student.

Sec. 3310.53. (A) Except for development of the child's individualized education program, as specified in division (B) of this section, the school district in which a qualified special education child is entitled to attend school and the child's school district of residence, if different, are not obligated to provide the child with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child continues to attend the special education program operated by either an alternative public provider or a registered private provider for which a scholarship is awarded under the Jon Peterson special needs scholarship program. If at any time, the eligible applicant for the child decides no longer to accept scholarship payments and enrolls the child in the special education program of the school district in which the child is entitled to attend school, that district shall provide the child with a free appropriate public education under Chapter 3323. of the Revised Code.

(B) Each eligible applicant and each qualified special education child have a continuing right to the development of an individualized education program for the child that complies with Chapter 3323. of the Revised Code, 20 U.S.C. 1400 et seq., and administrative rules or guidelines adopted by the Ohio department of education or the United States department of education. The school district in which a qualified special education child is entitled to attend school, or the child's school district of residence if different, shall develop each individualized education program for the child in accordance with those provisions.

(C) Each school district shall notify an eligible applicant of the applicant's and qualified special education child's rights under sections 3310.51 to 3310.64 of the Revised Code by providing to each eligible applicant the comparison document prescribed in section 3323.052 of the Revised Code. An eligible applicant's receipt of that document, as acknowledged in a format prescribed by the department of education, shall

constitute notice that the eligible applicant has been informed of those rights. Upon receipt of that document, subsequent acceptance of a scholarship constitutes the eligible applicant's informed consent to the provisions of sections 3310.51 to 3310.64 of the Revised Code.

Sec. 3310.54. A qualified special education child in any of grades kindergarten through twelve for whom a scholarship is awarded under the Jon Peterson special needs scholarship program shall be counted in the formula ADM and category one through six special education ADM, as appropriate, of the school district in which the child is entitled to attend school. A qualified special education child shall not be counted in the formula ADM or category one through six special education ADM of any other school district.

Sec. 3310.55. The department of education shall deduct from a school district's state education aid, as defined in section 3317.02 of the Revised Code, and if necessary, from its payment under sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships paid under section 3310.57 of the Revised Code for qualified special education children included in the formula ADM and the category one through six special education ADM of that school district.

Sec. 3310.56. (A) The amount of the scholarship awarded and paid to an eligible applicant for services for a qualified special education child under the Jon Peterson special needs scholarship program in each school year shall be the least of the amounts prescribed in divisions (A)(1), (2), or (3) of this section, as follows:

(1) The amount of fees charged for that school year by the alternative public provider or registered private provider;

(2) The sum of the amounts calculated under divisions (A)(2)(a) and (b) of this section:

(a) The sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code for fiscal year 2009;

(b) An amount equal to $5,732 times the following multiple prescribed for the child's disability:

(i) For a student in category one, 0.2892;

(ii) For a student in category two, 0.3691;

(iii) For a student in category three, 1.7695;

(iv) For a student in category four, 2.3646;

(v) For a student in category five, 3.1129;

(vi) For a student in category six, 4.7342.

Before applying the multiples specified in divisions (A)(2)(b)(i) to (vi)

of this section, they first shall be adjusted by multiplying them by 0.90.

(3) Twenty thousand dollars.

(B) As used in division (A)(2)(b) of this section, a child with a disability is in:

(1) "Category one" if the child's primary or only identified disability is a speech and language disability, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(2) "Category two" if the child is identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-minor, as defined in section 3317.02 of the Revised Code;

(3) "Category three" if the child is identified as vision impaired, hearing disabled, or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(4) "Category four" if the child is identified as orthopedically disabled, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major, as defined in section 3317.02 of the Revised Code;

(5) "Category five" if the child is identified as having multiple disabilities, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(6) "Category six" if the child is identified as autistic, having traumatic brain injuries, or both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

Sec. 3310.57. The department of education shall make periodic payments to an eligible applicant for services for each qualified special education child for whom a scholarship has been awarded. The total of all payments made to an applicant in each school year shall not exceed the amount calculated for the child under section 3310.56 of the Revised Code.

The department shall proportionately reduce the scholarship amount in the case of a child who is not enrolled in the special education program of an alternative public provider or a registered private provider for the entire school year.

In accordance with division (A) of section 3310.62 of the Revised Code, the department shall make no payments to an applicant for a first-time scholarship for a qualified special education child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

Sec. 3310.58. No nonpublic school or entity shall receive payments from an eligible applicant for services for a qualified special education child

under the Jon Peterson special needs scholarship program until the school or entity registers with the superintendent of public instruction. The superintendent shall register and designate as a registered private provider any nonpublic school or entity that meets the following requirements:

(A) The school or entity complies with the antidiscrimination provisions of 42 U.S.C. 2000d, regardless of whether the school or entity receives federal financial assistance.

(B) If the school or entity is not chartered by the state board under section 3301.16 of the Revised Code, the school or entity agrees to comply with sections 3319.39, 3319.391, and 3319.392 of the Revised Code as if it were a school district.

(C) The teaching and nonteaching professionals employed by the school or entity, or employed by any subcontractors of the school or entity, hold credentials determined by the state board to be appropriate for the qualified special education children enrolled in the special education program it operates.

(D) The school's or entity's educational program shall be approved by the department of education.

(E) The school or entity meets applicable health and safety standards established by law.

(F) The school or entity agrees to retain on file documentation as required by the department of education.

(G) The school or entity agrees to provide a record of the implementation of the individualized education program for each qualified special education child enrolled in the school's or entity's special education program, including evaluation of the child's progress, to the school district in which the child is entitled to attend school, in the form and manner prescribed by the department.

(H) The school or entity agrees that, if it declines to enroll a particular qualified special education child, it will notify in writing the eligible applicant of its reasons for declining to enroll the child.

Sec. 3310.59. The superintendent of public instruction shall revoke the registration of any school or entity if, after a hearing, the superintendent determines that the school or entity is in violation of any provision of section 3310.522 or 3310.58 of the Revised Code.

Sec. 3310.60. A qualified special education child attending a special education program at an alternative public provider or a registered private provider with a scholarship shall be entitled to transportation to and from that program in the manner prescribed by law.

Sec. 3310.61. An eligible applicant on behalf of a child who currently

attends a public special education program under a contract, compact, or other bilateral agreement, or on behalf of a child who currently attends a community school, shall not be prohibited from applying for and accepting a scholarship so that the applicant may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program operated by an alternative public provider or a registered private provider.

Sec. 3310.62. (A) A scholarship under the Jon Peterson special needs scholarship program shall not be awarded for the first time to an eligible applicant on behalf of a qualified special education child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or by the child's school district of residence if different, or while any administrative or judicial mediation or proceedings with respect to the content of that individualized education program are pending.

(B) Development of individualized education programs subsequent to the one developed for the child the first time a scholarship was awarded on behalf of the child and the prosecuting, by the eligible applicant on behalf of the child, of administrative or judicial mediation or proceedings with respect to any of those subsequent individualized education programs do not affect the applicant's and the child's continued eligibility for scholarship payments.

(C) In the case of any child for whom a scholarship has been awarded, if the school district in which the child is entitled to attend school has agreed to provide some services for the child under an agreement entered into with the eligible applicant or with the alternative public provider or registered private provider implementing the child's individualized education program, or if the district is required by law to provide some services for the child, including transportation services under sections 3310.60 and 3327.01 of the Revised Code, the district shall not discontinue the services it is providing pending completion of any administrative proceedings regarding those services. The prosecuting, by the eligible applicant on behalf of the child, of administrative proceedings regarding the services provided by the district does not affect the applicant's and the child's continued eligibility for scholarship payments.

(D) The department of education shall continue to make payments to the eligible applicant under section 3310.57 of the Revised Code while either of the following are pending:

(1) Administrative or judicial mediation or proceedings with respect to a subsequent individualized education program for the child referred to in division (B) of this section;

(2) Administrative proceedings regarding services provided by the district under division (C) of this section.

Sec. 3310.63. (A) Only for the purpose of administering the Jon Peterson special needs scholarship program, the department of education may request from any of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any qualified special education child for whom a scholarship is sought under the program:

(1) The school district in which the child is entitled to attend school;

(2) If applicable, the community school in which the child is enrolled;

(3) The independent contractor engaged to create and maintain data verification codes.

(B) Upon a request by the department under division (A) of this section for the data verification code of a qualified special education child or a request by the eligible applicant for the child for that code, the school district or community school shall submit that code to the department or applicant in the manner specified by the department. If the child has not been assigned a code, because the child will be entering kindergarten during the school year for which the scholarship is sought, the district shall assign a code to that child and submit the code to the department or applicant by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child.

The department annually shall submit to each school district the name and data verification code of each child residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(C) The department shall not release any data verification code that it receives under this section to any person except as provided by law.

(D) Any document relative to the Jon Peterson special needs scholarship program that the department holds in its files that contains both a qualified special education child's name or other personally identifiable information and the child's data verification code shall not be a public record under section 149.43 of the Revised Code.

Sec. 3310.64. The state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary to implement sections 3310.51 to 3310.63 of the Revised Code including, but not limited to, procedures for parents to apply for scholarships, standards for registered private providers, and procedures for registration of private providers.

Sec. 3311.05. (A) The territory within the territorial limits of a county, or the territory included in a district formed under ~~either~~ section 3311.053 ~~or 3311.059~~ of the Revised Code, exclusive of the territory embraced in any city school district or exempted village school district, and excluding the territory detached therefrom for school purposes and including the territory attached thereto for school purposes constitutes an educational service center.

(B) A county school financing district created under section 3311.50 of the Revised Code is not the school district described in division (A) of this section or any other school district but is a taxing district.

Sec. 3311.054. (A) The initial members of any new governing board of an educational service center established in accordance with this section shall be all of the members of the governing boards of the former educational service centers whose territory comprises the new educational service center. The initial members of any such governing board shall serve until the first Monday of January immediately following the first election of governing board members conducted under division (C) of this section.

Notwithstanding section 3313.11 of the Revised Code, that section shall not apply to the filling of any vacancy among the initial members of any governing board established in accordance with this section. Any such vacancy shall be filled for the remainder of the term by a majority vote of all the remaining members of the governing board.

(B) Prior to the next first day of April in an odd-numbered year that occurs at least ninety days after the date on which any new governing board of an educational service center is initially established in accordance with this section, the governing board <u>or, at the governing board's option, an executive committee of the governing board appointed by the governing board</u> shall do both of the following:

(1) Designate the number of elected members comprising all subsequent governing boards of the educational service center, which number shall be an odd number not to exceed nine.

(2) Divide the educational service center into a number of subdistricts equal to the number of governing board members designated under division (B)(1) of this section and number the subdistricts. Each subdistrict shall be as nearly equal in population as possible and shall be composed of adjacent and compact territory. To the extent possible, each subdistrict shall be composed only of territory located in one county. In addition, the subdistricts shall be bounded as far as possible by corporation lines, streets, alleys, avenues, public grounds, canals, watercourses, ward boundaries, voting precinct boundaries, or school district boundaries.

If the new governing board fails to divide the territory of the educational service center in accordance with this division, the superintendent of public instruction shall establish the subdistricts within thirty days.

(C) At the next regular municipal election following the deadline for creation of the subdistricts of an educational service center under division (B) of this section, an entire new governing board shall be elected. All members of such governing board shall be elected from those subdistricts.

(D) Within ninety days after the official announcement of the results of each successive federal decennial census, each governing board of an educational service center established in accordance with this section shall redistrict the educational service center's territory into a number of subdistricts equal to the number of board members designated under division (B)(1) of this section and number the subdistricts. Each such redistricting shall be done in accordance with the standards for subdistricts in division (B)(2) of this section. At the next regular municipal election following the announcement of the results of each such successive census, all elected governing board members shall again be elected from the subdistricts most recently created under this division.

If a governing board fails to redistrict the territory of its educational service center in accordance with this division, the superintendent of public instruction shall redistrict the service center within thirty days.

(E) All members elected pursuant to this section shall take office on the first Monday of January immediately following the election. Whenever all elected governing board members are elected at one election under division (C) or (D) of this section, the terms of each of the members elected from even-numbered subdistricts shall be for two years and the terms of each of the members elected from odd-numbered subdistricts shall be for four years. Thereafter, successors shall be elected for four-year terms in the same manner as is provided by law for the election of members of school boards except that any successor elected at a regular municipal election immediately preceding any election at which an entire new governing board is elected shall be elected for a two-year term.

Sec. 3311.056. After at least one election of board members has occurred under division (B) of section 3313.053, division (C) of section 3311.054, or section 3311.057 of the Revised Code, the elected governing board members of an educational service center created under division (A) of section 3311.053 of the Revised Code may by resolution adopt a plan for adding appointed members to that governing board. A plan may provide for adding to the board a number of appointed members that is up to one less than the number of elected members on the board except that the total

number of elected and appointed board members shall be an odd number. A plan shall provide for the terms of the appointed board members. The appointed board members in each plan shall be appointed by a majority vote of the full number of elected members on the board and vacancies shall be filled as provided in the plan. Each plan shall specify the qualifications for the appointed board members of an educational service center ~~and shall at least require appointed board members to be electors residing in the service center~~. Appointed members may be representative of the client school districts of the service center. As used in this section, "client school district" has the same meaning as in section 3317.11 of the Revised Code.

A governing board adopting a plan under this section shall submit the plan to the state board of education for approval. The state board may approve or disapprove a plan or make recommendations for modifications in a plan. A plan shall take effect thirty days after approval by the state board and, when effective, appointments to the board shall be made in accordance with the plan.

The elected members of the governing board of an educational service center with a plan in effect under this section may adopt, by unanimous vote of all the elected members, a resolution to revise or rescind the plan in effect under this section. All revisions shall comply with the requirements in this section for appointed board members. A resolution revising or rescinding a plan shall specify the dates and manner in which the revision or rescission is to take place. The revision or rescission of a plan shall be submitted to the state board of education for approval. The state board may approve or disapprove a revision or rescission of a plan or make recommendations for modifications. Upon approval of a revision or rescission by the state board, the revised plan or rescission of the plan shall go into effect as provided in the revision or rescission.

Sec. 3311.0510. (A) If all of the local school districts that make up the territory of an educational service center have severed from the territory of that service center, upon the effective date of the severance of the last remaining local school district to make up the territory of the service center, the governing board of that service center shall be abolished and such service center shall be dissolved by order of the superintendent of public instruction. The superintendent's order shall provide for the equitable division and disposition of the assets, property, debts, and obligations of the service center among the local school districts, of which the territory of the service center is or previously was made up, and the city and exempted village school districts with which the service center had agreements under section 3313.843 of the Revised Code for the service center's last fiscal year

of operation. The superintendent's order shall provide that the tax duplicate of each of those school districts shall be bound for and assume the district's equitable share of the outstanding indebtedness of the service center. The superintendent's order is final and is not appealable.

Immediately upon the abolishment of the service center governing board pursuant to this section, the superintendent of public instruction shall appoint a qualified individual to administer the dissolution of the service center and to implement the terms of the superintendent's dissolution order.

Prior to distributing assets to any school district under this section, but after paying in full other debts and obligations of the service center under this section, the superintendent of public instruction may assess against the remaining assets of the service center the amount of the costs incurred by the department of education in performing the superintendent's duties under this division, including the fees, if any, owed to the individual appointed to administer the superintendent's dissolution order. Any excess cost incurred by the department under this division shall be divided equitably among the local school districts, of which the territory of the service center is or previously was made up, and the city and exempted village school districts with which the service center had agreements under section 3313.843 of the Revised Code for the service center's last fiscal year of operation. Each district's share of that excess cost shall be bound against the tax duplicate of that district.

(B) A final audit of the former service center shall be performed in accordance with procedures established by the auditor of state.

(C) The public records of an educational service center that is dissolved under this section shall be transferred in accordance with this division. Public records maintained by the service center in connection with services provided by the service center to local school districts shall be transferred to each of the respective local school districts. Public records maintained by the service center in connection with services provided under an agreement with a city or exempted village school district pursuant to section 3313.843 of the Revised Code shall be transferred to each of the respective city or exempted village school districts. All other public records maintained by the service center at the time the service center ceases operations shall be transferred to the Ohio historical society for analysis and disposition by the society in its capacity as archives administrator for the state and its political subdivisions pursuant to division (C) of section 149.30 and section 149.31 of the Revised Code.

Sec. 3311.06. (A) As used in this section:

(1) "Annexation" and "annexed" mean annexation for municipal

purposes under sections 709.02 to 709.37 of the Revised Code.

(2) "Annexed territory" means territory that has been annexed for municipal purposes to a city served by an urban school district, but on September 24, 1986, has not been transferred to the urban school district.

(3) "Urban school district" means a city school district with an average daily membership for the 1985-1986 school year in excess of twenty thousand that is the school district of a city that contains annexed territory.

(4) "Annexation agreement" means an agreement entered into under division (F) of this section that has been approved by the state board of education or an agreement entered into prior to September 24, 1986, that meets the requirements of division (F) of this section and has been filed with the state board.

(B) The territory included within the boundaries of a city, local, exempted village, or joint vocational school district shall be contiguous except where a natural island forms an integral part of the district, where the state board of education authorizes a noncontiguous school district, as provided in division (E)(1) of this section, or where a local school district is created pursuant to section 3311.26 of the Revised Code from one or more local school districts, one of which has entered into an agreement under section 3313.42 of the Revised Code.

(C)(1) When all of the territory of a school district is annexed to a city or village, such territory thereby becomes a part of the city school district or the school district of which the village is a part, and the legal title to school property in such territory for school purposes shall be vested in the board of education of the city school district or the school district of which the village is a part.

(2) When the territory so annexed to a city or village comprises part but not all of the territory of a school district, the said territory becomes part of the city school district or the school district of which the village is a part only upon approval by the state board of education, unless the district in which the territory is located is a party to an annexation agreement with the city school district.

Any urban school district that has not entered into an annexation agreement with any other school district whose territory would be affected by any transfer under this division and that desires to negotiate the terms of transfer with any such district shall conduct any negotiations under division (F) of this section as part of entering into an annexation agreement with such a district.

Any school district, except an urban school district, desiring state board approval of a transfer under this division shall make a good faith effort to

negotiate the terms of transfer with any other school district whose territory would be affected by the transfer. Before the state board may approve any transfer of territory to a school district, except an urban school district, under this section, it must receive the following:

(a) A resolution requesting approval of the transfer, passed by at least one of the school districts whose territory would be affected by the transfer;

(b) Evidence determined to be sufficient by the state board to show that good faith negotiations have taken place or that the district requesting the transfer has made a good faith effort to hold such negotiations;

(c) If any negotiations took place, a statement signed by all boards that participated in the negotiations, listing the terms agreed on and the points on which no agreement could be reached.

(D) The state board of education shall adopt rules governing negotiations held by any school district except an urban school district pursuant to division (C)(2) of this section. The rules shall encourage the realization of the following goals:

(1) A discussion by the negotiating districts of the present and future educational needs of the pupils in each district;

(2) The educational, financial, and territorial stability of each district affected by the transfer;

(3) The assurance of appropriate educational programs, services, and opportunities for all the pupils in each participating district, and adequate planning for the facilities needed to provide these programs, services, and opportunities.

Districts involved in negotiations under such rules may agree to share revenues from the property included in the territory to be transferred, establish cooperative programs between the participating districts, and establish mechanisms for the settlement of any future boundary disputes.

(E)(1) If territory annexed after September 24, 1986, is part of a school district that is a party to an annexation agreement with the urban school district serving the annexing city, the transfer of such territory shall be governed by the agreement. If the agreement does not specify how the territory is to be dealt with, the boards of education of the district in which the territory is located and the urban school district shall negotiate with regard to the transfer of the territory which shall be transferred to the urban school district unless, not later than ninety days after the effective date of municipal annexation, the boards of education of both districts, by resolution adopted by a majority of the members of each board, agree that the territory will not be transferred and so inform the state board of education.

If territory is transferred under this division the transfer shall take effect on the first day of July occurring not sooner than ninety-one days after the effective date of the municipal annexation. Territory transferred under this division need not be contiguous to the district to which it is transferred.

(2) Territory annexed prior to September 24, 1986, by a city served by an urban school district shall not be subject to transfer under this section if the district in which the territory is located is a party to an annexation agreement or becomes a party to such an agreement not later than ninety days after September 24, 1986. If the district does not become a party to an annexation agreement within the ninety-day period, transfer of territory shall be governed by division (C)(2) of this section. If the district subsequently becomes a party to an agreement, territory annexed prior to September 24, 1986, other than territory annexed under division (C)(2) of this section prior to the effective date of the agreement, shall not be subject to transfer under this section.

(F) An urban school district may enter into a comprehensive agreement with one or more school districts under which transfers of territory annexed by the city served by the urban school district after September 24, 1986, shall be governed by the agreement. Such agreement must provide for the establishment of a cooperative education program under section 3313.842 of the Revised Code in which all the parties to the agreement are participants and must be approved by resolution of the majority of the members of each of the boards of education of the school districts that are parties to it. An agreement may provide for interdistrict payments based on local revenue growth resulting from development in any territory annexed by the city served by the urban school district.

An agreement entered into under this division may be altered, modified, or terminated only by agreement, by resolution approved by the majority of the members of each board of education, of all school districts that are parties to the agreement, except that with regard to any provision that affects only the urban school district and one of the other districts that is a party, that district and the urban district may modify or alter the agreement by resolution approved by the majority of the members of the board of that district and the urban district. Alterations, modifications, terminations, and extensions of an agreement entered into under this division do not require approval of the state board of education, but shall be filed with the board after approval and execution by the parties.

If an agreement provides for interdistrict payments, each party to the agreement, except any school district specifically exempted by the agreement, shall agree to make an annual payment to the urban school

district with respect to any of its territory that is annexed territory in an amount not to exceed the amount certified for that year under former section 3317.029 of the Revised Code as that section existed prior to July 1, 1998; except that such limitation of annual payments to amounts certified under former section 3317.029 of the Revised Code does not apply to agreements or extensions of agreements entered into on or after June 1, 1992, unless such limitation is expressly agreed to by the parties. The agreement may provide that all or any part of the payment shall be waived if the urban school district receives its payment with respect to such annexed territory under former section 3317.029 of the Revised Code and that all or any part of such payment may be waived if the urban school district does not receive its payment with respect to such annexed territory under such section.

With respect to territory that is transferred to the urban school district after September 24, 1986, the agreement may provide for annual payments by the urban school district to the school district whose territory is transferred to the urban school district subsequent to annexation by the city served by the urban school district.

(G) In the event territory is transferred from one school district to another under this section, an equitable division of the funds and indebtedness between the districts involved shall be made under the supervision of the state board of education and that board's decision shall be final. Such division shall not include funds payable to or received by a school district under Chapter ~~3306. or~~ 3317. of the Revised Code or payable to or received by a school district from the United States or any department or agency thereof. In the event such transferred territory includes real property owned by a school district, the state board of education, as part of such division of funds and indebtedness, shall determine the true value in money of such real property and all buildings or other improvements thereon. The board of education of the school district receiving such territory shall forthwith pay to the board of education of the school district losing such territory such true value in money of such real property, buildings, and improvements less such percentage of the true value in money of each school building located on such real property as is represented by the ratio of the total enrollment in day classes of the pupils residing in the territory transferred enrolled at such school building in the school year in which such annexation proceedings were commenced to the total enrollment in day classes of all pupils residing in the school district losing such territory enrolled at such school building in such school year. The school district receiving such payment shall place the proceeds thereof in its sinking fund or bond retirement fund.

(H) The state board of education, before approving such transfer of territory, shall determine that such payment has been made and shall apportion to the acquiring school district such percentage of the indebtedness of the school district losing the territory as is represented by the ratio that the assessed valuation of the territory transferred bears to the total assessed valuation of the entire school district losing the territory as of the effective date of the transfer, provided that in ascertaining the indebtedness of the school district losing the territory the state board of education shall disregard such percentage of the par value of the outstanding and unpaid bonds and notes of said school district issued for construction or improvement of the school building or buildings for which payment was made by the acquiring district as is equal to the percentage by which the true value in money of such building or buildings was reduced in fixing the amount of said payment.

(I) No transfer of school district territory or division of funds and indebtedness incident thereto, pursuant to the annexation of territory to a city or village shall be completed in any other manner than that prescribed by this section regardless of the date of the commencement of such annexation proceedings, and this section applies to all proceedings for such transfers and divisions of funds and indebtedness pending or commenced on or after October 2, 1959.

Sec. 3311.19. (A) The management and control of a joint vocational school district shall be vested in the joint vocational school district board of education. Where a joint vocational school district is composed only of two or more local school districts located in one county, or when all the participating districts are in one county and the boards of such participating districts so choose, the educational service center governing board of the county in which the joint vocational school district is located shall serve as the joint vocational school district board of education. Where a joint vocational school district is composed of local school districts of more than one county, or of any combination of city, local, or exempted village school districts or educational service centers, unless administration by the educational service center governing board has been chosen by all the participating districts in one county pursuant to this section, the board of education of the joint vocational school district shall be composed of one or more persons who are members of the boards of education from each of the city or exempted village school districts or members of the educational service centers' governing boards affected to be appointed by the boards of education or governing boards of such school districts and educational service centers. In such joint vocational school districts the number and

terms of members of the joint vocational school district board of education and the allocation of a given number of members to each of the city and exempted village districts and educational service centers shall be determined in the plan for such district, provided that each such joint vocational school district board of education shall be composed of an odd number of members.

(B) Notwithstanding division (A) of this section, a governing board of an educational service center that has members of its governing board serving on a joint vocational school district board of education may make a request to the joint vocational district board that the joint vocational school district plan be revised to provide for one or more members of boards of education of local school districts that are within the territory of the educational service district and within the joint vocational school district to serve in the place of or in addition to its educational service center governing board members. If agreement is obtained among a majority of the boards of education and governing boards that have a member serving on the joint vocational school district board of education and among a majority of the local school district boards of education included in the district and located within the territory of the educational service center whose board requests the substitution or addition, the state board of education may revise the joint vocational school district plan to conform with such agreement.

(C) If the board of education of any school district or educational service center governing board included within a joint vocational district that has had its board or governing board membership revised under division (B) of this section requests the joint vocational school district board to submit to the state board of education a revised plan under which one or more joint vocational board members chosen in accordance with a plan revised under such division would again be chosen in the manner prescribed by division (A) of this section, the joint vocational board shall submit the revised plan to the state board of education, provided the plan is agreed to by a majority of the boards of education represented on the joint vocational board, a majority of the local school district boards included within the joint vocational district, and each educational service center governing board affected by such plan. The state board of education may revise the joint vocational school district plan to conform with the revised plan.

(D) The vocational schools in such joint vocational school district shall be available to all youth of school age within the joint vocational school district subject to the rules adopted by the joint vocational school district board of education in regard to the standards requisite to admission. A joint vocational school district board of education shall have the same powers,

duties, and authority for the management and operation of such joint vocational school district as is granted by law, except by this chapter and Chapters 124., ~~3306.,~~ 3317., 3323., and 3331. of the Revised Code, to a board of education of a city school district, and shall be subject to all the provisions of law that apply to a city school district, except such provisions in this chapter and Chapters 124., ~~3306.,~~ 3317., 3323., and 3331. of the Revised Code.

(E) Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, the educational service center superintendent shall be the executive officer for the joint vocational school district, and the governing board may provide for additional compensation to be paid to the educational service center superintendent by the joint vocational school district, but the educational service center superintendent shall have no continuing tenure other than that of educational service center superintendent. The superintendent of schools of a joint vocational school district shall exercise the duties and authority vested by law in a superintendent of schools pertaining to the operation of a school district and the employment and supervision of its personnel. The joint vocational school district board of education shall appoint a treasurer of the joint vocational school district who shall be the fiscal officer for such district and who shall have all the powers, duties, and authority vested by law in a treasurer of a board of education. Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, such board may appoint the educational service center superintendent as the treasurer of the joint vocational school district.

(F) Each member of a joint vocational school district board of education may be paid such compensation as the board provides by resolution, but it shall not exceed one hundred twenty-five dollars per member for each meeting attended plus mileage, at the rate per mile provided by resolution of the board, to and from meetings of the board.

The board may provide by resolution for the deduction of amounts payable for benefits under section 3313.202 of the Revised Code.

Each member of a joint vocational school district board may be paid such compensation as the board provides by resolution for attendance at an approved training program, provided that such compensation shall not exceed sixty dollars per day for attendance at a training program three hours or fewer in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length. However, no board member shall be compensated for the same training program under this

section and section 3313.12 of the Revised Code.

Sec. 3311.21. (A) In addition to the resolutions authorized by sections 5705.194, 5705.199, 5705.21, 5705.212, and 5705.213 of the Revised Code, the board of education of a joint vocational or cooperative education school district by a vote of two-thirds of its full membership may at any time adopt a resolution declaring the necessity to levy a tax in excess of the ten-mill limitation for a period not to exceed ten years to provide funds for any one or more of the following purposes, which may be stated in the following manner in such resolution, the ballot, and the notice of election: purchasing a site or enlargement thereof and for the erection and equipment of buildings; for the purpose of enlarging, improving, or rebuilding thereof; for the purpose of providing for the current expenses of the joint vocational or cooperative school district; or for a continuing period for the purpose of providing for the current expenses of the joint vocational or cooperative education school district. The resolution shall specify the amount of the proposed rate and, if a renewal, whether the levy is to renew all, or a portion of, the existing levy, and shall specify the first year in which the levy will be imposed. If the levy provides for but is not limited to current expenses, the resolution shall apportion the annual rate of the levy between current expenses and the other purpose or purposes. Such apportionment may but need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for current expenses and the other purpose or purposes shall be limited by such apportionment. The portion of any such rate actually levied for current expenses of a joint vocational or cooperative education school district shall be used in applying ~~division (A)(1) of section 3306.01 and~~ division (A) of section 3317.01 of the Revised Code. The portion of any such rate not apportioned to the current expenses of a joint vocational or cooperative education school district shall be used in applying division (B) of this section. On the adoption of such resolution, the joint vocational or cooperative education school district board of education shall certify the resolution to the board of elections of the county containing the most populous portion of the district, which board shall receive resolutions for filing and send them to the boards of elections of each county in which territory of the district is located, furnish all ballots for the election as provided in section 3505.071 of the Revised Code, and prepare the election notice; and the board of elections of each county in which the territory of such district is located shall make the other necessary arrangements for the submission of the question to the electors of the joint vocational or cooperative education school district at the next primary or general election occurring not less than ninety days after the resolution was received from

the joint vocational or cooperative education school district board of education, or at a special election to be held at a time designated by the district board of education consistent with the requirements of section 3501.01 of the Revised Code, which date shall not be earlier than ninety days after the adoption and certification of the resolution.

The board of elections of the county or counties in which territory of the joint vocational or cooperative education school district is located shall cause to be published in ~~one or more newspapers~~ a newspaper of general circulation in that district an advertisement of the proposed tax levy question, together with a statement of the amount of the proposed levy once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, prior to the election at which the question is to appear on the ballot~~, and, if~~. If the board of elections operates and maintains a web site, the board also shall post ~~a similar~~ the advertisement on its web site for thirty days prior to that election.

If a majority of the electors voting on the question of levying such tax vote in favor of the levy, the joint vocational or cooperative education school district board of education shall annually make the levy within the district at the rate specified in the resolution and ballot or at any lesser rate, and the county auditor of each affected county shall annually place the levy on the tax list and duplicate of each school district in the county having territory in the joint vocational or cooperative education school district. The taxes realized from the levy shall be collected at the same time and in the same manner as other taxes on the duplicate, and the taxes, when collected, shall be paid to the treasurer of the joint vocational or cooperative education school district and deposited to a special fund, which shall be established by the joint vocational or cooperative education school district board of education for all revenue derived from any tax levied pursuant to this section and for the proceeds of anticipation notes which shall be deposited in such fund. After the approval of the levy, the joint vocational or cooperative education school district board of education may anticipate a fraction of the proceeds of the levy and from time to time, during the life of the levy, but in any year prior to the time when the tax collection from the levy so anticipated can be made for that year, issue anticipation notes in an amount not exceeding fifty per cent of the estimated proceeds of the levy to be collected in each year up to a period of five years after the date of the issuance of the notes, less an amount equal to the proceeds of the levy obligated for each year by the issuance of anticipation notes, provided that the total amount maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of the levy for that year. Each issue of notes shall

be sold as provided in Chapter 133. of the Revised Code, and shall, except for such limitation that the total amount of such notes maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of the levy for that year, mature serially in substantially equal installments, during each year over a period not to exceed five years after their issuance.

(B) Prior to the application of section 319.301 of the Revised Code, the rate of a levy that is limited to, or to the extent that it is apportioned to, purposes other than current expenses shall be reduced in the same proportion in which the district's total valuation increases during the life of the levy because of additions to such valuation that have resulted from improvements added to the tax list and duplicate.

(C) The form of ballot cast at an election under division (A) of this section shall be as prescribed by section 5705.25 of the Revised Code.

Sec. 3311.213. (A) With the approval of the board of education of a joint vocational school district ~~which~~ that is in existence, any school district in the county or counties comprising the joint vocational school district or any school district in a county adjacent to a county comprising part of a joint vocational school district may become a part of the joint vocational school district. On the adoption of a resolution of approval by the board of education of the joint vocational school district, it shall advertise a copy of such resolution in a newspaper of general circulation in the school district proposing to become a part of such joint vocational school district once each week for ~~at least~~ two weeks, or as provided in section 7.16 of the Revised Code, immediately following the date of the adoption of such resolution. Such resolution shall not become effective until the later of the sixty-first day after its adoption or until the board of elections certifies the results of an election in favor of joining of the school district to the joint vocational school district if such an election is held under division (B) of this section.

(B) During the sixty-day period following the date of the adoption of a resolution to join a school district to a joint vocational school district under division (A) of this section, the electors of the school district that proposes joining the joint vocational school district may petition for a referendum vote on the resolution. The question whether to approve or disapprove the resolution shall be submitted to the electors of such school district if a number of qualified electors equal to twenty per cent of the number of electors in the school district who voted for the office of governor at the most recent general election for that office sign a petition asking that the question of whether the resolution shall be disapproved be submitted to the electors. The petition shall be filed with the board of elections of the county in which the school district is located. If the school district is located in

more than one county, the petition shall be filed with the board of elections of the county in which the majority of the territory of the school district is located. The board shall certify the validity and sufficiency of the signatures on the petition.

The board of elections shall immediately notify the board of education of the joint vocational school district and the board of education of the school district that proposes joining the joint vocational school district that the petition has been filed.

The effect of the resolution shall be stayed until the board of elections certifies the validity and sufficiency of the signatures on the petition. If the board of elections determines that the petition does not contain a sufficient number of valid signatures and sixty days have passed since the adoption of the resolution, the resolution shall become effective.

If the board of elections certifies that the petition contains a sufficient number of valid signatures, the board shall submit the question to the qualified electors of the school district on the day of the next general or primary election held at least ninety days after but no later than six months after the board of elections certifies the validity and sufficiency of signatures on the petition. If there is no general or primary election held at least ninety days after but no later than six months after the board of elections certifies the validity and sufficiency of signatures on the petition, the board shall submit the question to the electors at a special election to be held on the next day specified for special elections in division (D) of section 3501.01 of the Revised Code that occurs at least ninety days after the board certifies the validity and sufficiency of signatures on the petition. The election shall be conducted and canvassed and the results shall be certified in the same manner as in regular elections for the election of members of a board of education.

If a majority of the electors voting on the question disapprove the resolution, the resolution shall not become effective.

(C) If the resolution becomes effective, the board of education of the joint vocational school district shall notify the county auditor of the county in which the school district becoming a part of the joint vocational school district is located, who shall thereupon have any outstanding levy for building purposes, bond retirement, or current expenses in force in the joint vocational school district spread over the territory of the school district becoming a part of the joint vocational school district. On the addition of a city or exempted village school district or an educational service center to the joint vocational school district, pursuant to this section, the board of education of such joint vocational school district shall submit to the state

board of education a proposal to enlarge the membership of such board by the addition of one or more persons at least one of whom shall be a member of the board of education or governing board of such additional school district or educational service center, and the term of each such additional member. On the addition of a local school district to the joint vocational school district, pursuant to this section, the board of education of such joint vocational school district may submit to the state board of education a proposal to enlarge the membership of such board by the addition of one or more persons who are members of the educational service center governing board of such additional local school district. On approval by the state board of education additional members shall be added to such joint vocational school district board of education.

Sec. 3311.214. (A) With the approval of the state board of education, the boards of education of any two or more joint vocational school districts may, by the adoption of identical resolutions by a majority of the members of each such board, propose that one new joint vocational school district be created by adding together all of the territory of each of the districts and dissolving such districts. A copy of each resolution shall be filed with the state board of education for its approval or disapproval. The resolutions shall include a provision that the board of education of the new district shall be composed of the members from the same boards of education that composed the membership of the board of each of the districts to be dissolved, except that, if an even number of districts are to be dissolved, one additional member shall be added, who may be from any school district included in the territory of any of the districts to be dissolved as designated in the resolutions. The members of the new board shall have the same terms of office as they had under the respective plans of the districts adopting the resolutions, except that, if the new board has an additional member, ~~he~~ the additional member shall have a term as specified in the resolutions.

If the state board approves the resolutions, the board of education of each district to be dissolved shall advertise a copy of the resolution in a newspaper of general circulation in its district once each week for ~~at least~~ two weeks, or as provided in section 7.16 of the Revised Code, immediately following the date the resolutions are approved by the state board. The resolutions shall become effective on the first day of July next succeeding the sixtieth day following approval by the state board unless prior to the expiration of such sixty-day period, qualified electors residing in one of the districts to be dissolved equal in number to a majority of the qualified electors of that district voting at the last general election file with the state board a petition of remonstrance against creation of the proposed new

district.

(B) When a resolution becomes effective under division (A) of this section, each district in which a resolution was adopted and the board of each such district are dissolved. The territory of each dissolved district becomes a part of the new joint vocational school district. The net indebtedness of each dissolved district shall be assumed in full by the new district and the funds and property of each dissolved district shall become in full the funds and property of the new district. All existing contracts of each dissolved board shall be honored by the board of the new district until their expiration dates. The board of the new district shall notify the county auditor of each county in which each dissolved district was located that a resolution has become effective and a new district has been created and shall certify to each auditor any changes that might be required in the tax rate as a result of the creation of the new district.

(C) As used in this section, "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the school district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption.

Sec. 3311.29. (A) Except as provided under division (B) or (C) of this section, no school district shall be created and no school district shall exist which does not maintain within such district public schools consisting of grades kindergarten through twelve and any such existing school district not maintaining such schools shall be dissolved and its territory joined with another school district or districts by order of the state board of education if no agreement is made among the surrounding districts voluntarily, which order shall provide an equitable division of the funds, property, and indebtedness of the dissolved school district among the districts receiving its territory. The state board of education may authorize exceptions to school districts where topography, sparsity of population, and other factors make compliance impracticable.

The superintendent of public instruction is without authority to distribute funds under Chapter ~~3306. or~~ 3317. of the Revised Code to any school district that does not maintain schools with grades kindergarten through twelve and to which no exception has been granted by the state board of education.

(B) Division (A) of this section does not apply to any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(C)(1)(a) Except as provided in division (C)(3) of this section, division (A) of this section does not apply to any cooperative education school

district established pursuant to section 3311.521 of the Revised Code nor to the city, exempted village, or local school districts that have territory within such a cooperative education district.

(b) The cooperative district and each city, exempted village, or local district with territory within the cooperative district shall maintain the grades that the resolution adopted or amended pursuant to section 3311.521 of the Revised Code specifies.

(2) Any cooperative education school district described under division (C)(1) of this section that fails to maintain the grades it is specified to operate shall be dissolved by order of the state board of education unless prior to such an order the cooperative district is dissolved pursuant to section 3311.54 of the Revised Code. Any such order shall provide for the equitable adjustment, division, and disposition of the assets, property, debts, and obligations of the district among each city, local, and exempted village school district whose territory is in the cooperative district and shall provide that the tax duplicate of each city, local, and exempted village school district whose territory is in the cooperative district shall be bound for and assume its share of the outstanding indebtedness of the cooperative district.

(3) If any city, exempted village, or local school district described under division (C)(1) of this section fails to maintain the grades it is specified to operate the cooperative district within which it has territory shall be dissolved in accordance with division (C)(2) of this section and upon that dissolution any city, exempted village, or local district failing to maintain grades kindergarten through twelve shall be subject to the provisions for dissolution in division (A) of this section.

Sec. 3311.50. (A) As used in this section, "county school financing district" means a taxing district consisting of the following territory:

(1) The territory that constitutes the educational service center on the date that the governing board of that educational service center adopts a resolution under division (B) of this section declaring that the territory of the educational service center is a county school financing district, exclusive of any territory subsequently withdrawn from the district under division (D) of this section;

(2) Any territory that has been added to the county school financing district under this section.

A county school financing district may include the territory of a city, local, or exempted village school district whose territory also is included in the territory of one or more other county school financing districts.

(B) The governing board of any educational service center may, by resolution, declare that the territory of the educational service center is a

county school financing district. The resolution shall state the purpose for which the county school financing district is created which may be for any one or more of the following purposes:

(1) To levy taxes for the provision of special education by the school districts that are a part of the district, including taxes for permanent improvements for special education;

(2) To levy taxes for the provision of specified educational programs and services by the school districts that are a part of the district, as identified in the resolution creating the district, including the levying of taxes for permanent improvements for those programs and services;

(3) To levy taxes for permanent improvements of school districts that are a part of the district.

The governing board of the educational service center that creates a county school financing district shall serve as the taxing authority of the district and may use educational service center governing board employees to perform any of the functions necessary in the performance of its duties as a taxing authority. A county school financing district shall not employ any personnel.

With the approval of a majority of the members of the board of education of each school district within the territory of the county school financing district, the taxing authority of the financing district may amend the resolution creating the district to broaden or narrow the purposes for which it was created.

A governing board of an educational service center may create more than one county school financing district. If a governing board of an educational service center creates more than one such district, it shall clearly distinguish among the districts it creates by including a designation of each district's purpose in the district's name.

(C) A majority of the members of a board of education of a city, local, or exempted village school district may adopt a resolution requesting that its territory be joined with the territory of any county school financing district. Copies of the resolution shall be filed with the state board of education and the taxing authority of the county school financing district. Within sixty days of its receipt of such a resolution, the county school financing district's taxing authority shall vote on the question of whether to accept the school district's territory as part of the county school financing district. If a majority of the members of the taxing authority vote to accept the territory, the school district's territory shall thereupon become a part of the county school financing district unless the county school financing district has in effect a tax imposed under section 5705.211 of the Revised Code. If the county

school financing district has such a tax in effect, the taxing authority shall certify a copy of its resolution accepting the school district's territory to the school district's board of education, which may then adopt a resolution, with the affirmative vote of a majority of its members, proposing the submission to the electors of the question of whether the district's territory shall become a part of the county school financing district and subject to the taxes imposed by the financing district. The resolution shall set forth the date on which the question shall be submitted to the electors, which shall be at a special election held on a date specified in the resolution, which shall not be earlier than ninety days after the adoption and certification of the resolution. A copy of the resolution shall immediately be certified to the board of elections of the proper county, which shall make arrangements for the submission of the proposal to the electors of the school district. The board of the joining district shall publish notice of the election in ~~one or more newspapers~~ a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. Additionally, if the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The question appearing on the ballot shall read:

"Shall the territory within ..... (name of the school district proposing to join the county school financing district) ..... be added to ..... (name) ..... county school financing district, and a property tax for the purposes of ..... (here insert purposes) ..... at a rate of taxation not exceeding ..... (here insert the outstanding tax rate) ..... be in effect for ..... (here insert the number of years the tax is to be in effect or "a continuing period of time," as applicable) .....?"

If the proposal is approved by a majority of the electors voting on it, the joinder shall take effect on the first day of July following the date of the election, and the county board of elections shall notify the county auditor of each county in which the school district joining its territory to the county school financing district is located.

(D) The board of any city, local, or exempted village school district whose territory is part of a county school financing district may withdraw its territory from the county school financing district thirty days after submitting to the governing board that is the taxing authority of the district and the state board a resolution proclaiming such withdrawal, adopted by a majority vote of its members, but any county school financing district tax levied in such territory on the effective date of the withdrawal shall remain in effect in such territory until such tax expires or is renewed. No board may

adopt a resolution withdrawing from a county school financing district that would take effect during the forty-five days preceding the date of an election at which a levy proposed under section 5705.215 of the Revised Code is to be voted upon.

(E) A city, local, or exempted village school district does not lose its separate identity or legal existence by reason of joining its territory to a county school financing district under this section and an educational service center does not lose its separate identity or legal existence by reason of creating a county school financing district that accepts or loses territory under this section.

Sec. 3311.52. A cooperative education school district may be established pursuant to divisions (A) to (C) of this section or pursuant to section 3311.521 of the Revised Code.

(A) A cooperative education school district may be established upon the adoption of identical resolutions within a sixty-day period by a majority of the members of the board of education of each city, local, and exempted village school district that is within the territory of a county school financing district.

A copy of each resolution shall be filed with the governing board of the educational service center which created the county school financing district. Upon the filing of the last such resolution, the educational service center governing board shall immediately notify each board of education filing such a resolution of the date on which the last resolution was filed.

Ten days after the date on which the last resolution is filed with the educational service center governing board or ten days after the last of any notices required under division (C) of this section is received by the educational service center governing board, whichever is later, the county school financing district shall be dissolved and the new cooperative education school district and the board of education of the cooperative education school district shall be established.

On the date that any county school financing district is dissolved and a cooperative education school district is established under this section, each of the following shall apply:

(1) The territory of the dissolved district becomes the territory of the new district.

(2) Any outstanding tax levy in force in the dissolved district shall be spread over the territory of the new district and shall remain in force in the new district until the levy expires or is renewed.

(3) Any funds of the dissolved district shall be paid over in full to the new district.

(4) Any net indebtedness of the dissolved district shall be assumed in full by the new district. As used in division (A)(4) of this section, "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the dissolved district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption.

When a county school financing district is dissolved and a cooperative education school district is established under this section, the governing board of the educational service center that created the dissolved district shall give written notice of this fact to the county auditor and the board of elections of each county having any territory in the new district.

(B) The resolutions adopted under division (A) of this section shall include all of the following provisions:

(1) Provision that the governing board of the educational service center which created the county school financing district shall be the board of education of the cooperative education school district, except that provision may be made for the composition, selection, and terms of office of an alternative board of education of the cooperative district, which board shall include at least one member selected from or by the members of the board of education of each city, local, and exempted village school district and at least one member selected from or by the members of the educational service center governing board within the territory of the cooperative district;

(2) Provision that the treasurer and superintendent of the educational service center which created the county school financing district shall be the treasurer and superintendent of the cooperative education school district, except that provision may be made for the selection of a treasurer or superintendent of the cooperative district other than the treasurer or superintendent of the educational service center, which provision shall require one of the following:

(a) The selection of one person as both the treasurer and superintendent of the cooperative district, which provision may require such person to be the treasurer or superintendent of any city, local, or exempted village school district or educational service center within the territory of the cooperative district;

(b) The selection of one person as the treasurer and another person as the superintendent of the cooperative district, which provision may require either one or both such persons to be treasurers or superintendents of any city, local, or exempted village school districts or educational service center within the territory of the cooperative district.

(3) A statement of the educational program the board of education of the cooperative education school district will conduct, including but not necessarily limited to the type of educational program, the grade levels proposed for inclusion in the program, the timetable for commencing operation of the program, and the facilities proposed to be used or constructed to be used by the program;

(4) A statement of the annual amount, or the method for determining that amount, of funds or services or facilities that each city, local, and exempted village school district within the territory of the cooperative district is required to pay to or provide for the use of the board of education of the cooperative education school district;

(5) Provision for adopting amendments to the provisions of divisions (B)(2) to (4) of this section.

(C) If the resolutions adopted under division (A) of this section provide for a board of education of the cooperative education school district that is not the governing board of the educational service center that created the county school financing district, each board of education of each city, local, or exempted village school district and the governing board of the educational service center within the territory of the cooperative district shall, within thirty days after the date on which the last resolution is filed with the educational service center governing board under division (A) of this section, select one or more members of the board of education of the cooperative district as provided in the resolutions filed with the educational service center governing board. Each such board shall immediately notify the educational service center governing board of each such selection.

(D) Except for the powers and duties in this chapter and Chapters 124., ~~3306.,~~ 3317., 3318., 3323., and 3331. of the Revised Code, a cooperative education school district established pursuant to divisions (A) to (C) of this section or pursuant to section 3311.521 of the Revised Code has all the powers of a city school district and its board of education has all the powers and duties of a board of education of a city school district with respect to the educational program specified in the resolutions adopted under division (A) of this section. All laws applicable to a city school district or the board of education or the members of the board of education of a city school district, except such laws in this chapter and Chapters 124., ~~3306.,~~ 3317., 3318., 3323., and 3331. of the Revised Code, are applicable to a cooperative education school district and its board.

The treasurer and superintendent of a cooperative education school district shall have the same respective duties and powers as a treasurer and superintendent of a city school district, except for any powers and duties in

this chapter and Chapters 124., ~~3306.,~~ 3317., 3318., 3323., and 3331. of the Revised Code.

(E) For purposes of this title, any student included in the formula ADM certified for any city, exempted village, or local school district under section 3317.03 of the Revised Code by virtue of being counted, in whole or in part, in the average daily membership of a cooperative education school district under division (A)(2)(f) of that section shall be construed to be enrolled both in that city, exempted village, or local school district and in that cooperative education school district. This division shall not be construed to mean that any such individual student may be counted more than once for purposes of determining the average daily membership of any one school district.

Sec. 3311.53. (A)(1) The board of education of any city, local, or exempted village school district that wishes to become part of a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may adopt a resolution proposing to become a part of the cooperative education school district.

(2) The board of education of any city, local, or exempted village school district that is contiguous to a cooperative education school district established pursuant to section 3311.521 of the Revised Code and that wishes to become part of that cooperative district may adopt a resolution proposing to become part of that cooperative district.

(B) If, after the adoption of a resolution in accordance with division (A) of this section, the board of education of the cooperative education school district named in that resolution also adopts a resolution accepting the new district, the board of the district wishing to become part of the cooperative district shall advertise a copy of the cooperative district board's resolution in a newspaper of general circulation in the school district proposing to become a part of the cooperative education school district once each week for ~~at least~~ two weeks, or as provided in section 7.16 of the Revised Code, immediately following the date of the adoption of the resolution. The resolution shall become legally effective on the sixtieth day after its adoption, unless prior to the expiration of that sixty-day period qualified electors residing in the school district proposed to become a part of the cooperative education school district equal in number to a majority of the qualified electors voting at the last general election file with the board of education a petition of remonstrance against the transfer. If the resolution becomes legally effective, both of the following shall apply:

(1) The resolution that established the cooperative education school district pursuant to divisions (A) to (C) of section 3311.52 or section 3311.521 of the Revised Code shall be amended to reflect the addition of the

new district to the cooperative district.

(2) The board of education of the cooperative education school district shall give written notice of this fact to the county auditor and the board of elections of each county in which the school district becoming a part of the cooperative education school district has territory. Any such county auditor shall thereupon have any outstanding levy for building purposes, bond retirement, or current expenses in force in the cooperative education school district spread over the territory of the school district becoming a part of the cooperative education school district.

(C) If the board of education of the cooperative education school district is not the governing board of an educational service center, the board of education of the cooperative education school district shall, on the addition of a city, local, or exempted village school district to the district pursuant to this section, submit to the state board of education a proposal to enlarge the membership of the board. In the case of a cooperative district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code, the proposal shall add one or more persons to the district's board, at least one of whom shall be a member of or selected by the board of education of the additional school district, and shall specify the term of each such additional member. In the case of a cooperative district established pursuant to section 3311.521 of the Revised Code, the proposal shall add two or more persons to the district's board, at least two of whom shall be a member of or selected by the board of education of the additional school district, and shall specify the term of each such additional member. On approval by the state board of education, the additional members shall be added to the cooperative education school district board of education.

Sec. 3311.73. (A) No later than ninety days before the general election held in the first even-numbered year occurring at least four years after the date it assumed control of the municipal school district pursuant to division (B) of section 3311.71 of the Revised Code, the board of education appointed under that division shall notify the board of elections of each county containing territory of the municipal school district of the referendum election required by division (B) of this section.

(B) At the general election held in the first even-numbered year occurring at least four years after the date the new board assumed control of a municipal school district pursuant to division (B) of section 3311.71 of the Revised Code, the following question shall be submitted to the electors residing in the school district:

"Shall the mayor of ..... (here insert the name of the applicable municipal corporation) continue to appoint the members of the board of

education of the ..... (here insert the name of the municipal school district)?"

The board of elections of the county in which the majority of the school district's territory is located shall make all necessary arrangements for the submission of the question to the electors, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers, provided that in any such election in which only part of the electors of a precinct are qualified to vote, the board of elections may assign voters in such part to an adjoining precinct. Such an assignment may be made to an adjoining precinct in another county with the consent and approval of the board of elections of such other county. Notice of the election shall be published in a newspaper of general circulation in the school district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the question on which the election is being held. The ballot shall be in the form prescribed by the secretary of state. Costs of submitting the question to the electors shall be charged to the municipal school district in accordance with section 3501.17 of the Revised Code.

(C) If a majority of electors voting on the issue proposed in division (B) of this section approve the question, the mayor shall appoint a new board on the immediately following first day of July pursuant to division (F) of section 3311.71 of the Revised Code.

(D) If a majority of electors voting on the issue proposed in division (B) of this section disapprove the question, a new seven-member board of education shall be elected at the next regular election occurring in November of an odd-numbered year. At such election, four members shall be elected for terms of four years and three members shall be elected for terms of two years. Thereafter, their successors shall be elected in the same manner and for the same terms as members of boards of education of a city school district. All members of the board of education of a municipal school district appointed pursuant to division (B) of section 3311.71 of the Revised Code shall continue to serve after the end of the terms to which they were appointed until their successors are qualified and assume office in accordance with section 3313.09 of the Revised Code.

Sec. 3311.76. (A) Notwithstanding Chapters 3302.~~, 3306.,~~ and 3317. of the Revised Code, upon written request of the district chief executive officer the state superintendent of public instruction may exempt a municipal school district from any rules adopted under Title XXXIII of the Revised

Code except for any rule adopted under Chapter 3307. or 3309., sections 3319.07 to 3319.21, or Chapter 3323. of the Revised Code, and may authorize a municipal school district to apply funds allocated to the district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code, except those specifically allocated to purposes other than current expenses, to the payment of debt charges on the district's public obligations. The request must specify the provisions from which the district is seeking exemption or the application requested and the reasons for the request. The state superintendent shall approve the request if the superintendent finds the requested exemption or application is in the best interest of the district's students. The superintendent shall approve or disapprove the request within thirty days and shall notify the district board and the district chief executive officer of approval or reasons for disapproving the request.

(B) In addition to the rights, authority, and duties conferred upon a municipal school district and its board of education in sections 3311.71 to 3311.76 of the Revised Code, a municipal school district and its board shall have all of the rights, authority, and duties conferred upon a city school district and its board by law that are not inconsistent with sections 3311.71 to 3311.76 of the Revised Code.

Sec. 3313.29. The treasurer of each board of education shall keep an account of all school funds of the district. The treasurer shall receive all vouchers for payments and disbursements made to and by the board and preserve such vouchers for a period of ten years unless copied or reproduced according to the procedure prescribed in section 9.01 of the Revised Code. Thereafter, such vouchers may be destroyed by the treasurer upon applying to and obtaining an order from the school district records commission in the manner prescribed by section ~~149.41~~ 149.381 of the Revised Code, except that it shall not be necessary to copy or reproduce such vouchers before their destruction. The treasurer shall render a statement to the board and to the superintendent of the school district, monthly, or more often if required, showing the revenues and receipts from whatever sources derived, the various appropriations made by the board, the expenditures and disbursements therefrom, the purposes thereof, the balances remaining in each appropriation, and the assets and liabilities of the school district. At the end of the fiscal year such statement shall be a complete exhibit of the financial affairs of the school district which may be published and distributed with the approval of the board. All monthly and yearly statements as required in this section shall be available for examination by the public.

On request of the principal or other chief administrator of any nonpublic

school located within the school district's territory, the treasurer shall provide such principal or administrator with an account of the moneys received by the district under division ~~(I)~~(E) of section 3317.024 of the Revised Code as reported to the district's board in the treasurer's most recent monthly statement.

Sec. 3313.372. (A) As used in this section, "energy conservation measure" means an installation or modification of an installation in, or remodeling of, a building, to reduce energy consumption. It includes:

(1) Insulation of the building structure and systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(3) Automatic energy control systems;

(4) Heating, ventilating, or air conditioning system modifications or replacements;

(5) Caulking and weatherstripping;

(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless such increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;

(7) Energy recovery systems;

(8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(9) Any other modification, installation, or remodeling approved by the Ohio school facilities commission as an energy conservation measure.

(B) A board of education of a city, exempted village, local, or joint vocational school district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The provisions of such installment payment contracts dealing with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 3313.46 of the Revised Code, and shall be on the following terms:

(1) Not less than one-fifteenth of the costs thereof shall be paid within two years from the date of purchase.

(2) The remaining balance of the costs thereof shall be paid within fifteen years from the date of purchase.

An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with

division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B)(3) of that section.

(C) The board may issue the notes of the school district signed by the president and the treasurer of the board and specifying the terms of the purchase and securing the deferred payments provided in this section, payable at the times provided and bearing interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The notes may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. In the resolution authorizing the notes, the board may provide, without the vote of the electors of the district, for annually levying and collecting taxes in amounts sufficient to pay the interest on and retire the notes, except that the total net indebtedness of the district without a vote of the electors incurred under this and all other sections of the Revised Code, except section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation. Revenues derived from local taxes or otherwise, for the purpose of conserving energy or for defraying the current operating expenses of the district, may be applied to the payment of interest and the retirement of such notes. The notes may be sold at private sale or given to the contractor under the installment payment contract authorized by division (B) of this section.

(D) Debt incurred under this section shall not be included in the calculation of the net indebtedness of a school district under section 133.06 of the Revised Code.

(E) No school district board shall enter into an installment payment contract under division (B) of this section unless it first obtains a report of the costs of the energy conservation measures and the savings thereof as described under division (G) of section 133.06 of the Revised Code as a requirement for issuing energy securities, makes a finding that the amount spent on such measures is not likely to exceed the amount of money it would save in energy costs and resultant operational and maintenance costs as described in that division, except that that finding shall cover the ensuing fifteen years, and the Ohio school facilities commission determines that the district board's findings are reasonable and approves the contract as described in that division.

The district board shall monitor the savings and maintain a report of those savings, which shall be ~~available~~ submitted to the commission in the same manner as required by division (G) of section 133.06 of the Revised Code in the case of energy securities.

Sec. 3313.41. (A) Except as provided in divisions (C), (D), (F), and (G) of this section, when a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it shall sell the property at public auction, after giving at least thirty days' notice of the auction by publication in a newspaper of general circulation in the school district, by publication as provided in section 7.16 of the Revised Code, or by posting notices in five of the most public places in the school district in which the property, if it is real property, is situated, or, if it is personal property, in the school district of the board of education that owns the property. The board may offer real property for sale as an entire tract or in parcels.

(B) When the board of education has offered real or personal property for sale at public auction at least once pursuant to division (A) of this section, and the property has not been sold, the board may sell it at a private sale. Regardless of how it was offered at public auction, at a private sale, the board shall, as it considers best, sell real property as an entire tract or in parcels, and personal property in a single lot or in several lots.

(C) If a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it may sell the property to the adjutant general; to any subdivision or taxing authority as respectively defined in divisions (A) and (C) of section 5705.01 of the Revised Code, township park district, board of park commissioners established under Chapter 755. of the Revised Code, or park district established under Chapter 1545. of the Revised Code; to a wholly or partially tax-supported university, university branch, or college; or to the board of trustees of a school district library, upon such terms as are agreed upon. The sale of real or personal property to the board of trustees of a school district library is limited, in the case of real property, to a school district library within whose boundaries the real property is situated, or, in the case of personal property, to a school district library whose boundaries lie in whole or in part within the school district of the selling board of education.

(D) When a board of education decides to trade as a part or an entire consideration, an item of personal property on the purchase price of an item of similar personal property, it may trade the same upon such terms as are agreed upon by the parties to the trade.

(E) The president and the treasurer of the board of education shall execute and deliver deeds or other necessary instruments of conveyance to complete any sale or trade under this section.

(F) When a board of education has identified a parcel of real property

that it determines is needed for school purposes, the board may, upon a majority vote of the members of the board, acquire that property by exchanging real property that the board owns in its corporate capacity for the identified real property or by using real property that the board owns in its corporate capacity as part or an entire consideration for the purchase price of the identified real property. Any exchange or acquisition made pursuant to this division shall be made by a conveyance executed by the president and the treasurer of the board.

(G)~~(1)~~ When a school district board of education decides to dispose of real property ~~suitable for use as classroom space~~, prior to disposing of that property under divisions (A) to (F) of this section, it shall first offer that property for sale to the governing authorities of the start-up community schools established under Chapter 3314. of the Revised Code located within the territory of the school district, at a price that is not higher than the appraised fair market value of that property. If more than one community school governing authority accepts the offer made by the school district board, the board shall sell the property to the governing authority that accepted the offer first in time. If no community school governing authority accepts the offer within sixty days after the offer is made by the school district board, the board may dispose of the property in the applicable manner prescribed under divisions (A) to (F) of this section.

~~(2) When a school district board of education has not used real property suitable for classroom space for academic instruction, administration, storage, or any other educational purpose for one full school year and has not adopted a resolution outlining a plan for using that property for any of those purposes within the next three school years, it shall offer that property for sale to the governing authorities of the start-up community schools established under Chapter 3314. of the Revised Code located within the territory of the school district, at a price that is not higher than the appraised fair market value of that property. If more than one community school governing authority accepts the offer made by the school district board, the board shall sell the property to the governing authority that accepted the offer first in time.~~

(H) When a school district board of education has property that the board, by resolution, finds is not needed for school district use, is obsolete, or is unfit for the use for which it was acquired, the board may donate that property in accordance with this division if the fair market value of the property is, in the opinion of the board, two thousand five hundred dollars or less.

The property may be donated to an eligible nonprofit organization that

is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating any property under this division, the board shall adopt a resolution expressing its intent to make unneeded, obsolete, or unfit-for-use school district property available to these organizations. The resolution shall include guidelines and procedures the board considers to be necessary to implement the donation program and shall indicate whether the school district will conduct the donation program or the board will contract with a representative to conduct it. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

The resolution shall include within its procedures a requirement that any nonprofit organization desiring to obtain donated property under this division shall submit a written notice to the board or its representative. The written notice shall include evidence that the organization is a nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of the organization's primary purpose; a description of the type or types of property the organization needs; and the name, address, and telephone number of a person designated by the organization's governing board to receive donated property and to serve as its agent.

After adoption of the resolution, the board shall publish, in a newspaper of general circulation in the school district or as provided in section 7.16 of the Revised Code, notice of its intent to donate unneeded, obsolete, or unfit-for-use school district property to eligible nonprofit organizations. The notice shall include a summary of the information provided in the resolution and shall be published ~~at least~~ twice. The second ~~and any subsequent~~ notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually in the board's office~~, and, if~~. If the school district maintains a web site on the internet, the notice shall be posted continually at that web site.

The board or its representatives shall maintain a list of all nonprofit organizations that notify the board or its representative of their desire to obtain donated property under this division and that the board or its representative determines to be eligible, in accordance with the requirements set forth in this section and in the donation program's guidelines and procedures, to receive donated property.

The board or its representative also shall maintain a list of all school district property the board finds to be unneeded, obsolete, or unfit for use and to be available for donation under this division. The list shall be posted

continually in a conspicuous location in the board's office, and, if the school district maintains a web site on the internet, the list shall be posted continually at that web site. An item of property on the list shall be donated to the eligible nonprofit organization that first declares to the board or its representative its desire to obtain the item unless the board previously has established, by resolution, a list of eligible nonprofit organizations that shall be given priority with respect to the item's donation. Priority may be given on the basis that the purposes of a nonprofit organization have a direct relationship to specific school district purposes of programs provided or administered by the board. A resolution giving priority to certain nonprofit organizations with respect to the donation of an item of property shall specify the reasons why the organizations are given that priority.

Members of the board shall consult with the Ohio ethics commission, and comply with Chapters 102. and 2921. of the Revised Code, with respect to any donation under this division to a nonprofit organization of which a board member, any member of a board member's family, or any business associate of a board member is a trustee, officer, board member, or employee.

Sec. 3313.411. (A) As used in this section, "unused school facilities" means any real property that has been used by a school district for school operations, including, but not limited to, academic instruction or administration, since July 1, 1998, but has not been used in that capacity for two years.

(B) On and after the effective date of this section, any school district board of education shall offer any unused school facilities it owns in its corporate capacity for lease or sale to the governing authorities of community schools established under Chapter 3314. of the Revised Code that are located within the territory of the school district.

(1) If, not later than sixty days after the district board makes the offer, the governing authority of one community school located within the territory of the school district notifies the district treasurer in writing of its intention to purchase the property, the district board shall sell the property to the community school for the appraised fair market value of the property.

(2) If, not later than sixty days after the district board makes the offer, the governing authorities of two or more community schools located within the territory of the school district notify the district treasurer in writing of their intention to purchase the property, the board shall conduct a public auction in the manner required for auctions of district property under division (A) of section 3313.41 of the Revised Code. Only the governing authorities of all community schools located within the territory of the

school district are eligible to bid at the auction. The district board is not obligated to accept any bid for the property that is lower than the appraised fair market value of the property.

(3) If the governing authorities of two or more community schools located within the territory of the school district notify the district treasurer in writing of their intention to lease the property, the district board shall conduct a lottery to select the community school to which the district board shall lease the property.

(4) The lease price offered by a district board to the governing authority of a community school under this section shall not be higher than the fair market value for such a leasehold.

(5) If no community school governing authority accepts the offer to lease or buy the property within sixty days after the offer is made, the district board may offer the property to any other entity in accordance with divisions (A) to (F) of section 3313.41 of the Revised Code.

(C) Notwithstanding division (B) of this section, a school district board may renew any agreement it originally entered into prior to the effective date of this section to lease real property to an entity other than a community school. Nothing in this section shall affect the leasehold arrangements between the district board and that other entity.

Sec. 3313.46. (A) In addition to any other law governing the bidding for contracts by the board of education of any school district, when any such board determines to build, repair, enlarge, improve, or demolish any school building, the cost of which will exceed twenty-five thousand dollars, except in cases of urgent necessity, or for the security and protection of school property, and except as otherwise provided in division (D) of section 713.23 and in section 125.04 of the Revised Code, all of the following shall apply:

(1) The board shall cause to be prepared the plans, specifications, and related information as required in divisions (A)~~, (B)~~(1), (2), and ~~(D)~~(3) of section 153.01 of the Revised Code unless the board determines that other information is sufficient to inform any bidders of the board's requirements. However, if the board determines that such other information is sufficient for bidding a project, the board shall not engage in the construction of any such project involving the practice of professional engineering, professional surveying, or architecture, for which plans, specifications, and estimates have not been made by, and the construction thereof inspected by, a licensed professional engineer, licensed professional surveyor, or registered architect.

(2) The board shall advertise for bids once each week for a period of not less than two consecutive weeks, or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in the district before the

date specified by the board for receiving bids. The board may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the board's internet web site. If the board posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation within the school district, provided that the first notice published in such newspaper meets all of the following requirements:

(a) It is published at least two weeks before the opening of bids.

(b) It includes a statement that the notice is posted on the board of education's internet web site.

(c) It includes the internet address of the board's internet web site.

(d) It includes instructions describing how the notice may be accessed on the board's internet web site.

(3) Unless the board extends the time for the opening of bids they shall be opened at the time and place specified by the board in the advertisement for the bids.

(4) Each bid shall contain the name of every person interested therein. Each bid shall meet the requirements of section 153.54 of the Revised Code.

(5) When both labor and materials are embraced in the work bid for, the board may require that each be separately stated in the bid, with the price thereof, or may require that bids be submitted without such separation.

(6) None but the lowest responsible bid shall be accepted. The board may reject all the bids, or accept any bid for both labor and material for such improvement or repair, which is the lowest in the aggregate. In all other respects, the award of contracts for improvement or repair, but not for purchases made under section 3327.08 of the Revised Code, shall be pursuant to section 153.12 of the Revised Code.

(7) The contract shall be between the board and the bidders. The board shall pay the contract price for the work pursuant to sections 153.13 and 153.14 of the Revised Code. The board shall approve and retain the estimates referred to in section 153.13 of the Revised Code and make them available to the auditor of state upon request.

(8) When two or more bids are equal, in the whole, or in any part thereof, and are lower than any others, either may be accepted, but in no case shall the work be divided between such bidders.

(9) When there is reason to believe there is collusion or combination among the bidders, or any number of them, the bids of those concerned therein shall be rejected.

(B) Division (A) of this section does not apply to the board of education

of any school district in any of the following situations:

(1) The acquisition of educational materials used in teaching.

(2) If the board determines and declares by resolution adopted by two-thirds of all its members that any item is available and can be acquired only from a single source.

(3) If the board declares by resolution adopted by two-thirds of all its members that division (A) of this section does not apply to any installation, modification, or remodeling involved in any energy conservation measure undertaken through an installment payment contract under section 3313.372 of the Revised Code or undertaken pursuant to division (G) of section 133.06 of the Revised Code.

(4) The acquisition of computer software for instructional purposes and computer hardware for instructional purposes pursuant to division (B)(4) of section 3313.37 of the Revised Code.

(C) No resolution adopted pursuant to division (B)(2) or (3) of this section shall have any effect on whether sections 153.12 to 153.14 and 153.54 of the Revised Code apply to the board of education of any school district with regard to any item.

Sec. ~~3314.20~~ 3313.473. This section does not apply to any school district declared to be excellent or effective pursuant to division (B)(1) or (2) of section 3302.03 of the Revised Code.

(A) The state board of education shall adopt rules requiring school districts with a total student count of over five thousand, as determined pursuant to section 3317.03 of the Revised Code, to designate one school building to be operated by a site-based management council. The rules shall specify the composition of the council and the manner in which members of the council are to be selected and removed.

(B) The rules adopted under division (A) of this section shall specify those powers, duties, functions, and responsibilities that shall be vested in the management council and that would otherwise be exercised by the district board of education. The rules shall also establish a mechanism for resolving any differences between the council and the district board if there is disagreement as to their respective powers, duties, functions, and responsibilities.

(C) The board of education of any school district described by division (A) of this section may, in lieu of complying with the rules adopted under this section, file with the department of education an alternative structure for a district site-based management program in at least one of its school buildings. The proposal shall specify the composition of the council, which shall include an equal number of parents and teachers and the building

principal, and the method of selection and removal of the council members. The proposal shall also clearly delineate the respective powers, duties, functions, and responsibilities of the district board and the council. The district's proposal shall comply substantially with the rules adopted under division (A) of this section.

Sec. 3313.482. (A) Annually, prior to the first day of September, the board of education of each city, local, and exempted village school district shall adopt a resolution specifying a contingency plan under which the district's students will make up days on which it was necessary to close schools for any of the reasons specified in ~~division (A)(2) of section 3306.01 and~~ division (B) of section 3317.01 of the Revised Code, if any such days must be made up in order to comply with the requirements of sections ~~3306.01,~~ 3313.48, 3313.481, and 3317.01 of the Revised Code. The plan shall provide for making up at least five school days. The plan may provide for making up some or all of the days a school is closed by increasing the length of other school days in the manner authorized in division (B) of this section. No resolution adopted pursuant to this division shall conflict with any collective bargaining agreement into which a board has entered pursuant to Chapter 4117. of the Revised Code and that is in effect in the district.

(B) Notwithstanding anything to the contrary in the contingency plan it adopts under division (A) of this section, if a school district closes or evacuates any school building for any of the reasons specified in ~~division (A)(2) of section 3306.01 and~~ division (B) of section 3317.01 of the Revised Code, or as a result of a bomb threat or any other report of an alleged or impending explosion, and if, as a result of the closing or evacuation, the school district would be unable to meet the requirements of sections ~~3306.01,~~ 3313.48, 3313.481, and 3317.01 of the Revised Code regarding the number of days schools must be open for instruction or the requirements of the state minimum standards for the school day that are established by the department of education regarding the number of hours there must be in the school day, the school district may increase the length of one or more other school days for the school that was closed or evacuated, in increments of one-half hour, to make up the number of hours or days that the school building in question was so closed or evacuated for the purpose of satisfying the requirements of those sections.

A school district that makes up, as described in this division, all of the hours or days that its school buildings were closed or evacuated for any of the reasons identified in this division shall be deemed to have complied with the requirements of sections ~~3306.01,~~ 3313.48, 3313.481, and 3317.01 of the Revised Code regarding the number of days schools must be open for

instruction and the requirements of the state minimum standards regarding the number of hours there must be in the school day.

Sec. 3313.533. (A) The board of education of a city, exempted village, or local school district may adopt a resolution to establish and maintain an alternative school in accordance with this section. The resolution shall specify, but not necessarily be limited to, all of the following:

(1) The purpose of the school, which purpose shall be to serve students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, who are exhibiting other academic or behavioral problems specified in the resolution, or who have been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code;

(2) The grades served by the school, which may include any of grades kindergarten through twelve;

(3) A requirement that the school be operated in accordance with this section. The board of education adopting the resolution under division (A) of this section shall be the governing board of the alternative school. The board shall develop and implement a plan for the school in accordance with the resolution establishing the school and in accordance with this section. Each plan shall include, but not necessarily be limited to, all of the following:

(a) Specification of the reasons for which students will be accepted for assignment to the school and any criteria for admission that are to be used by the board to approve or disapprove the assignment of students to the school;

(b) Specification of the criteria and procedures that will be used for returning students who have been assigned to the school back to the regular education program of the district;

(c) An evaluation plan for assessing the effectiveness of the school and its educational program and reporting the results of the evaluation to the public.

(B) Notwithstanding any provision of Title XXXIII of the Revised Code to the contrary, the alternative school plan may include any of the following:

(1) A requirement that on each school day students must attend school or participate in other programs specified in the plan or by the chief administrative officer of the school for a period equal to the minimum school day set by the state board of education under section 3313.48 of the Revised Code plus any additional time required in the plan or by the chief administrative officer;

(2) Restrictions on student participation in extracurricular or

interscholastic activities;

(3) A requirement that students wear uniforms prescribed by the district board of education.

(C) In accordance with the alternative school plan, the district board of education may employ teachers and nonteaching employees necessary to carry out its duties and fulfill its responsibilities or may contract with a nonprofit or for profit entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities.

(D) An alternative school may be established in all or part of a school building.

(E) If a district board of education elects under this section, or is required by section 3313.534 of the Revised Code, to establish an alternative school, the district board may join with the board of education of one or more other districts to form a joint alternative school by forming a cooperative education school district under section 3311.52 or 3311.521 of the Revised Code, or a joint educational program under section 3313.842 of the Revised Code. The authority to employ personnel or to contract with a nonprofit or for profit entity under division (C) of this section applies to any alternative school program established under this division.

(F) Any individual employed as a teacher at an alternative school operated by a nonprofit or for profit entity under this section shall be licensed and shall be subject to background checks, as described in section 3319.39 of the Revised Code, in the same manner as an individual employed by a school district.

(G) Division (G) of this section applies only to any alternative school that is operated by a nonprofit or for profit entity under contract with the school district.

(1) In addition to the specifications authorized under division (B) of this section, any plan adopted under that division for an alternative school to which division (G) of this section also applies shall include the following:

(a) A description of the educational program provided at the alternative school, which shall include:

(i) Provisions for the school to be configured in clusters or small learning communities;

(ii) Provisions for the incorporation of education technology into the curriculum;

(iii) Provisions for accelerated learning programs in reading and mathematics.

(b) A method to determine the reading and mathematics level of each student assigned to the alternative school and a method to continuously

monitor each student's progress in those areas. The methods employed under this division shall be aligned with the curriculum adopted by the school district board of education under section 3313.60 of the Revised Code.

(c) A plan for social services to be provided at the alternative school, such as, but not limited to, counseling services, psychological support services, and enrichment programs;

(d) A plan for a student's transition from the alternative school back to a school operated by the school district;

(e) A requirement that the alternative school maintain financial records in a manner that is compatible with the form prescribed for school districts by the auditor of state to enable the district to comply with any rules adopted by the auditor of state.

(2) Notwithstanding division (A)(2) of this section, any alternative school to which division (G) of this section applies shall include only grades six through twelve.

(3) Notwithstanding anything in division (A)(3)(a) of this section to the contrary, the characteristics of students who may be assigned to an alternative school to which division (G) of this section applies shall include only disruptive and low-performing students.

(H) When any district board of education determines to contract with a nonprofit or for profit entity to operate an alternative school under this section, the board shall use the procedure set forth in this division.

(1) The board shall publish notice of a request for proposals in a newspaper of general circulation in the district once each week for a period of ~~at least~~ two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the date specified by the board for receiving proposals. Notices of requests for proposals shall contain a general description of the subject of the proposed contract and the location where the request for proposals may be obtained. The request for proposals shall include all of the following information:

(a) Instructions and information to respondents concerning the submission of proposals, including the name and address of the office where proposals are to be submitted;

(b) Instructions regarding communications, including at least the names, titles, and telephone numbers of persons to whom questions concerning a proposal may be directed;

(c) A description of the performance criteria that will be used to evaluate whether a respondent to which a contract is awarded is meeting the district's educational standards or the method by which such performance criteria will be determined;

(d) Factors and criteria to be considered in evaluating proposals, the relative importance of each factor or criterion, and a description of the evaluation procedures to be followed;

(e) Any terms or conditions of the proposed contract, including any requirement for a bond and the amount of such bond;

(f) Documents that may be incorporated by reference into the request for proposals, provided that the request for proposals specifies where such documents may be obtained and that such documents are readily available to all interested parties.

(2) After the date specified for receiving proposals, the board shall evaluate the submitted proposals and may hold discussions with any respondent to ensure a complete understanding of the proposal and the qualifications of such respondent to execute the proposed contract. Such qualifications shall include, but are not limited to, all of the following:

(a) Demonstrated competence in performance of the required services as indicated by effective implementation of educational programs in reading and mathematics and at least three years of experience successfully serving a student population similar to the student population assigned to the alternative school;

(b) Demonstrated performance in the areas of cost containment, the provision of educational services of a high quality, and any other areas determined by the board;

(c) Whether the respondent has the resources to undertake the operation of the alternative school and to provide qualified personnel to staff the school;

(d) Financial responsibility.

(3) The board shall select for further review at least three proposals from respondents the board considers qualified to operate the alternative school in the best interests of the students and the district. If fewer than three proposals are submitted, the board shall select each proposal submitted. The board may cancel a request for proposals or reject all proposals at any time prior to the execution of a contract.

The board may hold discussions with any of the three selected respondents to clarify or revise the provisions of a proposal or the proposed contract to ensure complete understanding between the board and the respondent of the terms under which a contract will be entered. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion regarding clarifications or revisions. The board may terminate or discontinue any further discussion with a respondent upon written notice.

(4) Upon further review of the three proposals selected by the board, the

board shall award a contract to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract.

(5) Except as provided in division (H)(6) of this section, the request for proposals, submitted proposals, and related documents shall become public records under section 149.43 of the Revised Code after the award of the contract.

(6) Any respondent may request in writing that the board not disclose confidential or proprietary information or trade secrets contained in the proposal submitted by the respondent to the board. Any such request shall be accompanied by an offer of indemnification from the respondent to the board. The board shall determine whether to agree to the request and shall inform the respondent in writing of its decision. If the board agrees to nondisclosure of specified information in a proposal, such information shall not become a public record under section 149.43 of the Revised Code. If the respondent withdraws its proposal at any time prior to the execution of a contract, the proposal shall not be a public record under section 149.43 of the Revised Code.

(I) Upon a recommendation from the department and in accordance with section 3301.16 of the Revised Code, the state board of education may revoke the charter of any alternative school operated by a school district that violates this section.

Sec. 3313.538. (A) No student who attends school in this state shall be denied the opportunity to participate in interscholastic athletics solely because the student's parents do not reside in this state, if the student resides in this state with the student's grandparent, uncle, aunt, or sibling who has legal or temporary custody of the student or is the guardian of the student.

(B) No school district, school, interscholastic conference, or organization that regulates interscholastic conferences or events shall have a rule, bylaw, or other regulation that conflicts with this section.

(C) As used in this section, "legal custody," "temporary custody," and "guardian" have the same meanings as in section 2151.011 of the Revised Code.

Sec. 3313.55. The board of education of any school district in which is located a state, district, county, or municipal hospital for children with epilepsy or any public institution, except state institutions for the care and treatment of delinquent, unstable, or socially maladjusted children, shall make provision for the education of all educable children therein; except that in the event another school district within the same county or an adjoining county is the source of sixty per cent or more of the children in

said hospital or institution, the board of that school district shall make provision for the education of all the children therein. In any case in which a board provides educational facilities under this section, the board that provides the facilities shall be entitled to all moneys authorized for the attendance of pupils as provided in Chapter ~~3306. or~~ 3317. of the Revised Code, tuition as provided in section 3317.08 of the Revised Code, and such additional compensation as is provided for crippled children in sections 3323.01 to 3323.12 of the Revised Code. Any board that provides the educational facilities for children in county or municipal institutions established for the care and treatment of children who are delinquent, unstable, or socially maladjusted shall not be entitled to any moneys provided for crippled children in sections 3323.01 to 3323.12 of the Revised Code.

Sec. 3313.603. (A) As used in this section:

(1) "One unit" means a minimum of one hundred twenty hours of course instruction, except that for a laboratory course, "one unit" means a minimum of one hundred fifty hours of course instruction.

(2) "One-half unit" means a minimum of sixty hours of course instruction, except that for physical education courses, "one-half unit" means a minimum of one hundred twenty hours of course instruction.

(B) Beginning September 15, 2001, except as required in division (C) of this section and division (C) of section 3313.614 of the Revised Code, the requirements for graduation from every high school shall include twenty units earned in grades nine through twelve and shall be distributed as follows:

(1) English language arts, four units;

(2) Health, one-half unit;

(3) Mathematics, three units;

(4) Physical education, one-half unit;

(5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the following:

(a) Biological sciences, one unit;

(b) Physical sciences, one unit.

(6) Social studies, three units, which shall include both of the following:

(a) American history, one-half unit;

(b) American government, one-half unit.

(7) Elective units, seven units until September 15, 2003, and six units thereafter.

Each student's electives shall include at least one unit, or two half units, chosen from among the areas of business/technology, fine arts, and/or

foreign language.

(C) Beginning with students who enter ninth grade for the first time on or after July 1, 2010, except as provided in divisions (D) to (F) of this section, the requirements for graduation from every public and chartered nonpublic high school shall include twenty units that are designed to prepare students for the workforce and college. The units shall be distributed as follows:

(1) English language arts, four units;

(2) Health, one-half unit, which shall include instruction in nutrition and the benefits of nutritious foods and physical activity for overall health;

(3) Mathematics, four units, which shall include one unit of algebra II or the equivalent of algebra II;

(4) Physical education, one-half unit;

(5) Science, three units with inquiry-based laboratory experience that engages students in asking valid scientific questions and gathering and analyzing information, which shall include the following, or their equivalent:

(a) Physical sciences, one unit;

(b) Life sciences, one unit;

(c) Advanced study in one or more of the following sciences, one unit:

(i) Chemistry, physics, or other physical science;

(ii) Advanced biology or other life science;

(iii) Astronomy, physical geology, or other earth or space science.

(6) Social studies, three units, which shall include both of the following:

(a) American history, one-half unit;

(b) American government, one-half unit.

Each school shall integrate the study of economics and financial literacy, as expressed in the social studies academic content standards adopted by the state board of education under division (A)(1) of section 3301.079 of the Revised Code and the academic content standards for financial literacy and entrepreneurship adopted under division (A)(2) of that section, into one or more existing social studies credits required under division (C)(6) of this section, or into the content of another class, so that every high school student receives instruction in those concepts. In developing the curriculum required by this paragraph, schools shall use available public-private partnerships and resources and materials that exist in business, industry, and through the centers for economics education at institutions of higher education in the state.

(7) Five units consisting of one or any combination of foreign language, fine arts, business, career-technical education, family and consumer

sciences, technology, agricultural education, a junior reserve officer training corps (JROTC) program approved by the congress of the United States under title 10 of the United States Code, or English language arts, mathematics, science, or social studies courses not otherwise required under division (C) of this section.

Ohioans must be prepared to apply increased knowledge and skills in the workplace and to adapt their knowledge and skills quickly to meet the rapidly changing conditions of the twenty-first century. National studies indicate that all high school graduates need the same academic foundation, regardless of the opportunities they pursue after graduation. The goal of Ohio's system of elementary and secondary education is to prepare all students for and seamlessly connect all students to success in life beyond high school graduation, regardless of whether the next step is entering the workforce, beginning an apprenticeship, engaging in post-secondary training, serving in the military, or pursuing a college degree.

The Ohio core curriculum is the standard expectation for all students entering ninth grade for the first time at a public or chartered nonpublic high school on or after July 1, 2010. A student may satisfy this expectation through a variety of methods, including, but not limited to, integrated, applied, career-technical, and traditional coursework.

Whereas teacher quality is essential for student success in completing the Ohio core curriculum, the general assembly shall appropriate funds for strategic initiatives designed to strengthen schools' capacities to hire and retain highly qualified teachers in the subject areas required by the curriculum. Such initiatives are expected to require an investment of $120,000,000 over five years.

Stronger coordination between high schools and institutions of higher education is necessary to prepare students for more challenging academic endeavors and to lessen the need for academic remediation in college, thereby reducing the costs of higher education for Ohio's students, families, and the state. The state board and the chancellor of the Ohio board of regents shall develop policies to ensure that only in rare instances will students who complete the Ohio core curriculum require academic remediation after high school.

School districts, community schools, and chartered nonpublic schools shall integrate technology into learning experiences ~~whenever practicable~~ across the curriculum in order to maximize efficiency, enhance learning, and prepare students for success in the technology-driven twenty-first century. Districts and schools ~~may~~ shall use distance and web-based course delivery as a method of providing or augmenting all instruction required under this

division, including laboratory experience in science. Districts and schools shall ~~whenever practicable~~ utilize technology access and electronic learning opportunities provided by the eTech Ohio commission, the Ohio learning network, education technology centers, public television stations, and other public and private providers.

(D) Except as provided in division (E) of this section, a student who enters ninth grade on or after July 1, 2010, and before July 1, 2014, may qualify for graduation from a public or chartered nonpublic high school even though the student has not completed the Ohio core curriculum prescribed in division (C) of this section if all of the following conditions are satisfied:

(1) After the student has attended high school for two years, as determined by the school, the student and the student's parent, guardian, or custodian sign and file with the school a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(2) The student and parent, guardian, or custodian fulfill any procedural requirements the school stipulates to ensure the student's and parent's, guardian's, or custodian's informed consent and to facilitate orderly filing of statements under division (D)(1) of this section.

(3) The student and the student's parent, guardian, or custodian and a representative of the student's high school jointly develop an individual career plan for the student that specifies the student matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(4) The student's high school provides counseling and support for the student related to the plan developed under division (D)(3) of this section during the remainder of the student's high school experience.

(5) The student successfully completes, at a minimum, the curriculum prescribed in division (B) of this section.

The department of education, in collaboration with the chancellor, shall analyze student performance data to determine if there are mitigating factors that warrant extending the exception permitted by division (D) of this section to high school classes beyond those entering ninth grade before July 1, 2014. The department shall submit its findings and any recommendations not later than August 1, 2014, to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the chairpersons and ranking minority members of the standing committees of the house of representatives and the senate that consider education

legislation, the state board of education, and the superintendent of public instruction.

(E) Each school district and chartered nonpublic school retains the authority to require an even more rigorous minimum curriculum for high school graduation than specified in division (B) or (C) of this section. A school district board of education, through the adoption of a resolution, or the governing authority of a chartered nonpublic school may stipulate any of the following:

(1) A minimum high school curriculum that requires more than twenty units of academic credit to graduate;

(2) An exception to the district's or school's minimum high school curriculum that is comparable to the exception provided in division (D) of this section but with additional requirements, which may include a requirement that the student successfully complete more than the minimum curriculum prescribed in division (B) of this section;

(3) That no exception comparable to that provided in division (D) of this section is available.

(F) A student enrolled in a dropout prevention and recovery program, which program has received a waiver from the department, may qualify for graduation from high school by successfully completing a competency-based instructional program administered by the dropout prevention and recovery program in lieu of completing the Ohio core curriculum prescribed in division (C) of this section. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board under division ~~(E)~~(D)(6) of section 3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring

a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (F)(4) of this section during the remainder of the student's high school experience.

(6) The program requires the student and the student's parent, guardian, or custodian to sign and file, in accordance with procedural requirements stipulated by the program, a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(7) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board under section 3301.079 of the Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(G) Every high school may permit students below the ninth grade to take advanced work. If a high school so permits, it shall award high school credit for successful completion of the advanced work and shall count such advanced work toward the graduation requirements of division (B) or (C) of this section if the advanced work was both:

(1) Taught by a person who possesses a license or certificate issued under section 3301.071, 3319.22, or 3319.222 of the Revised Code that is valid for teaching high school;

(2) Designated by the board of education of the city, local, or exempted village school district, the board of the cooperative education school district, or the governing authority of the chartered nonpublic school as meeting the high school curriculum requirements.

Each high school shall record on the student's high school transcript all high school credit awarded under division (G) of this section. In addition, if the student completed a seventh- or eighth-grade fine arts course described in division (K) of this section and the course qualified for high school credit under that division, the high school shall record that course on the student's high school transcript.

(H) The department shall make its individual academic career plan available through its Ohio career information system web site for districts and schools to use as a tool for communicating with and providing guidance to students and families in selecting high school courses.

(I) Units earned in English language arts, mathematics, science, and social studies that are delivered through integrated academic and career-technical instruction are eligible to meet the graduation requirements of division (B) or (C) of this section.

(J) The state board, in consultation with the chancellor, shall adopt a statewide plan implementing methods for students to earn units of high school credit based on a demonstration of subject area competency, instead of or in combination with completing hours of classroom instruction. The state board shall adopt the plan not later than March 31, 2009, and commence phasing in the plan during the 2009-2010 school year. The plan shall include a standard method for recording demonstrated proficiency on high school transcripts. Each school district~~,~~ and community school~~, and chartered nonpublic school~~ shall comply with the state board's plan adopted under this division and award units of high school credit in accordance with the plan. The state board may adopt existing methods for earning high school credit based on a demonstration of subject area competency as necessary prior to the 2009-2010 school year.

(K) This division does not apply to students who qualify for graduation from high school under division (D) or (F) of this section, or to students pursuing a career-technical instructional track as determined by the school district board of education or the chartered nonpublic school's governing authority. Nevertheless, the general assembly encourages such students to consider enrolling in a fine arts course as an elective.

Beginning with students who enter ninth grade for the first time on or after July 1, 2010, each student enrolled in a public or chartered nonpublic high school shall complete two semesters or the equivalent of fine arts to graduate from high school. The coursework may be completed in any of grades seven to twelve. Each student who completes a fine arts course in grade seven or eight may elect to count that course toward the five units of electives required for graduation under division (C)(7) of this section, if the course satisfied the requirements of division (G) of this section. In that case, the high school shall award the student high school credit for the course and count the course toward the five units required under division (C)(7) of this section. If the course in grade seven or eight did not satisfy the requirements of division (G) of this section, the high school shall not award the student high school credit for the course but shall count the course toward the two semesters or the equivalent of fine arts required by this division.

(L) Notwithstanding anything to the contrary in this section, the board of education of each school district and the governing authority of each chartered nonpublic school may adopt a policy to excuse from the high

school physical education requirement each student who, during high school, has participated in interscholastic athletics, marching band, or cheerleading for at least two full seasons or in the junior reserve officer training corps for at least two full school years. If the board or authority adopts such a policy, the board or authority shall not require the student to complete any physical education course as a condition to graduate. However, the student shall be required to complete one-half unit, consisting of at least sixty hours of instruction, in another course of study. In the case of a student who has participated in the junior reserve officer training corps for at least two full school years, credit received for that participation may be used to satisfy the requirement to complete one-half unit in another course of study.

Sec. 3313.61. (A) A diploma shall be granted by the board of education of any city, exempted village, or local school district that operates a high school to any person to whom all of the following apply:

(1) The person has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code, or has qualified under division (D) or (F) of section 3313.603 of the Revised Code, provided that no school district shall require a student to remain in school for any specific number of semesters or other terms if the student completes the required curriculum early;

(2) Subject to section 3313.614 of the Revised Code, the person has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable.

(a) If the person entered the ninth grade prior to the date prescribed by rule of the state board of education under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division unless the person was excused from taking any such assessment pursuant to section 3313.532 of the Revised Code or unless division (H) or (L) of this section applies to the person;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite~~

~~score, designated under division (C)(1) of section 3301.0712 of the Revised Code~~, except to the extent that the person is excused from some portion of that assessment system pursuant to section 3313.532 of the Revised Code or division (H) or (L) of this section.

(3) The person is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

Except as provided in divisions (C), (E), (J), and (L) of this section, no diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, an honors diploma shall be granted, in accordance with rules of the state board, by any such district board to anyone who accomplishes all of the following:

(1) Successfully completes the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable.

(a) If the person entered the ninth grade prior to the date prescribed by rule of the state board of education under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code~~.

(3) Has met additional criteria established by the state board for the granting of such a diploma.

An honors diploma shall not be granted to a student who is subject to the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code but elects the option of division (D) or (F) of that section. Except as provided in divisions (C), (E), and (J) of this section, no honors diploma shall be granted to anyone failing to comply with this division and

no more than one honors diploma shall be granted to any student under this division.

The state board shall adopt rules prescribing the granting of honors diplomas under this division. These rules may prescribe the granting of honors diplomas that recognize a student's achievement as a whole or that recognize a student's achievement in one or more specific subjects or both. The rules may prescribe the granting of an honors diploma recognizing technical expertise for a career-technical student. In any case, the rules shall designate two or more criteria for the granting of each type of honors diploma the board establishes under this division and the number of such criteria that must be met for the granting of that type of diploma. The number of such criteria for any type of honors diploma shall be at least one less than the total number of criteria designated for that type and no one or more particular criteria shall be required of all persons who are to be granted that type of diploma.

(C) Any district board administering any of the assessments required by section 3301.0710 of the Revised Code to any person requesting to take such assessment pursuant to division (B)(8)(b) of section 3301.0711 of the Revised Code shall award a diploma to such person if the person attains at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments administered and if the person has previously attained the applicable scores on all the other assessments required by division (B)(1) of that section or has been exempted or excused from attaining the applicable score on any such assessment pursuant to division (H) or (L) of this section or from taking any such assessment pursuant to section 3313.532 of the Revised Code.

(D) Each diploma awarded under this section shall be signed by the president and treasurer of the issuing board, the superintendent of schools, and the principal of the high school. Each diploma shall bear the date of its issue, be in such form as the district board prescribes, and be paid for out of the district's general fund.

(E) A person who is a resident of Ohio and is eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of a correctional institution operated by the state or any political subdivision thereof, shall be granted such diploma by the correctional institution operating the programs in which such credits were earned, and by the board of education of the school district in which the inmate resided immediately prior to the inmate's placement in the institution. The diploma granted by the correctional institution shall be signed by the director of the institution, and by the

person serving as principal of the institution's high school and shall bear the date of issue.

(F) Persons who are not residents of Ohio but who are inmates of correctional institutions operated by the state or any political subdivision thereof, and who are eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of the correctional institution, shall be granted a diploma by the correctional institution offering the program in which the credits were earned. The diploma granted by the correctional institution shall be signed by the director of the institution and by the person serving as principal of the institution's high school and shall bear the date of issue.

(G) The state board of education shall provide by rule for the administration of the assessments required by section 3301.0710 of the Revised Code to inmates of correctional institutions.

(H) Any person to whom all of the following apply shall be exempted from attaining the applicable score on the assessment in social studies designated under division (B)(1) of section 3301.0710 of the Revised Code, any social studies end-of-course examination required under division (B)(2) of that section if such an exemption is prescribed by rule of the state board under division ~~(E)~~(D)(4) of section 3301.0712 of the Revised Code, or the test in citizenship designated under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001:

(1) The person is not a citizen of the United States;

(2) The person is not a permanent resident of the United States;

(3) The person indicates no intention to reside in the United States after the completion of high school.

(I) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and section 3311.611 of the Revised Code do not apply to the board of education of any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(J) Upon receipt of a notice under division (D) of section 3325.08 of division (D) of section 3328.25 of the Revised Code that a student has received a diploma under ~~that~~ either section, the board of education receiving the notice may grant a high school diploma under this section to the student, except that such board shall grant the student a diploma if the student meets the graduation requirements that the student would otherwise have had to meet to receive a diploma from the district. The diploma granted

under this section shall be of the same type the notice indicates the student received under section 3325.08 or 3328.25 of the Revised Code.

(K) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or ~~attained the composite score designated for~~ met the requirements of the assessments required by division (B)(2) of that section, shall be awarded a diploma under this section.

(L) Any student described by division (A)(1) of this section may be awarded a diploma without attaining the applicable scores designated on the assessments prescribed under division (B) of section 3301.0710 of the Revised Code provided an individualized education program specifically exempts the student from attaining such scores. This division does not negate the requirement for such a student to take all such assessments or alternate assessments required by division (C)(1) of section 3301.0711 of the Revised Code for the purpose of assessing student progress as required by federal law.

Sec. 3313.611. (A) The state board of education shall adopt, by rule, standards for awarding high school credit equivalent to credit for completion of high school academic and vocational education courses to applicants for diplomas under this section. The standards may permit high school credit to be granted to an applicant for any of the following:

(1) Work experiences or experiences as a volunteer;

(2) Completion of academic, vocational, or self-improvement courses offered to persons over the age of twenty-one by a chartered public or nonpublic school;

(3) Completion of academic, vocational, or self-improvement courses offered by an organization, individual, or educational institution other than a chartered public or nonpublic school;

(4) Other life experiences considered by the board to provide knowledge and learning experiences comparable to that gained in a classroom setting.

(B) The board of education of any city, exempted village, or local school district that operates a high school shall grant a diploma of adult education to any applicant if all of the following apply:

(1) The applicant is a resident of the district;

(2) The applicant is over the age of twenty-one and has not been issued

a diploma as provided in section 3313.61 of the Revised Code;

(3) Subject to section 3313.614 of the Revised Code, the applicant has met the assessment requirements of division (B)(3)(a) or (b) of this section, as applicable.

(a) Prior to the date prescribed by rule of the state board under division ~~(E)~~(D)(3) of section 3301.0712 of the Revised Code, the applicant either:

(i) Has attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all of the assessments required by that division or was excused or exempted from any such assessment pursuant to section 3313.532 or was exempted from attaining the applicable score on any such assessment pursuant to division (H) or (L) of section 3313.61 of the Revised Code;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) On or after the date prescribed by rule of the state board under division ~~(E)~~(D)(3) of section 3301.0712 of the Revised Code, has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code~~, except and only to the extent that the applicant is excused from some portion of that assessment system pursuant to section 3313.532 of the Revised Code or division (H) or (L) of section 3313.61 of the Revised Code.

(4) The district board determines, in accordance with the standards adopted under division (A) of this section, that the applicant has attained sufficient high school credits, including equivalent credits awarded under such standards, to qualify as having successfully completed the curriculum required by the district for graduation.

(C) If a district board determines that an applicant is not eligible for a diploma under division (B) of this section, it shall inform the applicant of the reason the applicant is ineligible and shall provide a list of any courses required for the diploma for which the applicant has not received credit. An applicant may reapply for a diploma under this section at any time.

(D) If a district board awards an adult education diploma under this section, the president and treasurer of the board and the superintendent of schools shall sign it. Each diploma shall bear the date of its issuance, be in such form as the district board prescribes, and be paid for from the district's general fund, except that the state board may by rule prescribe standard language to be included on each diploma.

(E) As used in this division, "limited English proficient student" has the

same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or ~~attained the composite score designated for~~ has not met the requirements of the assessments required by division (B)(2) of that section, shall be awarded a diploma under this section.

Sec. 3313.612. (A) No nonpublic school chartered by the state board of education shall grant a high school diploma to any person unless, subject to section 3313.614 of the Revised Code, the person has met the assessment requirements of division (A)(1) or (2) of this section, as applicable.

(1) If the person entered the ninth grade prior to the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(2) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code~~.

(B) This section does not apply to either of the following:

(1) Any person with regard to any assessment from which the person was excused pursuant to division (C)(1)(c) of section 3301.0711 of the Revised Code;

(2) Any person with regard to the social studies assessment under division (B)(1) of section 3301.0710 of the Revised Code, any social studies end-of-course examination required under division (B)(2) of that section if such an exemption is prescribed by rule of the state board of education under division ~~(E)~~(D)(4) of section 3301.0712 of the Revised Code, or the citizenship test under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, if all of the following apply:

(a) The person is not a citizen of the United States;

(b) The person is not a permanent resident of the United States;

(c) The person indicates no intention to reside in the United States after

completion of high school.

(C) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or ~~attained the composite score designated for~~ met the requirements of the assessments ~~required by~~ under division (B)(2) of that section, shall be awarded a diploma under this section.

Sec. 3313.614. (A) As used in this section, a person "fulfills the curriculum requirement for a diploma" at the time one of the following conditions is satisfied:

(1) The person successfully completes the high school curriculum of a school district, a community school, a chartered nonpublic school, or a correctional institution.

(2) The person successfully completes the individualized education program developed for the person under section 3323.08 of the Revised Code.

(3) A board of education issues its determination under section 3313.611 of the Revised Code that the person qualifies as having successfully completed the curriculum required by the district.

(B) This division specifies the assessment requirements that must be fulfilled as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who fulfills the curriculum requirement for a diploma before September 15, 2000, is not required to pass any proficiency test or achievement test in science as a condition to receiving a diploma.

(2) A person who began ninth grade prior to July 1, 2003, is not required to pass the Ohio graduation test prescribed under division (B)(1) of section 3301.0710 or any assessment prescribed under division (B)(2) of that section in any subject as a condition to receiving a diploma once the person has passed the ninth grade proficiency test in the same subject, so long as the person passed the ninth grade proficiency test prior to September 15, 2008. However, any such person who passes the Ohio graduation test in any subject prior to passing the ninth grade proficiency test in the same subject shall be deemed to have passed the ninth grade proficiency test in that subject as a condition to receiving a diploma. For this purpose, the ninth grade proficiency test in citizenship substitutes for the Ohio graduation test

in social studies. If a person began ninth grade prior to July 1, 2003, but does not pass a ninth grade proficiency test or the Ohio graduation test in a particular subject before September 15, 2008, and passage of a test in that subject is a condition for the person to receive a diploma, the person must pass the Ohio graduation test instead of the ninth grade proficiency test in that subject to receive a diploma.

(3) A person who begins ninth grade on or after July 1, 2003, in a school district, community school, or chartered nonpublic school is not eligible to receive a diploma based on passage of ninth grade proficiency tests. Each such person who begins ninth grade prior to the date prescribed by the state board of education under division ~~(E)~~(D)(5) of section 3301.0712 of the Revised Code must pass Ohio graduation tests to meet the assessment requirements applicable to that person as a condition to receiving a diploma.

(4) A person who begins ninth grade on or after the date prescribed by the state board of education under division ~~(E)~~(D)(5) of section 3301.0712 of the Revised Code is not eligible to receive a diploma based on passage of the Ohio graduation tests. Each such person must ~~attain on~~ meet the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code~~.

(C) This division specifies the curriculum requirement that shall be completed as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who is under twenty-two years of age when the person fulfills the curriculum requirement for a diploma shall complete the curriculum required by the school district or school issuing the diploma for the first year that the person originally enrolled in high school, except for a person who qualifies for graduation from high school under either division (D) or (F) of section 3313.603 of the Revised Code.

(2) Once a person fulfills the curriculum requirement for a diploma, the person is never required, as a condition of receiving a diploma, to meet any different curriculum requirements that take effect pending the person's passage of proficiency tests or achievement tests or assessments, including changes mandated by section 3313.603 of the Revised Code, the state board, a school district board of education, or a governing authority of a community school or chartered nonpublic school.

Sec. 3313.617. (A) When a person who is at least sixteen years of age but less than nineteen years of age applies to the department of education to take the tests of general educational development, the person shall submit

with the application written approval from the superintendent of the school district in which the person was last enrolled, or the superintendent's designee, except that if the person was last enrolled in a community school established under Chapter 3314. of the Revised Code or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, the approval shall be from the principal of the school, or the principal's designee. The department may require the person also to submit written approval from the person's parent or guardian or a court official, if the person is younger than eighteen years of age.

(B) For the purpose of calculating graduation rates for the school district and building report cards under section 3302.03 of the Revised Code, the department shall count any person for whom approval is obtained from the superintendent or principal, or a designee, under division (A) of this section as a dropout from the district or school in which the person was last enrolled prior to obtaining the approval.

Sec. 3313.64. (A) As used in this section and in section 3313.65 of the Revised Code:

(1)(a) Except as provided in division (A)(1)(b) of this section, "parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. When a child is in the legal custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent with residual parental rights, privileges, and responsibilities. When a child is in the permanent custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent who was divested of parental rights and responsibilities for the care of the child and the right to have the child live with the parent and be the legal custodian of the child and all residual parental rights, privileges, and responsibilities.

(b) When a child is the subject of a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code, "parent" means the grandparent designated as attorney in fact under the power of attorney. When a child is the subject of a caretaker authorization affidavit executed under sections 3109.64 to 3109.73 of the Revised Code, "parent" means the grandparent that executed the affidavit.

(2) "Legal custody," "permanent custody," and "residual parental rights, privileges, and responsibilities" have the same meanings as in section 2151.011 of the Revised Code.

(3) "School district" or "district" means a city, local, or exempted village school district and excludes any school operated in an institution

maintained by the department of youth services.

(4) Except as used in division (C)(2) of this section, "home" means a home, institution, foster home, group home, or other residential facility in this state that receives and cares for children, to which any of the following applies:

(a) The home is licensed, certified, or approved for such purpose by the state or is maintained by the department of youth services.

(b) The home is operated by a person who is licensed, certified, or approved by the state to operate the home for such purpose.

(c) The home accepted the child through a placement by a person licensed, certified, or approved to place a child in such a home by the state.

(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.

(5) "Agency" means all of the following:

(a) A public children services agency;

(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;

(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.

(6) A child is placed for adoption if either of the following occurs:

(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.

(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.

(7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.

(8) "Child," unless otherwise indicated, includes preschool children with disabilities.

(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least

five but under twenty-two years of age and any preschool child with a disability shall be admitted to school as provided in this division.

(1) A child shall be admitted to the schools of the school district in which the child's parent resides.

(2) A child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies:

(a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent.

(b) The child resides in a home.

(c) The child requires special education.

(3) A child who is not entitled under division (B)(2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this state with whom the child has been placed for adoption shall be admitted to the schools of the district where the child resides unless either of the following applies:

(a) The placement for adoption has been terminated.

(b) Another school district is required to admit the child under division (B)(1) of this section.

Division (B) of this section does not prohibit the board of education of a school district from placing a child with a disability who resides in the district in a special education program outside of the district or its schools in compliance with Chapter 3323. of the Revised Code.

(C) A district shall not charge tuition for children admitted under division (B)(1) or (3) of this section. If the district admits a child under division (B)(2) of this section, tuition shall be paid to the district that admits the child as provided in divisions (C)(1) to (3) of this section, unless division (C)(4) of this section applies to the child:

(1) If the child receives special education in accordance with Chapter 3323. of the Revised Code, the school district of residence, as defined in section 3323.01 of the Revised Code, shall pay tuition for the child in accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code regardless of who has custody of the child or whether the child resides in a home.

(2) For a child that does not receive special education in accordance with Chapter 3323. of the Revised Code, except as otherwise provided in division (C)(2)(d) of this section, if the child is in the permanent or legal custody of a government agency or person other than the child's parent, tuition shall be paid by:

(a) The district in which the child's parent resided at the time the court

removed the child from home or at the time the court vested legal or permanent custody of the child in the person or government agency, whichever occurred first;

(b) If the parent's residence at the time the court removed the child from home or placed the child in the legal or permanent custody of the person or government agency is unknown, tuition shall be paid by the district in which the child resided at the time the child was removed from home or placed in legal or permanent custody, whichever occurred first;

(c) If a school district cannot be established under division (C)(2)(a) or (b) of this section, tuition shall be paid by the district determined as required by section 2151.362 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement;

(e) If the department of education has determined, pursuant to division (A)(2) of section 2151.362 of the Revised Code, that a school district other than the one named in the court's initial order, or in a prior determination of the department, is responsible to bear the cost of educating the child, the district so determined shall be responsible for that cost.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides;

(b) If the child's parent is not a resident of this state, the home in which the child resides.

(4) Division (C)(4) of this section applies to any child who is admitted to a school district under division (B)(2) of this section, resides in a home that is not a foster home or a home maintained by the department of youth services, receives educational services at the home in which the child resides pursuant to a contract between the home and the school district providing those services, and does not receive special education.

In the case of a child to which division (C)(4) of this section applies, the total educational cost to be paid for the child shall be determined by a formula approved by the department of education, which formula shall be

designed to calculate a per diem cost for the educational services provided to the child for each day the child is served and shall reflect the total actual cost incurred in providing those services. The department shall certify the total educational cost to be paid for the child to both the school district providing the educational services and, if different, the school district that is responsible to pay tuition for the child. The department shall deduct the certified amount from the state basic aid funds payable under Chapter 3317. of the Revised Code to the district responsible to pay tuition and shall pay that amount to the district providing the educational services to the child.

(D) Tuition required to be paid under divisions (C)(2) and (3)(a) of this section shall be computed in accordance with section 3317.08 of the Revised Code. Tuition required to be paid under division (C)(3)(b) of this section shall be computed in accordance with section 3317.081 of the Revised Code. If a home fails to pay the tuition required by division (C)(3)(b) of this section, the board of education providing the education may recover in a civil action the tuition and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. If the prosecuting attorney or city director of law represents the board in such action, costs and reasonable attorney's fees awarded by the court, based upon the prosecuting attorney's, director's, or one of their designee's time spent preparing and presenting the case, shall be deposited in the county or city general fund.

(E) A board of education may enroll a child free of any tuition obligation for a period not to exceed sixty days, on the sworn statement of an adult resident of the district that the resident has initiated legal proceedings for custody of the child.

(F) In the case of any individual entitled to attend school under this division, no tuition shall be charged by the school district of attendance and no other school district shall be required to pay tuition for the individual's attendance. Notwithstanding division (B), (C), or (E) of this section:

(1) All persons at least eighteen but under twenty-two years of age who live apart from their parents, support themselves by their own labor, and have not successfully completed the high school curriculum or the individualized education program developed for the person by the high school pursuant to section 3323.08 of the Revised Code, are entitled to attend school in the district in which they reside.

(2) Any child under eighteen years of age who is married is entitled to attend school in the child's district of residence.

(3) A child is entitled to attend school in the district in which either of the child's parents is employed if the child has a medical condition that may

require emergency medical attention. The parent of a child entitled to attend school under division (F)(3) of this section shall submit to the board of education of the district in which the parent is employed a statement from the child's physician certifying that the child's medical condition may require emergency medical attention. The statement shall be supported by such other evidence as the board may require.

(4) Any child residing with a person other than the child's parent is entitled, for a period not to exceed twelve months, to attend school in the district in which that person resides if the child's parent files an affidavit with the superintendent of the district in which the person with whom the child is living resides stating all of the following:

(a) That the parent is serving outside of the state in the armed services of the United States;

(b) That the parent intends to reside in the district upon returning to this state;

(c) The name and address of the person with whom the child is living while the parent is outside the state.

(5) Any child under the age of twenty-two years who, after the death of a parent, resides in a school district other than the district in which the child attended school at the time of the parent's death is entitled to continue to attend school in the district in which the child attended school at the time of the parent's death for the remainder of the school year, subject to approval of that district board.

(6) A child under the age of twenty-two years who resides with a parent who is having a new house built in a school district outside the district where the parent is residing is entitled to attend school for a period of time in the district where the new house is being built. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being built, and stating the parent's intention to reside there upon its completion;

(b) A statement from the builder confirming that a new house is being built for the parent and that the house is at the location indicated in the parent's statement.

(7) A child under the age of twenty-two years residing with a parent who has a contract to purchase a house in a school district outside the district where the parent is residing and who is waiting upon the date of closing of the mortgage loan for the purchase of such house is entitled to attend school for a period of time in the district where the house is being

purchased. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being purchased, and stating the parent's intent to reside there;

(b) A statement from a real estate broker or bank officer confirming that the parent has a contract to purchase the house, that the parent is waiting upon the date of closing of the mortgage loan, and that the house is at the location indicated in the parent's statement.

The district superintendent shall establish a period of time not to exceed ninety days during which the child entitled to attend school under division (F)(6) or (7) of this section may attend without tuition obligation. A student attending a school under division (F)(6) or (7) of this section shall be eligible to participate in interscholastic athletics under the auspices of that school, provided the board of education of the school district where the student's parent resides, by a formal action, releases the student to participate in interscholastic athletics at the school where the student is attending, and provided the student receives any authorization required by a public agency or private organization of which the school district is a member exercising authority over interscholastic sports.

(8) A child whose parent is a full-time employee of a city, local, or exempted village school district, or of an educational service center, may be admitted to the schools of the district where the child's parent is employed, or in the case of a child whose parent is employed by an educational service center, in the district that serves the location where the parent's job is primarily located, provided the district board of education establishes such an admission policy by resolution adopted by a majority of its members. Any such policy shall take effect on the first day of the school year and the effective date of any amendment or repeal may not be prior to the first day of the subsequent school year. The policy shall be uniformly applied to all such children and shall provide for the admission of any such child upon request of the parent. No child may be admitted under this policy after the first day of classes of any school year.

(9) A child who is with the child's parent under the care of a shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code, is entitled to attend school free in the district in which the child is with the child's parent, and no other school district shall be required to pay tuition for the child's attendance in that school district.

The enrollment of a child in a school district under this division shall not be denied due to a delay in the school district's receipt of any records required under section 3313.672 of the Revised Code or any other records

required for enrollment. Any days of attendance and any credits earned by a child while enrolled in a school district under this division shall be transferred to and accepted by any school district in which the child subsequently enrolls. The state board of education shall adopt rules to ensure compliance with this division.

(10) Any child under the age of twenty-two years whose parent has moved out of the school district after the commencement of classes in the child's senior year of high school is entitled, subject to the approval of that district board, to attend school in the district in which the child attended school at the time of the parental move for the remainder of the school year and for one additional semester or equivalent term. A district board may also adopt a policy specifying extenuating circumstances under which a student may continue to attend school under division (F)(10) of this section for an additional period of time in order to successfully complete the high school curriculum for the individualized education program developed for the student by the high school pursuant to section 3323.08 of the Revised Code.

(11) As used in this division, "grandparent" means a parent of a parent of a child. A child under the age of twenty-two years who is in the custody of the child's parent, resides with a grandparent, and does not require special education is entitled to attend the schools of the district in which the child's grandparent resides, provided that, prior to such attendance in any school year, the board of education of the school district in which the child's grandparent resides and the board of education of the school district in which the child's parent resides enter into a written agreement specifying that good cause exists for such attendance, describing the nature of this good cause, and consenting to such attendance.

In lieu of a consent form signed by a parent, a board of education may request the grandparent of a child attending school in the district in which the grandparent resides pursuant to division (F)(11) of this section to complete any consent form required by the district, including any authorization required by sections 3313.712, 3313.713, 3313.716, and 3313.718 of the Revised Code. Upon request, the grandparent shall complete any consent form required by the district. A school district shall not incur any liability solely because of its receipt of a consent form from a grandparent in lieu of a parent.

Division (F)(11) of this section does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a school district, a member of a board of education, or an employee of a school district. This section does not affect, and shall not be construed as affecting, any immunities from defenses to tort liability created or

recognized by Chapter 2744. of the Revised Code for a school district, member, or employee.

(12) A child under the age of twenty-two years is entitled to attend school in a school district other than the district in which the child is entitled to attend school under division (B), (C), or (E) of this section provided that, prior to such attendance in any school year, both of the following occur:

(a) The superintendent of the district in which the child is entitled to attend school under division (B), (C), or (E) of this section contacts the superintendent of another district for purposes of this division;

(b) The superintendents of both districts enter into a written agreement that consents to the attendance and specifies that the purpose of such attendance is to protect the student's physical or mental well-being or to deal with other extenuating circumstances deemed appropriate by the superintendents.

While an agreement is in effect under this division for a student who is not receiving special education under Chapter 3323. of the Revised Code and notwithstanding Chapter 3327. of the Revised Code, the board of education of neither school district involved in the agreement is required to provide transportation for the student to and from the school where the student attends.

A student attending a school of a district pursuant to this division shall be allowed to participate in all student activities, including interscholastic athletics, at the school where the student is attending on the same basis as any student who has always attended the schools of that district while of compulsory school age.

(13) All school districts shall comply with the "McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for the education of homeless children. Each city, local, and exempted village school district shall comply with the requirements of that act governing the provision of a free, appropriate public education, including public preschool, to each homeless child.

When a child loses permanent housing and becomes a homeless person, as defined in 42 U.S.C.A. 11481(5), or when a child who is such a homeless person changes temporary living arrangements, the child's parent or guardian shall have the option of enrolling the child in either of the following:

(a) The child's school of origin, as defined in 42 U.S.C.A. 11432(g)(3)(C);

(b) The school that is operated by the school district in which the shelter where the child currently resides is located and that serves the geographic

area in which the shelter is located.

(14) A child under the age of twenty-two years who resides with a person other than the child's parent is entitled to attend school in the school district in which that person resides if both of the following apply:

(a) That person has been appointed, through a military power of attorney executed under section 574(a) of the "National Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 U.S.C. 1044b, or through a comparable document necessary to complete a family care plan, as the parent's agent for the care, custody, and control of the child while the parent is on active duty as a member of the national guard or a reserve unit of the armed forces of the United States or because the parent is a member of the armed forces of the United States and is on a duty assignment away from the parent's residence.

(b) The military power of attorney or comparable document includes at least the authority to enroll the child in school.

The entitlement to attend school in the district in which the parent's agent under the military power of attorney or comparable document resides applies until the end of the school year in which the military power of attorney or comparable document expires.

(G) A board of education, after approving admission, may waive tuition for students who will temporarily reside in the district and who are either of the following:

(1) Residents or domiciliaries of a foreign nation who request admission as foreign exchange students;

(2) Residents or domiciliaries of the United States but not of Ohio who request admission as participants in an exchange program operated by a student exchange organization.

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 3327.04, and 3327.06 of the Revised Code, a child may attend school or participate in a special education program in a school district other than in the district where the child is entitled to attend school under division (B) of this section.

(I)(1) Notwithstanding anything to the contrary in this section or section 3313.65 of the Revised Code, a child under twenty-two years of age may attend school in the school district in which the child, at the end of the first full week of October of the school year, was entitled to attend school as otherwise provided under this section or section 3313.65 of the Revised Code, if at that time the child was enrolled in the schools of the district but since that time the child or the child's parent has relocated to a new address located outside of that school district and within the same county as the child's or parent's address immediately prior to the relocation. The child may

continue to attend school in the district, and at the school to which the child was assigned at the end of the first full week of October of the current school year, for the balance of the school year. Division (I)(1) of this section applies only if both of the following conditions are satisfied:

(a) The board of education of the school district in which the child was entitled to attend school at the end of the first full week in October and of the district to which the child or child's parent has relocated each has adopted a policy to enroll children described in division (I)(1) of this section.

(b) The child's parent provides written notification of the relocation outside of the school district to the superintendent of each of the two school districts.

(2) At the beginning of the school year following the school year in which the child or the child's parent relocated outside of the school district as described in division (I)(1) of this section, the child is not entitled to attend school in the school district under that division.

(3) Any person or entity owing tuition to the school district on behalf of the child at the end of the first full week in October, as provided in division (C) of this section, shall continue to owe such tuition to the district for the child's attendance under division (I)(1) of this section for the lesser of the balance of the school year or the balance of the time that the child attends school in the district under division (I)(1) of this section.

(4) A pupil who may attend school in the district under division (I)(1) of this section shall be entitled to transportation services pursuant to an agreement between the district and the district in which the child or child's parent has relocated unless the districts have not entered into such agreement, in which case the child shall be entitled to transportation services in the same manner as a pupil attending school in the district under interdistrict open enrollment as described in division (H) of section 3313.981 of the Revised Code, regardless of whether the district has adopted an open enrollment policy as described in division (B)(1)(b) or (c) of section 3313.98 of the Revised Code.

(J) This division does not apply to a child receiving special education.

A school district required to pay tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount deducted under division ~~(F)~~(C) of section 3317.023 of the Revised Code equal to its own tuition rate for the same period of attendance. A school district entitled to receive tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount credited under division ~~(F)~~(C) of section 3317.023 of the Revised Code

equal to its own tuition rate for the same period of attendance. If the tuition rate credited to the district of attendance exceeds the rate deducted from the district required to pay tuition, the department of education shall pay the district of attendance the difference from amounts deducted from all districts' payments under division ~~(F)~~(C) of section 3317.023 of the Revised Code but not credited to other school districts under such division and from appropriations made for such purpose. The treasurer of each school district shall, by the fifteenth day of January and July, furnish the superintendent of public instruction a report of the names of each child who attended the district's schools under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code during the preceding six calendar months, the duration of the attendance of those children, the school district responsible for tuition on behalf of the child, and any other information that the superintendent requires.

Upon receipt of the report the superintendent, pursuant to division ~~(F)~~(C) of section 3317.023 of the Revised Code, shall deduct each district's tuition obligations under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code and pay to the district of attendance that amount plus any amount required to be paid by the state.

(K) In the event of a disagreement, the superintendent of public instruction shall determine the school district in which the parent resides.

(L) Nothing in this section requires or authorizes, or shall be construed to require or authorize, the admission to a public school in this state of a pupil who has been permanently excluded from public school attendance by the superintendent of public instruction pursuant to sections 3301.121 and 3313.662 of the Revised Code.

(M) In accordance with division (B)(1) of this section, a child whose parent is a member of the national guard or a reserve unit of the armed forces of the United States and is called to active duty, or a child whose parent is a member of the armed forces of the United States and is ordered to a temporary duty assignment outside of the district, may continue to attend school in the district in which the child's parent lived before being called to active duty or ordered to a temporary duty assignment outside of the district, as long as the child's parent continues to be a resident of that district, and regardless of where the child lives as a result of the parent's active duty status or temporary duty assignment. However, the district is not responsible for providing transportation for the child if the child lives outside of the district as a result of the parent's active duty status or temporary duty assignment.

Sec. 3313.642. (A) Except as provided in division (B) of this section

and notwithstanding the provisions of sections 3313.48 and 3313.64 of the Revised Code, the board of education of a city, exempted village, or local school district shall not be required to furnish, free of charge, to the pupils attending the public schools any materials used in a course of instruction with the exception of the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code. The board may, however, make provision by appropriations transferred from the general fund of the district or otherwise for furnishing free of charge any materials used in a course of instruction to such pupils as it determines are in serious financial need of such materials.

(B) No board of education of a school district shall charge a fee to a pupil who is eligible for a free lunch under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, for any materials needed to enable the pupil to participate fully in a course of instruction. The prohibition in this division against charging a fee does not apply to any fee charged for any of the following:

(1) Any materials needed to enable a pupil to participate fully in extracurricular activities or in any pupil enrichment program that is not a course of instruction;

(2) Any tools, equipment, and materials that are necessary for workforce-readiness training within a career-technical education program that, to the extent the tools, equipment, and materials are not consumed, may be retained by the student upon course completion.

(C) Boards of education may adopt rules and regulations prescribing a schedule of fees for materials used in a course of instruction and prescribing a schedule of charges which may be imposed upon pupils for the loss, damage, or destruction of school apparatus, equipment, musical instruments, library material, textbooks, or electronic textbooks required to be furnished without charge, and for damage to school buildings, and may enforce the payment of such fees and charges by withholding the grades and credits of the pupils concerned.

Sec. 3313.6410. This section applies to any school that is operated by a school district and in which the enrolled students work primarily on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method.

(A) Any school to which this section applies shall withdraw from the school any student who, for two consecutive school years, has failed to participate in the spring administration of any assessment prescribed under section 3301.0710 or 3301.0712 of the Revised Code for the student's grade

level and was not excused from the assessment pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code, regardless of whether a waiver was granted for the student under division (E) of section 3317.03 of the Revised Code. The school shall report any such student's data verification code, as assigned pursuant to section 3301.0714 of the Revised Code, to the department of education to be added to the list maintained by the department under section 3314.26 of the Revised Code.

(B) No school to which this section applies shall receive any state funds under Chapter ~~3306. or~~ 3317. of the Revised Code for any enrolled student whose data verification code appears on the list maintained by the department under section 3314.26 of the Revised Code. Notwithstanding any provision of the Revised Code to the contrary, the parent of any such student shall pay tuition to the school district that operates the school in an amount equal to the state funds the district otherwise would receive for that student, as determined by the department. A school to which this section applies may withdraw any student for whom the parent does not pay tuition as required by this division.

Sec. 3313.65. (A) As used in this section and section 3313.64 of the Revised Code:

(1) A person is "in a residential facility" if the person is a resident or a resident patient of an institution, home, or other residential facility that is:

(a) Licensed as a nursing home, residential care facility, or home for the aging by the director of health under section 3721.02 of the Revised Code;

(b) Licensed as an adult care facility by the director of <u>mental</u> health under ~~Chapter 3722.~~ <u>sections 5119.70 to 5119.88</u> of the Revised Code;

(c) Maintained as a county home or district home by the board of county commissioners or a joint board of county commissioners under Chapter 5155. of the Revised Code;

(d) Operated or administered by a board of alcohol, drug addiction, and mental health services under section 340.03 or 340.06 of the Revised Code, or provides residential care pursuant to contracts made under section 340.03 or 340.033 of the Revised Code;

(e) Maintained as a state institution for the mentally ill under Chapter 5119. of the Revised Code;

(f) Licensed by the department of mental health under section 5119.20 or 5119.22 of the Revised Code;

(g) Licensed as a residential facility by the department of developmental disabilities under section 5123.19 of the Revised Code;

(h) Operated by the veteran's administration or another agency of the United States government;

(i) ~~The~~ Operated by the Ohio ~~soldiers' and sailors'~~ veterans' home.

(2) A person is "in a correctional facility" if any of the following apply:

(a) The person is an Ohio resident and is:

(i) Imprisoned, as defined in section 1.05 of the Revised Code;

(ii) Serving a term in a community-based correctional facility or a district community-based correctional facility;

(iii) Required, as a condition of parole, a post-release control sanction, a community control sanction, transitional control, or early release from imprisonment, as a condition of shock parole or shock probation granted under the law in effect prior to July 1, 1996, or as a condition of a furlough granted under the version of section 2967.26 of the Revised Code in effect prior to March 17, 1998, to reside in a halfway house or other community residential center licensed under section 2967.14 of the Revised Code or a similar facility designated by the court of common pleas that established the condition or by the adult parole authority.

(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned.

(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the place the person resided at the time the person became subject to the court's jurisdiction in the matter that resulted in the person's removal.

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

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

(B) If the circumstances described in division (C) of this section apply, the determination of what school district must admit a child to its schools and what district, if any, is liable for tuition shall be made in accordance with this section, rather than section 3313.64 of the Revised Code.

(C) A child who does not reside in the school district in which the child's parent resides and for whom a tuition obligation previously has not been established under division (C)(2) of section 3313.64 of the Revised Code shall be admitted to the schools of the district in which the child resides if at least one of the child's parents is in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, is not known to reside in this state.

(D) Regardless of who has custody or care of the child, whether the child resides in a home, or whether the child receives special education, if a

district admits a child under division (C) of this section, tuition shall be paid to that district as follows:

(1) If the child's parent is in a juvenile residential placement, by the district in which the child's parent resided at the time the parent became subject to the jurisdiction of the juvenile court;

(2) If the child's parent is in a correctional facility, by the district in which the child's parent resided at the time the sentence was imposed;

(3) If the child's parent is in a residential facility, by the district in which the parent resided at the time the parent was admitted to the residential facility, except that if the parent was transferred from another residential facility, tuition shall be paid by the district in which the parent resided at the time the parent was admitted to the facility from which the parent first was transferred;

(4) In the event of a disagreement as to which school district is liable for tuition under division (C)(1), (2), or (3) of this section, the superintendent of public instruction shall determine which district shall pay tuition.

(E) If a child covered by division (D) of this section receives special education in accordance with Chapter 3323. of the Revised Code, the tuition shall be paid in accordance with section 3323.13 or 3323.14 of the Revised Code. Tuition for children who do not receive special education shall be paid in accordance with division (J) of section 3313.64 of the Revised Code.

Sec. 3313.75. (A) The board of education of a city, exempted village, or local school district may authorize the opening of schoolhouses for any lawful purposes. ~~This~~

(B) In accordance with this section and section 3313.77 of the Revised Code, a district board may rent or lease facilities under its control to any public or nonpublic institution of higher education for the institution's use in providing evening and summer classes.

(C) This section does not authorize a board to rent or lease a schoolhouse when such rental or lease interferes with the public schools in such district, or for any purpose other than is authorized by law.

Sec. 3313.816. ~~(A)~~ No public or chartered nonpublic school shall permit the sale of a la carte beverage items other than the following during the regular and extended school day:

~~(1)~~(A) For a school in which the majority of grades offered are in the range from kindergarten to grade four:

~~(a)~~(1) Water;

~~(b)(i) Prior to January 1, 2014, eight ounces or less of low-fat or fat-free milk, including flavored milk, that contains not more than one hundred seventy calories per eight ounces;~~

~~(ii) Beginning January 1, 2014, eight ounces or less of low-fat or fat-free milk, including flavored milk, that contains not more than one hundred fifty calories per eight ounces.~~

~~(c)~~(2) Milk;

(3) Eight ounces or less of one hundred per cent fruit juice, or a one hundred per cent fruit juice and water blend with no added sweeteners, that contains not more than one hundred sixty calories per eight ounces.

~~(2)~~(B) For a school in which the majority of grades offered are in the range from grade five to grade eight:

~~(a)~~(1) Water;

~~(b)(i) Prior to January 1, 2014, eight ounces or less of low-fat or fat-free milk, including flavored milk, that contains not more than one hundred seventy calories per eight ounces;~~

~~(ii) Beginning January 1, 2014, eight ounces or less of low-fat or fat-free milk, including flavored milk, that contains not more than one hundred fifty calories per eight ounces.~~

~~(c)~~(2) Milk;

(3) Ten ounces or less of one hundred per cent fruit juice, or a one hundred per cent fruit juice and water blend with no added sweeteners, that contains not more than one hundred sixty calories per eight ounces.

~~(3)~~(C) For a school in which the majority of grades offered are in the range from grade nine to grade twelve:

~~(a)~~(1) Water;

~~(b)(i) Prior to January 1, 2014, sixteen ounces or less of low-fat or fat-free milk, including flavored milk, that contains not more than one hundred seventy calories per eight ounces;~~

~~(ii) Beginning January 1, 2014, sixteen ounces or less of low-fat or fat-free milk, including flavored milk, that contains not more than one hundred fifty calories per eight ounces.~~

~~(c)~~(2) Milk;

(3) Twelve ounces or less of one hundred per cent fruit juice, or a one hundred per cent fruit juice and water blend with no added sweeteners, that contains not more than one hundred sixty calories per eight ounces;

~~(d)~~(4) Twelve ounces or less of any beverage that contains not more than sixty-six calories per eight ounces;

~~(e)~~(5) Any size of a beverage that contains not more than ten calories per eight ounces, which may include caffeinated beverages and beverages with added sweeteners, carbonation, or artificial flavoring.

~~(B)~~(D) Each public and chartered nonpublic school shall require at least fifty per cent of the a la carte beverage items available for sale from each of

the following sources during the regular and extended school day to be water or other beverages that contain not more than ten calories per eight ounces:

(1) A school food service program;

(2) A vending machine located on school property that does not sell only milk or reimbursable meals;

(3) A store operated by the school, a student association, or other school-sponsored organization.

Sec. 3313.842. (A) The boards of education or governing authorities of any two or more school districts or community schools may enter into an agreement for joint or cooperative establishment and operation of any educational program including any class, course, or program that may be included in a school district's or community school's graded course of study and staff development programs for teaching and nonteaching school employees. Each school district or community school that is party to such an agreement may contribute funds of the district or school in support of the agreement and for the establishment and operation of any educational program established under the agreement. The agreement shall designate one of the districts or community schools as ~~the district~~ responsible for receiving and disbursing the funds contributed by the ~~districts that are~~ parties to the agreement.

(B) Notwithstanding sections 3313.48 and 3313.64 of the Revised Code, any school district that is party to an agreement for joint or cooperative establishment and operation of an educational program may charge fees or tuition for students who participate in the program and are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code. Except as otherwise provided in division (H) of section 3321.01 of the Revised Code, no community school that is party to the agreement shall charge fees or tuition for students who participate in the program and are reported by the school under division (B)(2) of section 3314.08 of the Revised Code.

Sec. 3313.843. (A) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to ~~either of the following:~~

~~(1) Any~~ any cooperative education school district~~;~~

~~(2) Any city or exempted village school district with a total student count of thirteen thousand or more determined pursuant to section 3317.03 of the Revised Code that has not entered into one or more agreements pursuant to this section prior to July 1, 1993, unless the district's total student count did not exceed thirteen thousand at the time it entered into an initial agreement under this section~~.

(B)(1) The board of education of ~~a~~ each city ~~or,~~ exempted village, or local school district ~~and~~ with an average daily student enrollment of sixteen thousand or less, reported for the district on the most recent report card issued under section 3302.03 of the Revised Code, shall enter into an agreement with the governing board of an educational service center ~~may enter into an agreement, through adoption of identical resolutions~~, under which the educational service center governing board will provide services to the ~~city or exempted village school~~ district.

(2) The board of education of a city, exempted village, or local school district with an average daily student enrollment of more than sixteen thousand may enter into an agreement with the governing board of an educational service center, under which the educational service center governing board will provide services to the district.

(3) Services provided under ~~the~~ an agreement entered into under division (B)(1) or (2) of this section shall be specified in the agreement, and may include any ~~one or a combination~~ of the following: supervisory teachers; in-service and continuing education programs for ~~city or exempted village school~~ district personnel; curriculum services ~~as provided to the local school districts under the supervision of the service center governing board~~; research and development programs; academic instruction for which the governing board employs teachers pursuant to section 3319.02 of the Revised Code; ~~and~~ assistance in the provision of special accommodations and classes for students with disabilities; or any other services the district board and service center governing board agree can be better provided by the service center and are not provided under an agreement entered into under section 3313.845 of the Revised Code. Services included in the agreement shall be provided to the ~~city or exempted village~~ district in the ~~same~~ manner ~~they are provided to local school districts under the governing board's supervision, unless otherwise~~ specified in the agreement. The ~~city or exempted village~~ district board of education shall reimburse the educational service center governing board pursuant to section 3317.11 of the Revised Code.

(C) ~~If an educational service center received funding under division (B) of former section 3317.11 or division (F) of section 3317.11 of the Revised Code for an agreement under this section involving a city school district whose total student count was less than thirteen thousand, the service center may continue to receive funding under that division for such an agreement in any subsequent year if the city district's total student count exceeds thirteen thousand. However, only the first thirteen thousand pupils in the formula ADM of such district shall be included in determining the amount~~

~~of the per pupil subsidy the service center shall receive under division (F) of section 3317.11 of the Revised Code.~~

~~(D)~~ Any agreement entered into pursuant to this section shall be ~~valid only if a copy is~~ filed with the department of education by the first day of July of the school year for which the agreement is in effect.

(D)(1) An agreement for services from an educational service center entered into under this section may be terminated by the school district board of education, at its option, by notifying the governing board of the service center by January 1, 2012, or by the first day of January of any odd-numbered year thereafter, that the district board intends to terminate the agreement in that year, and that termination shall be effective on the thirtieth day of June of that year. The failure of a district board to notify an educational service center of its intent to terminate an agreement by the first day of January of an odd-numbered year shall result in renewal of the existing agreement for the following two school years.

(2) If the school district that terminates an agreement for services under division (D)(1) of this section is also subject to the requirement of division (B)(1) of this section, the district board shall enter into a new agreement with a different educational service center so that the new agreement is effective on the first day of July of that same year.

Sec. 3313.845. The board of education of a city, exempted village, or local school district and the governing board of an educational service center may enter into an agreement~~, through adoption of identical resolutions,~~ under which the educational service center will provide services to the school district. Services provided under the agreement and the amount to be paid for such services shall be mutually agreed to by the district board of education and the service center governing board, and shall be specified in the agreement. Payment for services specified in the agreement shall be made pursuant to division (D) of section 3317.11 of the Revised Code and shall not include any deduction under division (B), (C), or (F) of that section. Any agreement entered into pursuant to this section shall be valid only if a copy is filed with the department of education by the first day of the school year for which the agreement is in effect.

The authority granted under this section to the boards of education of city ~~and,~~ exempted village, and local school districts is in addition to the authority granted to such boards under section 3313.843 of the Revised Code. ~~No city or exempted village district that is eligible to receive services from an educational service center under section 3313.843 of the Revised Code may receive any of the services described in division (B) of that section pursuant to an agreement entered into with an educational service~~

~~center under this section.~~

~~If a local school district enters into an agreement with an educational service center under this section and the district is not located within the territory of the service center, the agreement shall not require the district to receive any supervisory services described in division (B) of section 3317.11 of the Revised Code from the service center. The supervisory services described in that section shall be provided to the district by the educational service center of the territory in which the district is located.~~

Sec. 3313.846. The governing board of an educational service center may enter into a contract with any political subdivision as defined in section 2744.01 of the Revised Code, not including school districts, community schools, or STEM schools contracting for services under section 3313.843, 3313.844, 3313.845, or 3326.45 of the Revised Code, under which the educational service center will provide services to the political subdivision. Services provided under the contract and the amount to be paid for such services shall be mutually agreed to by the parties and shall be specified in the contract. The political subdivision shall directly pay an educational service center for services specified in the contract. The board of the educational service center shall file a copy of each contract entered into under this section with the department of education by the first day the contract is in effect.

Sec. 3313.88. (A)(1) Prior to the first day of August of each school year, the board of education of any school district or the governing authority of any chartered nonpublic school may submit to the department of education a plan to require students to access and complete classroom lessons posted on the district's or nonpublic school's web portal or web site in order to make up days in that school year on which it is necessary to close schools for any of the reasons specified in division (B) of section 3317.01 of the Revised Code in excess of the number of days permitted under sections 3313.48, 3313.481, and 3317.01 of the Revised Code.

Prior to the first day of August of each school year, the governing authority of any community school established under Chapter 3314. that is not an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, may submit to the department a plan to require students to access and complete classroom lessons posted on the school's web portal or web site in order to make up days or hours in that school year on which it is necessary to close the school for any of the reasons specified in division (L)(4) of section 3314.08 of the Revised Code so that the school is in compliance with the minimum number of hours required under Chapter 3314. of the Revised Code.

A plan submitted by a school district board or chartered nonpublic school governing authority shall provide for making up any number of days, up to a maximum of three days. A plan submitted by a community school governing authority shall provide for making up any number of hours, up to a maximum of the equivalent of three days. Provided the plan meets all requirements of this section, the department shall permit the board or governing authority to implement the plan for the applicable school year.

(2) Each plan submitted under this section by a school district board of education shall include the written consent of the teachers' employee representative designated under division (B) of section 4117.04 of the Revised Code.

(3) Each plan submitted under this section shall provide for the following:

(a) Not later than the first day of November of the school year, each classroom teacher shall develop a sufficient number of lessons for each course taught by the teacher that school year to cover the number of make-up days or hours specified in the plan. The teacher shall designate the order in which the lessons are to be posted on the district's, community school's, or nonpublic school's web portal or web site in the event of a school closure. Teachers may be granted up to one professional development day to create lesson plans for those lessons.

(b) To the extent possible and necessary, a classroom teacher shall update or replace, based on current instructional progress, one or more of the lesson plans developed under division (A)(3)(a) of this section before they are posted on the web portal or web site under division (A)(3)(c) of this section or distributed under division (B) of this section.

(c) As soon as practicable after a school closure, a district or school employee responsible for web portal or web site operations shall make the designated lessons available to students on the district's, community school's, or nonpublic school's portal or site. A lesson shall be posted for each course that was scheduled to meet on the day or hours of the closure.

(d) Each student enrolled in a course for which a lesson is posted on the portal or site shall be granted a two-week period from the date of posting to complete the lesson. The student's classroom teacher shall grade the lesson in the same manner as other lessons. The student may receive an incomplete or failing grade if the lesson is not completed on time.

(e) If a student does not have access to a computer at the student's residence and the plan does not include blizzard bags under division (B) of this section, the student shall be permitted to work on the posted lessons at school after the student's school reopens. If the lessons were posted prior to

the reopening, the student shall be granted a two-week period from the date of the reopening, rather than from the date of posting as otherwise required under division (A)(3)(d) of this section, to complete the lessons. The district board or community school or nonpublic school governing authority may provide the student access to a computer before, during, or after the regularly scheduled school day or may provide a substantially similar paper lesson in order to complete the lessons.

(B)(1) In addition to posting classroom lessons online under division (A) of this section, the board of education of any school district or governing authority of any community or chartered nonpublic school may include in the plan distribution of "blizzard bags," which are paper copies of the lessons posted online.

(2) If a school opts to use blizzard bags, teachers shall prepare paper copies in conjunction with the lessons to be posted online and update the paper copies whenever the teacher updates the online lesson plans.

(3) The board of education of any school district or governing authority of any community or chartered nonpublic school that opts to use blizzard bags shall specify in the plan the method of distribution of blizzard bag lessons, which may include, but not be limited to, requiring distribution by a specific deadline or requiring distribution prior to anticipated school closure as directed by the superintendent of a school district or the principal, director, chief administrative officer, or the equivalent, of a school.

(4) Students shall turn in completed lessons in accordance with division (A)(3)(d) of this section.

(C)(1) No school district that implements a plan in accordance with this section shall be considered to have failed to comply with division (B) of section 3317.01 of the Revised Code with respect to the number of make-up days specified in the plan.

(2) No community school that implements a plan in accordance with this section shall be considered to have failed to comply with the minimum number of hours required under Chapter 3314. of the Revised Code with respect to the number of make-up hours specified in the plan.

Sec. 3313.911. The state board of education may adopt a resolution assigning a city, exempted village, or local school district that is not a part of a joint vocational school district to membership in a joint vocational school district. A copy of the resolution shall be certified to the board of education of the joint vocational school district and the board of education of the district proposed to be assigned. The board of education of the joint vocational school district shall advertise a copy of the resolution in a newspaper of general circulation in the district proposed to be assigned once

each week for ~~at least~~ two weeks, or as provided in section 7.16 of the Revised Code, immediately following the certification of the resolution to the board. The assignment shall take effect on the ninety-first day after the state board adopts the resolution, unless prior to that date qualified electors residing in the school district proposed for assignment, equal in number to ten per cent of the qualified electors of that district voting at the last general election, file a petition against the assignment.

The petition of referendum shall be filed with the treasurer of the board of education of the district proposed to be assigned to the joint vocational school district. The treasurer shall give the person presenting the petition a receipt showing the time of day, date, and purpose of the petition. The treasurer shall cause the board of elections to determine the sufficiency of signatures on the petition and if the signatures are found to be sufficient, shall present the petition to the board of education of the district. The board of education shall promptly certify the question to the board of elections for the purpose of having the question placed on the ballot at the next general, primary, or special election not earlier than sixty days after the date of the certification.

Only those qualified electors residing in the district proposed for assignment to the joint vocational school district are qualified to vote on the question. If a majority of the electors voting on the question vote against the assignment, it shall not take place, and the state board of education shall require the district to contract with the joint vocational school district or another school district as authorized by section 3313.91 of the Revised Code.

If a majority of the electors voting on the question do not vote against the assignment, the assignment shall take immediate effect, and the board of education of the joint vocational school district shall notify the county auditor of the county in which the school district becoming a part of the joint vocational school district is located to have any outstanding levy of the joint vocational school district spread over the territory of the school district that has become a part of the joint vocational school district.

The assignment of a school district to a joint vocational school district pursuant to this section is subject to any agreements made between the board of education of the assigned school district and the board of education of the joint vocational school district. Such an agreement may include provisions for a payment by the assigned school district to the joint vocational school district of an amount to be contributed toward the cost of the existing facilities of the joint vocational school district.

On the assignment of a school district to a joint vocational school

district pursuant to this section, the joint vocational school district's board of education shall submit a proposal to the state board of education to enlarge or reorganize the membership of the joint vocational school district's board of education if expansion or reorganization of the board is necessary in order to comply with section 3311.19 of the Revised Code.

Sec. 3313.97. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section does not apply to any joint vocational or cooperative education school district.

(A) As used in this section:

(1) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(2) "Alternative school" means a school building other than the one to which a student is assigned by the district superintendent.

(3) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(B) The board of education of each city, local, and exempted village school district shall adopt an open enrollment policy allowing students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code to enroll in an alternative school. Each policy shall provide for the following:

(1) Application procedures, including deadlines for application and for notification of students and principals of alternative schools whenever a student's application is accepted. The policy shall require a student to apply only if the student wishes to attend an alternative school.

(2) The establishment of district capacity limits by grade level, school building, and education program;

(3) A requirement that students enrolled in a school building or living in any attendance area of the school building established by the superintendent or board be given preference over applicants;

(4) Procedures to ensure that an appropriate racial balance is maintained in the district schools.

Each policy may permit a student to permanently transfer to an alternative school so that the student need not reapply annually for permission to attend the alternative school.

(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting applicants to alternative schools shall not include:

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;

(2) Limitations on admitting applicants because of disabling conditions, except that a board may require a student receiving services under Chapter

3323. of the Revised Code to attend school where the services described in the student's IEP are available;

(3) A requirement that the student be proficient in the English language;

(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant to an alternative school.

(D)(1) Notwithstanding Chapter 3327. of the Revised Code, and except as provided in division (D)(2) of this section, a district board is not required to provide transportation to a nondisabled student enrolled in an alternative school unless such student can be picked up and dropped off at a regular school bus stop designated in accordance with the board's transportation policy or unless the board is required to provide additional transportation to the student in accordance with a court-approved desegregation plan.

(2) A district board shall provide transportation to any student described in 20 U.S.C. 6316(b)(1)(F) to the extent required by division (E) of section 3302.04 of the Revised Code, except that no district board shall be required to provide transportation to any such student after the school in which the student was enrolled immediately prior to enrolling in the alternative school makes adequate yearly progress, as defined in section 3302.01 of the Revised Code, for two consecutive school years.

(E) Each school board shall provide information about the policy adopted under this section and the application procedures and deadlines to the parent of each student in the district and to the general public.

(F) The state board of education shall monitor school districts to ensure compliance with this section and the districts' policies.

Sec. 3313.975. As used in this section and in sections 3313.975 to 3313.979 of the Revised Code, "the pilot project school district" or "the district" means any school district included in the pilot project scholarship program pursuant to this section.

(A) The superintendent of public instruction shall establish a pilot project scholarship program and shall include in such program any school districts that are or have ever been under federal court order requiring supervision and operational management of the district by the state superintendent. The program shall provide for a number of students residing in any such district to receive scholarships to attend alternative schools, and for an equal number of students to receive tutorial assistance grants while attending public school in any such district.

(B) The state superintendent shall establish an application process and deadline for accepting applications from students residing in the district to participate in the scholarship program. In the initial year of the program students may only use a scholarship to attend school in grades kindergarten through third.

The state superintendent shall award as many scholarships and tutorial assistance grants as can be funded given the amount appropriated for the program. In no case, however, shall more than fifty per cent of all scholarships awarded be used by students who were enrolled in a nonpublic school during the school year of application for a scholarship.

(C)(1) The pilot project program shall continue in effect each year that the general assembly has appropriated sufficient money to fund scholarships and tutorial assistance grants. In each year the program continues, ~~no~~ new students may receive scholarships ~~unless they are enrolled~~ in grades kindergarten to ~~eight~~ twelve. ~~However, any~~ A student who has received a scholarship ~~the preceding year~~ may continue to receive one until the student has completed grade ~~ten. Beginning in the 2005-2006 academic year, a student who previously has received a scholarship may receive a scholarship in grade eleven. Beginning in the 2006-2007 academic year, a student who previously has received a scholarship may receive a scholarship in grade~~ twelve.

(2) If the general assembly discontinues the scholarship program, all students who are attending an alternative school under the pilot project shall be entitled to continued admittance to that specific school through all grades that are provided in such school, under the same conditions as when they were participating in the pilot project. The state superintendent shall continue to make scholarship payments in accordance with division (A) or (B) of section 3313.979 of the Revised Code for students who remain enrolled in an alternative school under this provision in any year that funds have been appropriated for this purpose.

If funds are not appropriated, the tuition charged to the parents of a student who remains enrolled in an alternative school under this provision shall not be increased beyond the amount equal to the amount of the scholarship plus any additional amount charged that student's parent in the most recent year of attendance as a participant in the pilot project, except that tuition for all the students enrolled in such school may be increased by the same percentage.

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of the Revised Code, if the pilot project school district experiences a decrease in enrollment due to participation in a state-sponsored scholarship program

pursuant to sections 3313.974 to 3313.979 of the Revised Code, the district board of education may enter into an agreement with any teacher it employs to provide to that teacher severance pay or early retirement incentives, or both, if the teacher agrees to terminate the employment contract with the district board, provided any collective bargaining agreement in force pursuant to Chapter 4117. of the Revised Code does not prohibit such an agreement for termination of a teacher's employment contract.

Sec. 3313.978. (A) Annually by the first day of November, the superintendent of public instruction shall notify the pilot project school district of the number of initial scholarships that the state superintendent will be awarding in each of grades kindergarten through ~~eight~~ twelve.

The state superintendent shall provide information about the scholarship program to all students residing in the district, shall accept applications from any such students until such date as shall be established by the state superintendent as a deadline for applications, and shall establish criteria for the selection of students to receive scholarships from among all those applying prior to the deadline, which criteria shall give preference to students from low-income families. For each student selected, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the scholarship amount. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the scholarship amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the scholarship amount. The state superintendent shall notify students of their selection prior to the fifteenth day of January and whether they qualify for seventy-five or ninety per cent of the scholarship amount.

(1) A student receiving a pilot project scholarship may utilize it at an alternative public school by notifying the district superintendent, at any time before the beginning of the school year, of the name of the public school in an adjacent school district to which the student has been accepted pursuant to section 3327.06 of the Revised Code.

(2) A student may decide to utilize a pilot project scholarship at a registered private school in the district if all of the following conditions are met:

(a) By the fifteenth day of February of the preceding school year, or at any time prior to the start of the school year, the parent makes an application on behalf of the student to a registered private school.

(b) The registered private school notifies the parent and the state

superintendent as follows that the student has been admitted:

(i) By the fifteenth day of March of the preceding school year if the student filed an application by the fifteenth day of February and was admitted by the school pursuant to division (A) of section 3313.977 of the Revised Code;

(ii) Within one week of the decision to admit the student if the student is admitted pursuant to division (C) of section 3313.977 of the Revised Code.

(c) The student actually enrolls in the registered private school to which the student was first admitted or in another registered private school in the district or in a public school in an adjacent school district.

(B) The state superintendent shall also award in any school year tutorial assistance grants to a number of students equal to the number of students who receive scholarships under division (A) of this section. Tutorial assistance grants shall be awarded solely to students who are enrolled in the public schools of the district in a grade level covered by the pilot project. Tutorial assistance grants may be used solely to obtain tutorial assistance from a provider approved pursuant to division (D) of section 3313.976 of the Revised Code.

All students wishing to obtain tutorial assistance grants shall make application to the state superintendent by the first day of the school year in which the assistance will be used. The state superintendent shall award assistance grants in accordance with criteria the superintendent shall establish. For each student awarded a grant, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the grant amount and so notify the student. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the grant amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the grant amount.

(C)(1) In the case of basic scholarships for students in grades kindergarten through eight, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or three thousand dollars before fiscal year 2007 ~~and~~, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and four thousand two hundred fifty dollars in fiscal year 2012 and thereafter.

In the case of basic scholarships for students in grades nine through twelve, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or two

thousand seven hundred dollars before fiscal year 2007 ~~and~~, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and five thousand dollars in fiscal year 2012 and thereafter.

(2) The state superintendent shall provide for an increase in the basic scholarship amount in the case of any student who is a mainstreamed student with a disability and shall further increase such amount in the case of any separately educated student with a disability. Such increases shall take into account the instruction, related services, and transportation costs of educating such students.

(3) In the case of tutorial assistance grants, the grant amount shall not exceed the lesser of the provider's actual charges for such assistance or:

(a) Before fiscal year 2007, a percentage established by the state superintendent, not to exceed twenty per cent, of the amount of the pilot project school district's average basic scholarship amount;

(b) In fiscal year 2007 and thereafter, four hundred dollars.

(4) No scholarship or tutorial assistance grant shall be awarded unless the state superintendent determines that twenty-five or ten per cent, as applicable, of the amount specified for such scholarship or grant pursuant to division (C)(1), (2), or (3) of this section will be furnished by a political subdivision, a private nonprofit or for profit entity, or another person. Only seventy-five or ninety per cent of such amounts, as applicable, shall be paid from state funds pursuant to section 3313.979 of the Revised Code.

(D)(1) Annually by the first day of November, the state superintendent shall estimate the maximum per-pupil scholarship amounts for the ensuing school year. The state superintendent shall make this estimate available to the general public at the offices of the district board of education together with the forms required by division (D)(2) of this section.

(2) Annually by the fifteenth day of January, the chief administrator of each registered private school located in the pilot project district and the principal of each public school in such district shall complete a parental information form and forward it to the president of the board of education. The parental information form shall be prescribed by the department of education and shall provide information about the grade levels offered, the numbers of students, tuition amounts, achievement test results, and any sectarian or other organizational affiliations.

(E)(1) Only for the purpose of administering the pilot project scholarship program, the department may request from any of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any student who is seeking a scholarship under the program:

(a) The school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code;

(b) If applicable, the community school in which the student is enrolled;

(c) The independent contractor engaged to create and maintain data verification codes.

(2) Upon a request by the department under division (E)(1) of this section for the data verification code of a student seeking a scholarship or a request by the student's parent for that code, the school district or community school shall submit that code to the department or parent in the manner specified by the department. If the student has not been assigned a code, because the student will be entering kindergarten during the school year for which the scholarship is sought, the district shall assign a code to that student and submit the code to the department or parent by a date specified by the department. If the district does not assign a code to the student by the specified date, the department shall assign a code to the student.

The department annually shall submit to each school district the name and data verification code of each student residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (E) of this section to any person except as provided by law.

(F) Any document relative to the pilot project scholarship program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

(G)(1) The department annually shall compile the scores attained by scholarship students enrolled in registered private schools on the assessments administered to the students pursuant to division (A)(11) of section 3313.976 of the Revised Code. The scores shall be aggregated as follows:

(a) By school district, which shall include all scholarship students residing in the pilot project school district who are enrolled in a registered private school and were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code;

(b) By registered private school, which shall include all scholarship students enrolled in that school who were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code.

(2) The department shall disaggregate the student performance data described in division (G)(1) of this section according to the following categories:

(a) Age;

(b) Race and ethnicity;

(c) Gender;

(d) Students who have participated in the scholarship program for three or more years;

(e) Students who have participated in the scholarship program for more than one year and less than three years;

(f) Students who have participated in the scholarship program for one year or less;

(g) Economically disadvantaged students.

(3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.

(4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school district that the scholarship student would otherwise attend. In calculating the performance of similar students, the department shall consider age, grade, race and ethnicity, gender, and socioeconomic status.

Sec. 3313.981. (A) The state board of education shall adopt rules requiring all of the following:

(1) The board of education of each city, exempted village, and local school district to annually report to the department of education all of the following:

(a) The number of adjacent district or other district students, as applicable, and adjacent district or other district joint vocational students, as applicable, enrolled in the district and the number of native students enrolled in adjacent or other districts, in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or adjacent district or other district joint vocational student's date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or other district students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;

(d) Each native student's date of enrollment in an adjacent or other district.

(2) The board of education of each joint vocational school district to annually report to the department all of the following:

(a) The number of adjacent district or other district joint vocational students, as applicable, enrolled in the district;

(b) The full-time equivalent number of adjacent district or other district joint vocational students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the first full school week in October each year, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students or adjacent district or other district joint vocational students in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code to notify each adjacent or other district where those students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code of the number of the adjacent or other district's native students who are enrolled in the superintendent's district under the policy.

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter ~~3306.~~ 3317. of the Revised Code and, if necessary, from the payments made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students reported under division (A)(1) of this section who are enrolled in adjacent or

other school districts pursuant to policies adopted by such districts under division (B) of section 3313.98 of the Revised Code multiplied by the adjusted formula amount;

(2) The excess costs computed in accordance with division (E) of this section for any such native students receiving special education and related services in adjacent or other school districts or as an adjacent district or other district joint vocational student;

(3) For the full-time equivalent number of the district's native students reported under division (A)(1)(c) or (2)(b) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to ~~the formula amount~~ $5,732 times the applicable multiple prescribed by that section.

(C) To the payments made to a city, exempted village, or local school district under Chapter ~~3306.~~ 3317. of the Revised Code, the department of education shall annually add all of the following:

(1) An amount equal to the adjusted formula amount multiplied by the remainder obtained by subtracting the number of adjacent district or other district joint vocational students from the number of adjacent district or other district students enrolled in the district, as reported under division (A)(1) of this section;

(2) The excess costs computed in accordance with division (E) of this section for any adjacent district or other district students, except for any adjacent or other district joint vocational students, receiving special education and related services in the district;

(3) For the full-time equivalent number of the adjacent or other district students who are not adjacent district or other district joint vocational students and are reported under division (A)(1)(c) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to ~~the formula amount~~ $5,732 times the applicable multiple prescribed by that section;

(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to twenty per cent of the adjusted formula amount.

(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) The adjusted formula amount;

(2) An amount equal to the full-time equivalent number of students

reported pursuant to division (A)(2)(b) of this section times ~~the formula amount~~ $5,732 times the applicable multiple prescribed by section 3317.014 of the Revised Code.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the adjusted formula amount from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter ~~3306.~~ 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under division (E)(1) of this section is an adjacent or other district joint vocational student, the department of education shall add the amount of such excess costs to the payments made under Chapter ~~3306.~~ 3317. of the Revised Code to the joint vocational school district enrolling the student.

(F) As provided in division (D)(1)(b) of section 3317.03 of the Revised Code, no joint vocational school district shall count any adjacent or other district joint vocational student enrolled in the district in its formula ADM certified under section 3317.03 of the Revised Code.

(G) No city, exempted village, or local school district shall receive a payment under division (C) of this section for a student, and no joint vocational school district shall receive a payment under division (D) of this section for a student, if for the same school year that student is counted in the district's formula ADM certified under section 3317.03 of the Revised Code.

(H) Upon request of a parent, and provided the board offers transportation to native students of the same grade level and distance from school under section 3327.01 of the Revised Code, a city, exempted village, or local school board enrolling an adjacent or other district student shall provide transportation for the student within the boundaries of the board's district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy. Pursuant to rules of the state board of education, such board may reimburse the parent from funds received for pupil transportation under section ~~3306.12~~ 3317.0212 of the

Revised Code, or other provisions of law, for the reasonable cost of transportation from the student's home to the designated school bus stop if the student's family has an income below the federal poverty line.

Sec. 3314.012. (A) Within ninety days of September 28, 1999, the superintendent of public instruction shall appoint representatives of the department of education, including employees who work with the education management information system ~~and employees of the office of community schools established by section 3314.11 of the Revised Code~~, to a committee to develop report card models for community schools. ~~The director of the legislative office of education oversight shall also appoint representatives to the committee.~~ The committee shall design model report cards appropriate for the various types of community schools approved to operate in the state. Sufficient models shall be developed to reflect the variety of grade levels served and the missions of the state's community schools. All models shall include both financial and academic data. The initial models shall be developed by March 31, 2000.

(B) The department of education shall issue an annual report card for each community school, regardless of how long the school has been in operation. The report card shall report the academic and financial performance of the school utilizing one of the models developed under division (A) of this section. The report card shall include all information applicable to school buildings under division (A) of section 3302.03 of the Revised Code. The ratings a community school receives under section 3302.03 of the Revised Code for its first two full school years shall not be considered toward automatic closure of the school under section 3314.35 of the Revised Code or any other matter that is based on report card ratings.

(C) Upon receipt of a copy of a contract between a sponsor and a community school entered into under this chapter, the department of education shall notify the community school of the specific model report card that will be used for that school.

(D) Report cards shall be distributed to the parents of all students in the community school, to the members of the board of education of the school district in which the community school is located, and to any person who requests one from the department.

Sec. 3314.013. (A)~~(1) Until July 1, 2000, no more than seventy-five contracts between start-up schools and the state board of education may be in effect outside the pilot project area at any time under this chapter.~~

~~(2) After July 1, 2000, and until July 1, 2001, no more than one hundred twenty-five contracts between start-up schools and the state board of education may be in effect outside the pilot project area at any time under~~

~~this chapter.~~

~~(3) This division applies only to contracts between start-up schools and the state board of education and contracts between start-up schools and entities described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code.~~

~~Until July 1, 2005, not more than two hundred twenty-five contracts to which this division applies may be in effect at any time under this chapter.~~

~~(4) This division applies only to contracts between start-up schools and entities described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code.~~

~~Except as otherwise provided in section 3314.014 of the Revised Code, after July 1, 2005, and until July 1, 2007, the number of contracts to which this division applies in effect at any time under this chapter shall be not more than thirty plus the number of such contracts with schools that were open for operation as of May 1, 2005.~~

~~(5) This division applies only to contracts between a conversion school that is an internet- or computer-based community school or a start-up school and the board of education of the school district in which the school is or is proposed to be located.~~

~~Except as otherwise provided in section 3314.014 of the Revised Code, until July 1, 2007, the number of contracts to which this division applies in effect at any time under this chapter shall be not more than thirty plus the number of such contracts with schools that were open for operation as of May 1, 2005.~~

~~(6)~~ Until ~~the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools~~ January 1, 2013, no internet- or computer-based community school shall operate unless the school was open for instruction as of May 1, 2005. No entity described in division (C)(1) of section 3314.02 of the Revised Code shall enter into a contract to sponsor an internet- or computer-based community school, including a conversion school, between May 1, 2005, and ~~the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools~~ January 1, 2013, except as follows:

~~(a) Any~~ (1) The entity ~~described in division (C)(1) of that section~~ may renew a contract that the entity entered into with an internet- or computer-based community school prior to May 1, 2005, if the school was open for operation as of that date.

~~(b) Any~~ (2) The entity ~~described in divisions (C)(1)(a) to (e) of that section~~ may assume sponsorship of an existing internet- or computer-based

community school that was formerly sponsored by another entity and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code.

~~(c) Any entity described in division (C)(1)(f) of that section may assume sponsorship of an existing internet- or computer-based community school in accordance with division (A)(7) of this section and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code.~~

If a sponsor entered into a contract with an internet- or computer-based community school, including a conversion school, but the school was not open for operation as of May 1, 2005, the contract shall be void and the entity shall not enter into another contract with the school until ~~the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools~~ January 1, 2013.

~~(7) Until July 1, 2005, any entity described in division (C)(1)(f) of section 3314.02 of the Revised Code may sponsor only a community school that formerly was sponsored by the state board of education under division (C)(1)(d) of that section, as it existed prior to April 8, 2003. After July 1, 2005, any such entity may assume sponsorship of any existing community school, and may sponsor any new community school that is not an internet- or computer-based community school. Beginning on the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools, any such entity may sponsor a new internet- or computer-based community school.~~

~~(8)~~(B) Beginning January 1, 2013, up to five new internet- or computer-based community schools may open each year. If the governing authorities of more than five new schools notify the department of education under division (D) of section 3314.02 of the Revised Code, by a deadline established by the department, that they have signed a contract with a sponsor to open in the following school year, the department shall hold a lottery within thirty days after the deadline to choose the five schools that may open in that school year. The contract signed by the governing authority of any school not selected in the lottery shall be void, but the school may enter into a contract with a sponsor to open in a subsequent school year, subject to this division.

(C) Nothing in ~~division~~ divisions (A) or (B) of this section prohibits ~~a~~ an internet- or computer-based community school from increasing the number of grade levels it offers.

~~(B) Within twenty-four hours of a request by any person, the~~

~~superintendent of public instruction shall indicate the number of preliminary agreements for start-up schools currently outstanding and the number of contracts for these schools in effect at the time of the request.~~

~~(C) It is the intent of the general assembly to consider whether to provide limitations on the number of start-up community schools after July 1, 2001, following its examination of the results of the studies by the legislative office of education oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B. No. 770 of the 122nd general assembly~~ (D) Not later than July 1, 2012, the director of the governor's office of 21st century education and the superintendent of public instruction shall develop standards for the operation of internet- or computer-based community schools. The director shall submit those standards to the speaker of the house of representatives and the president of the senate for consideration of enactment by the general assembly.

Sec. 3314.015. (A) The department of education shall be responsible for the oversight of any and all sponsors of the community schools established under this chapter and shall provide technical assistance to schools and sponsors in their compliance with applicable laws and the terms of the contracts entered into under section 3314.03 of the Revised Code and in the development and start-up activities of those schools. In carrying out its duties under this section, the department shall do all of the following:

(1) In providing technical assistance to proposing parties, governing authorities, and sponsors, conduct training sessions and distribute informational materials;

(2) Approve entities to be sponsors of community schools;

(3) Monitor the effectiveness of any and all sponsors in their oversight of the schools with which they have contracted;

(4) By December thirty-first of each year, issue a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate committees principally responsible for education matters regarding the effectiveness of academic programs, operations, and legal compliance and of the financial condition of all community schools established under this chapter and on the performance of community school sponsors;

(5) From time to time, make legislative recommendations to the general assembly designed to enhance the operation and performance of community schools.

(B)(1) Except as provided in sections 3314.021 and 3314.027 of the

Revised Code, no entity listed in division (C)(1) of section 3314.02 of the Revised Code shall enter into a preliminary agreement under division (C)(2) of section 3314.02 of the Revised Code until it has received approval from the department of education to sponsor community schools under this chapter and has entered into a written agreement with the department regarding the manner in which the entity will conduct such sponsorship. The department shall adopt in accordance with Chapter 119. of the Revised Code rules containing criteria, procedures, and deadlines for processing applications for such approval, for oversight of sponsors, for revocation of the approval of sponsors, and for entering into written agreements with sponsors. The rules shall require an entity to submit evidence of the entity's ability and willingness to comply with the provisions of division (D) of section 3314.03 of the Revised Code. The rules also shall require entities approved as sponsors on and after June 30, 2005, to demonstrate a record of financial responsibility and successful implementation of educational programs. If an entity seeking approval on or after June 30, 2005, to sponsor community schools in this state sponsors or operates schools in another state, at least one of the schools sponsored or operated by the entity must be comparable to or better than the performance of Ohio schools in need of continuous improvement under section 3302.03 of the Revised Code, as determined by the department.

~~An~~ Subject to section 3314.016 of the Revised Code, an entity that sponsors community schools may enter into preliminary agreements and sponsor up to one hundred schools ~~as follows~~, provided each school and the contract for sponsorship meets the requirements of this chapter~~:~~

~~(a) An entity that sponsored fifty or fewer schools that were open for operation as of May 1, 2005, may sponsor not more than fifty schools.~~

~~(b) An entity that sponsored more than fifty but not more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005.~~

~~(c) Until June 30, 2006, an entity that sponsored more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005. After June 30, 2006, such an entity may sponsor not more than seventy-five schools.~~

~~Upon approval of an entity to be a sponsor under this division, the department shall notify the entity of the number of schools the entity may sponsor.~~

~~The limit imposed on an entity to which division (B)(1) of this section~~

~~applies shall be decreased by one for each school sponsored by the entity that permanently closes.~~

~~If at any time an entity exceeds the number of schools it may sponsor under this division, the department shall assist the schools in excess of the entity's limit in securing new sponsors. If a school is unable to secure a new sponsor, the department shall assume sponsorship of the school in accordance with division (C) of this section. Those schools for which another sponsor or the department assumes sponsorship shall be the schools that most recently entered into contracts with the entity under section 3314.03 of the Revised Code~~.

(2) The department of education shall determine, pursuant to criteria adopted by rule of the department, whether the mission proposed to be specified in the contract of a community school to be sponsored by a state university board of trustees or the board's designee under division (C)(1)(e) of section 3314.02 of the Revised Code complies with the requirements of that division. Such determination of the department is final.

(3) The department of education shall determine, pursuant to criteria adopted by rule of the department, if any tax-exempt entity under section 501(c)(3) of the Internal Revenue Code that is proposed to be a sponsor of a community school is an education-oriented entity for purpose of satisfying the condition prescribed in division (C)(1)(f)(iii) of section 3314.02 of the Revised Code. Such determination of the department is final.

(C) If at any time the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any community school or with the department's rules for sponsorship, the state board or designee shall conduct a hearing in accordance with Chapter 119. of the Revised Code on that matter. If after the hearing, the state board or designee has confirmed the original finding, the department of education may revoke the sponsor's approval to sponsor community schools and may assume the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor as described in division (C)(1) of section 3314.02 of the Revised Code is secured by the school's governing authority. The department may extend the term of the contract in the case of a school for which it has assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division.

(D) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship under division (C) of this section, may be appealed by the entity

in accordance with section 119.12 of the Revised Code.

(E) The department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

(F) In carrying out its duties under this chapter, the department shall not impose requirements on community schools or their sponsors that are not permitted by law or duly adopted rules.

Sec. 3314.016. This section applies to any entity that sponsors a community school, regardless of whether section 3314.021 or 3314.027 of the Revised Code exempts the entity from the requirement to be approved for sponsorship under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code.

(A) An entity that sponsors a community school shall be permitted to enter into contracts under section 3314.03 of the Revised Code to sponsor additional community schools only if the entity meets both of the following criteria:

(1) The entity is in compliance with all provisions of this chapter requiring sponsors of community schools to report data or information to the department of education.

(2) The entity is not ranked in the lowest twenty per cent of community school sponsors on the ranking prescribed by division (B) of this section.

(B) For purposes of this section, the department shall develop a composite performance index score, as defined in section 3302.01 of the Revised Code, that measures the academic performance of students enrolled in community schools sponsored by the same entity. In calculating the composite performance index score, the department shall exclude all community schools described in division (A)(3) of section 3314.35 of the Revised Code, but the department shall cease to exclude those schools beginning January 1, 2013, if the general assembly does not enact by that date separate performance standards for community schools that operate dropout prevention and recovery programs and for community schools that serve students with disabilities. The department annually shall rank all entities that sponsor community schools from highest to lowest according to the entities' composite performance index scores.

(C) If the governing authority of a community school enters into a contract with a sponsor prior to the date on which the sponsor is prohibited from sponsoring additional schools under division (A) of this section and the

school has not opened for operation as of that date, that contract shall be void and the school shall not open until the governing authority secures a new sponsor by entering into a contract with the new sponsor under section 3314.03 of the Revised Code.

Sec. 3314.02. (A) As used in this chapter:

(1) "Sponsor" means an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community schools and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:

(a) A school district that is part of the pilot project area;

(b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;

(c) A big eight school district;

(d) A school district ranked in the lowest five per cent of school districts according to performance index score under section 3302.21 of the Revised Code.

(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:

(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;

(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.

(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school or educational service center building, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.

(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.

(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom

instruction or via comprehensive instructional methods that include internet-based, other computer-based, and noncomputer-based learning opportunities.

(8) "Operator" means either of the following:

(a) An individual or organization that manages the daily operations of a community school pursuant to a contract between the operator and the school's governing authority;

(b) A nonprofit organization that provides programmatic oversight and support to a community school under a contract with the school's governing authority and that retains the right to terminate its affiliation with the school if the school fails to meet the organization's quality standards.

(B) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school or a building operated by an educational service center to a community school. The proposal shall be made to the board of education of the city, local, exempted village, or joint vocational school district in which the public school is proposed to be converted or, in the case of the conversion of a building operated by an educational service center, to the governing board of the service center. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school or service center building, indicating the intention of the board to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the board. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C)(1) Any person or group of individuals may propose under this division the establishment of a new start-up school to be located in a challenged school district. The proposal may be made to any of the following entities:

(a) The board of education of the district in which the school is proposed to be located;

(b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;

(c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in

which the school is proposed to be located has the major portion of its territory;

(d) The governing board of any educational service center, as long as the proposed school will be located in a county within the territory of the service center or in a county contiguous to such county;

(e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;

(f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:

(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.

(ii) The entity has assets of at least five hundred thousand dollars and a demonstrated record of financial responsibility.

(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code and the entity has a demonstrated record of successful implementation of educational programs.

(iv) The entity is not a community school.

Any entity described in division (C)(1) of this section may enter into a preliminary agreement pursuant to division (C)(2) of this section with the proposing person or group.

(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.

(3) A new start-up school that is established in a school district while that district is either in a state of academic emergency or in a state of

academic watch under section 3302.03 of the Revised Code or ranked in the lowest five per cent according to performance index score under section 3302.21 of the Revised Code may continue in existence once the school district is no longer in a state of academic emergency or academic watch or ranked in the lowest five per cent according to performance index score, provided there is a valid contract between the school and a sponsor.

(4) A copy of every preliminary agreement entered into under this division shall be filed with the superintendent of public instruction.

(D) A majority vote of the board of a sponsoring entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school or educational service center building to a community school or establish the new start-up school. Beginning September 29, 2005, adoption of the contract shall occur not later than the fifteenth day of March, and signing of the contract shall occur not later than the fifteenth day of May, prior to the school year in which the school will open. The governing authority shall notify the department of education when the contract has been signed. Subject to sections 3314.013~~, 3314.014,~~ and 3314.016~~, and 3314.017~~ of the Revised Code, an unlimited number of community schools may be established in any school district provided that a contract is entered into for each community school pursuant to this chapter.

(E)(1) As used in this division, "immediate relatives" are limited to spouses, children, parents, grandparents, siblings, and in-laws.

Each new start-up community school established under this chapter shall be under the direction of a governing authority which shall consist of a board of not less than five individuals.

No person shall serve on the governing authority or operate the community school under contract with the governing authority so long as the person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

(2) No person shall serve on the governing authorities of more than two start-up community schools at the same time.

(3) No present or former member, or immediate relative of a present or former member, of the governing authority of any community school established under this chapter shall be an owner, employee, or consultant of any ~~nonprofit~~ sponsor or ~~for-profit~~ operator of a community school, unless at least one year has elapsed since the conclusion of the person's membership.

(4) The governing authority of a start-up community school may

provide by resolution for the compensation of its members. However, no individual who serves on the governing authority of a start-up community school shall be compensated more than four hundred twenty-five dollars per meeting of that governing authority and no such individual shall be compensated more than a total amount of five thousand dollars per year for all governing authorities upon which the individual serves.

(F)(1) A new start-up school that is established prior to August 15, 2003, in an urban school district that is not also a big-eight school district may continue to operate after that date and the contract between the school's governing authority and the school's sponsor may be renewed, as provided under this chapter, after that date, but no additional new start-up schools may be established in such a district unless the district is a challenged school district as defined in this section as it exists on and after that date.

(2) A community school that was established prior to June 29, 1999, and is located in a county contiguous to the pilot project area and in a school district that is not a challenged school district may continue to operate after that date, provided the school complies with all provisions of this chapter. The contract between the school's governing authority and the school's sponsor may be renewed, but no additional start-up community school may be established in that district unless the district is a challenged school district.

(3) Any educational service center that, on June 30, 2007, sponsors a community school that is not located in a county within the territory of the service center or in a county contiguous to such county may continue to sponsor that community school on and after June 30, 2007, and may renew its contract with the school. However, the educational service center shall not enter into a contract with any additional community school unless the school is located in a county within the territory of the service center or in a county contiguous to such county.

Sec. 3314.021. (A) This section applies to any entity that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and that satisfies the conditions specified in divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the Revised Code but does not satisfy the condition specified in division (C)(1)(f)(i) of that section.

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 of the Revised Code, an entity described in division (A) of this section may do both of the following without obtaining the department of education's initial approval of its sponsorship under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code:

(1) Succeed the board of trustees of a state university located in the pilot

project area or that board's designee as the sponsor of a community school established under this chapter;

(2) Continue to sponsor that school in conformance with the terms of the contract between the board of trustees or its designee and the governing authority of the community school and renew that contract as provided in division (E) of section 3314.03 of the Revised Code.

(C) The entity that succeeds the board of trustees or the board's designee as sponsor of a community school under division (B) of this section also may enter into contracts to sponsor other community schools located in any challenged school district, without obtaining the department's initial approval of its sponsorship of those schools under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code~~, and not subject to the restriction of division (A)(7) of section 3314.013 of the Revised Code,~~ as long as the contracts conform with and the entity complies with all other requirements of this chapter.

(D) Regardless of the entity's authority to sponsor community schools without the initial approval of the department, the entity is under the continuing oversight of the department in accordance with rules adopted under section 3314.015 of the Revised Code.

Sec. 3314.023. In order to provide monitoring and technical assistance, ~~the sponsor of a community school shall be located or have representatives located within fifty miles of the location of the community school, or in the case of an internet- or computer-based community school, within fifty miles of the school's base of operation. A~~ a representative of the sponsor of a community school shall meet with the governing authority or treasurer of the school and shall review the financial and enrollment records of the school at least once every ~~two months~~ month.

Sec. 3314.029. This section establishes the Ohio school sponsorship program. The department of education shall establish an office of Ohio school sponsorship to perform the department's duties prescribed by this section.

(A)(1) Notwithstanding anything to the contrary in this chapter, but subject to section 3314.20 of the Revised Code, any person, group of individuals, or entity may apply to the department for direct authorization to establish a community school and, upon approval of the application, may establish the school. Notwithstanding anything to the contrary in this chapter, the governing authority of an existing community school, upon the expiration or termination of its contract with the school's sponsor entered into under section 3314.03 of the Revised Code, may apply to the department for direct authorization to continue operating the school and,

upon approval of the application, may continue to operate the school.

Each application submitted to the department shall include the following:

(a) Evidence that the applicant will be able to comply with division (C) of this section;

(b) A statement indicating that the applicant agrees to comply with all applicable provisions of this chapter, including the requirement to be established as a nonprofit corporation or public benefit corporation in accordance with division (A)(1) of section 3314.03 of the Revised Code;

(c) A statement attesting that no unresolved finding of recovery has been issued by the auditor of state against any person, group of individuals, or entity that is a party to the application and that no person who is party to the application has been a member of the governing authority of any community school that has permanently closed and against which an unresolved finding of recovery has been issued by the auditor of state. In the case of an application submitted by the governing authority of an existing community school, a person who is party to the application shall include each individual member of that governing authority.

(d) A statement that the school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;

(e) A statement of whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school. If it is a converted public school or service center building, the statement shall include a specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees, provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees.

(f) A statement that the school's teachers will be licensed in the manner prescribed by division (A)(10) of section 3314.03 of the Revised Code;

(g) A statement that the school will comply with all of the provisions of law enumerated in divisions (A)(11)(d) and (e) of section 3314.03 of the Revised Code and of division (A)(11)(h) of that section, if applicable;

(h) A statement that the school's graduation and curriculum requirements will comply with division (A)(11)(f) of section 3314.03 of the Revised Code;

(i) A description of each of the following:

(i) The school's mission and educational program, the characteristics of the students the school is expected to attract, the ages and grade levels of students, and the focus of the curriculum;

(ii) The school's governing authority, which shall be in compliance with division (E) of section 3314.02 of the Revised Code;

(iii) The school's admission and dismissal policies, which shall be in compliance with divisions (A)(5) and (6) of section 3314.03 of the Revised Code;

(iv) The school's business plan, including a five-year financial forecast;

(v) In the case of an application to establish a community school, the applicant's resources and capacity to establish and operate the school;

(vi) The school's academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

(vii) The facilities to be used by the school and their locations;

(viii) A description of the learning opportunities that will be offered to students including both classroom-based and nonclassroom-based learning opportunities that are in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code.

(2) Subject to division (A)(3) of this section, the department shall approve each application, unless, within thirty days after receipt of the application, the department determines that the application does not satisfy the requirements of division (A)(1) of this section and provides the applicant a written explanation of the reasons for the determination. In that case, the department shall grant the applicant thirty days to correct the insufficiencies in the application. If the department determines that the insufficiencies have been corrected, it shall approve the application. If the department determines that the insufficiencies have not been corrected, it shall deny the application and provide the applicant with a written explanation of the reasons for the denial. The denial of an application may be appealed in accordance with section 119.12 of the Revised Code.

(3) For each of five school years, beginning with the school year that begins in the calendar year in which this section takes effect, the department may approve up to twenty applications for community schools to be established or to continue operation under division (A) of this section; however, of the twenty applications that may be approved each school year, only up to five may be for the establishment of new schools.

(B) The department and the governing authority of each community school authorized under this section shall enter into a contract under section

3314.03 of the Revised Code. Notwithstanding division (A)(13) of that section, the contract with an existing community school may begin at any time during the academic year. The length of the initial contract of any community school under this section may be for any term up to five years. The contract may be renewed in accordance with division (E) of that section. The contract may provide for the school's governing authority to pay a fee for oversight and monitoring of the school that does not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(C) The department may require a community school authorized under this section to post and file with the superintendent of public instruction a bond payable to the state or to file with the state superintendent a guarantee, which shall be used to pay the state any moneys owed by the community school in the event the school closes.

(D) Except as otherwise provided in this section, a community school authorized under this section shall comply with all applicable provisions of this chapter. The department may take any action that a sponsor may take under this chapter to enforce the school's compliance with this division and the terms of the contract entered into under division (B) of this section.

(E) Not later than December 31, 2012, and annually thereafter, the department shall issue a report on the program, including information about the number of community schools participating in the program and their compliance with the provisions of this chapter. In its fifth report, the department shall include a complete evaluation of the program and recommendations regarding the program's continuation. Each report shall be provided to the general assembly, in accordance with section 101.68 of the Revised Code, and to the governor.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement

that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

(4) Performance standards by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including the following:

(a) A requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(b) A requirement that each classroom teacher initially hired by the school on or after July 1, 2013, and employed to provide instruction in physical education hold a valid license issued pursuant to section 3319.22 of the Revised Code for teaching physical education.

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution.

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0712,

3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.814, 3313.816, ~~3314.817~~ 3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code.

(e) The school shall comply with Chapter 102. and section 2921.42 of the Revised Code.

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that for students who enter ninth grade for the first time before July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education. Beginning with students who enter ninth grade for the first time on or after July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum of a high school prior to receiving a high school diploma shall be met by completing the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code, unless the person qualifies under division (D) or (F) of that section. Each school shall comply with the plan for awarding high school credit based on demonstration of subject area competency, adopted by the state board of education under division (J) of section 3313.603 of the Revised Code.

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor and the parents of all students enrolled in the school.

(h) The school, unless it is an internet- or computer-based community school, will comply with ~~sections 3313.674 and~~ section 3313.801 of the Revised Code as if it were a school district.

(i) If the school is the recipient of moneys from a grant awarded under

the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the school will pay teachers based upon performance in accordance with section 3317.141 and will comply with section 3319.111 of the Revised Code as if it were a school district.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code

and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action;

(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code;

(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of section 3302.04 of the Revised Code.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02

of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or

terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;

(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not enter into a contract with any other sponsor. A school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code. ~~Any contract that becomes void under this division shall not count toward any statewide limit on the number of such contracts prescribed by section 3314.013 of the Revised Code.~~

Sec. 3314.05. (A) The contract between the community school and the sponsor shall specify the facilities to be used for the community school and the method of acquisition. Except as provided in ~~division~~ divisions (B)(3) and (4) of this section, no community school shall be established in more than one school district under the same contract.

(B) Division (B) of this section shall not apply to internet- or computer-based community schools.

(1) A community school may be located in multiple facilities under the same contract only if the limitations on availability of space prohibit serving all the grade levels specified in the contract in a single facility or division (B)(2) ~~or,~~ (3), or (4) of this section applies to the school. The school shall not offer the same grade level classrooms in more than one facility.

(2) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as all of the following apply:

(a) The governing authority of the community school filed a copy of its contract with the school's sponsor under section 3314.03 of the Revised Code with the superintendent of public instruction on or before May 15, 2008.

(b) The school was not open for operation prior to July 1, 2008.

(c) The governing authority has entered into and maintains a contract with an operator of the type described in division (A)~~(2)~~(8)(b) of section ~~3314.014~~ 3314.02 of the Revised Code.

(d) The contract with that operator qualified the school to be established pursuant to division (A) of former section 3314.016 of the Revised Code.

(e) The school's rating under section 3302.03 of the Revised Code does not fall below "in need of continuous improvement" for two or more consecutive years.

(3) A new start-up community school may be established in two school districts under the same contract if all of the following apply:

(a) At least one of the school districts in which the school is established is a challenged school district;

(b) The school operates not more than one facility in each school district and, in accordance with division (B)(1) of this section, the school does not offer the same grade level classrooms in both facilities; and

(c) Transportation between the two facilities does not require more than thirty minutes of direct travel time as measured by school bus.

In the case of a community school to which division (B)(3) of this section applies, if only one of the school districts in which the school is established is a challenged school district, that district shall be considered the school's primary location and the district in which the school is located for the purposes of division (A)(19) of section 3314.03 and divisions (C) and (H) of section 3314.06 of the Revised Code and for all other purposes of this chapter. If both of the school districts in which the school is established are challenged school districts, the school's governing authority shall designate one of those districts to be considered the school's primary location and the district in which the school is located for the purposes of those divisions and all other purposes of this chapter and shall notify the department of education of that designation.

(4) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as both of the following apply:

(a) The facilities are all located in the same county.

(b) The governing authority has entered into and maintains a contract

with an operator.

In the case of a community school to which division (B)(4) of this section applies and that maintains facilities in more than one school district, the school's governing authority shall designate one of those districts to be considered the school's primary location and the district in which the school is located for the purposes of division (A)(19) of section 3314.03 and divisions (C) and (H) of section 3314.06 of the Revised Code and for all other purposes of this chapter and shall notify the department of that designation.

(5) Any facility used for a community school shall meet all health and safety standards established by law for school buildings.

(C) In the case where a community school is proposed to be located in a facility owned by a school district or educational service center, the facility may not be used for such community school unless the district or service center board owning the facility enters into an agreement for the community school to utilize the facility. Use of the facility may be under any terms and conditions agreed to by the district or service center board and the school.

(D) Two or more separate community schools may be located in the same facility.

(E) In the case of a community school that is located in multiple facilities, beginning July 1, 2012, the department shall assign a unique identification number to the school and to each facility maintained by the school. Each number shall be used for identification purposes only. Nothing in this division shall be construed to require the department to calculate the amount of funds paid under this chapter, or to compute any data required for the report cards issued under section 3314.012 of the Revised Code, for each facility separately. The department shall make all such calculations or computations for the school as a whole.

Sec. 3314.051. (A) When the governing authority of a community school that acquired real property from a school district pursuant to former division (G)(2) of section 3313.41 of the Revised Code decides to dispose of that property, it first shall offer that property for sale to the school district board of education from which it acquired the property, at a price that is not higher than the appraised fair market value of that property. If the district board does not accept the offer within sixty days after the offer is made, the community school may dispose of the property in another lawful manner.

(B) When a community school that acquired real property from a school district pursuant to former division (G)(2) of section 3313.41 of the Revised Code permanently closes, in distributing the school's assets under section 3314.074 of the Revised Code, that property first shall be offered for sale to

the school district board of education from which the community school acquired the property, at a price that is not higher than the appraised fair market value of that property. If the district board does not accept the offer within sixty days after the offer is made, the property may be disposed in another lawful manner.

Sec. 3314.07. (A) The expiration of the contract for a community school between a sponsor and a school shall be the date provided in the contract. A successor contract may be entered into pursuant to division (E) of section 3314.03 of the Revised Code unless the contract is terminated or not renewed pursuant to this section.

(B)(1) A sponsor may choose not to renew a contract at its expiration or may choose to terminate a contract prior to its expiration for any of the following reasons:

(a) Failure to meet student performance requirements stated in the contract;

(b) Failure to meet generally accepted standards of fiscal management;

(c) Violation of any provision of the contract or applicable state or federal law;

(d) Other good cause.

(2) A sponsor may choose to terminate a contract prior to its expiration if the sponsor has suspended the operation of the contract under section 3314.072 of the Revised Code.

(3) ~~At least ninety days prior to the termination or nonrenewal of a~~ Not later than the first day of February in the year in which the sponsor intends to terminate or take actions not to renew the community school's contract, the sponsor shall notify the school of the proposed action in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing. The informal hearing shall be held within ~~seventy~~ fourteen days of the receipt of a request for the hearing. ~~Promptly following~~ Not later than fourteen days after the informal hearing, the sponsor shall issue a written decision either affirming or rescinding the decision to terminate or not renew the contract.

(4) A decision by the sponsor to terminate a contract may be appealed to the state board of education. The notice of appeal shall be filed with the state board not later than fourteen days following receipt of the sponsor's written decision to terminate the contract. Within sixty days of receipt of the notice of appeal, the state board shall conduct a hearing and issue a written decision on the appeal. The written decision of the state board shall include

the reasons for affirming or rescinding the decision of the sponsor. The decision by the state board pertaining to an appeal under this division is final. If the sponsor is the state board, its decision to terminate a contract under division (B)(3) of this section shall be final.

(5) The termination of a contract under this section shall be effective upon the occurrence of the later of the following events:

(a) ~~Ninety days following the~~ The date the sponsor notifies the school of its decision to terminate the contract as prescribed in division (B)(3) of this section;

(b) If an informal hearing is requested under division (B)(3) of this section and as a result of that hearing the sponsor affirms its decision to terminate the contract, the effective date of the termination specified in the notice issued under division (B)(3) of this section, or if that decision is appealed to the state board under division (B)(4) of this section and the state board affirms that decision, the date established in the resolution of the state board affirming the sponsor's decision.

(6) Any community school whose contract is terminated under division (B) of this section shall close permanently at the end of the current school year or on a date specified in the notification of termination under (B)(3) of this section. Any community school whose contract is terminated under this division shall not enter into a contract with any other sponsor.

(C) A child attending a community school whose contract has been terminated, nonrenewed, or suspended or that closes for any reason shall be admitted to the schools of the district in which the child is entitled to attend under section 3313.64 or 3313.65 of the Revised Code. Any deadlines established for the purpose of admitting students under section 3313.97 or 3313.98 of the Revised Code shall be waived for students to whom this division pertains.

(D) If a community school does not intend to renew a contract with its sponsor, the community school shall notify its sponsor in writing of that fact at least one hundred eighty days prior to the expiration of the contract. Such a community school may enter into a contract with a new sponsor in accordance with section 3314.03 of the Revised Code upon the expiration of the previous contract.

(E) A sponsor of a community school and the officers, directors, or employees of such a sponsor are immune from civil liability for any action authorized under this chapter or the contract entered into with the school under section 3314.03 of the Revised Code that is taken to fulfill the sponsor's responsibility to oversee and monitor the school. The sponsor and its officers, directors, or employees are not liable in damages in a tort or

other civil action for harm allegedly arising from either of the following:

(1) A failure of the community school or any of its officers, directors, or employees to perform any statutory or common law duty or responsibility or any other legal obligation;

(2) An action or omission of the community school or any of its officers, directors, or employees that results in harm.

(F) As used in this section:

(1) "Harm" means injury, death, or loss to person or property.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.

Sec. 3314.08. The deductions under division (C) and the payments under division (D) of this section for fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance with section 3314.088 of the Revised Code.

(A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(3) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.

(4) "Applicable vocational education weight" means:

(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;

(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.

(5) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(6) A community school student is "included in the poverty student count" of a school district if the student is entitled to attend school in the district and the student's family receives assistance under the Ohio works first program.

(7) "Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) to (9) of this section in any year, as specified in the school's financial plan for the

year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(8) "All-day kindergarten" has the same meaning as in section ~~3317.029~~ 3321.05 of the Revised Code.

(9) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a disability described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;

(e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational school district;

(f) The number of enrolled preschool children with disabilities receiving special education services in a state-funded unit;

(g) The community school's base formula amount;

(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;

(i) Any poverty-based assistance reduction factor that applies to a school year.

(C) From the state education aid calculated for a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to (9) of this section. However, when deducting payments on behalf of students enrolled in internet- or computer-based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore, the aggregate amount deducted under this division shall not exceed the sum of the district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code.

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (e) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the sum of the base formula amount of that community school plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:

(a) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;

(b) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, one-half of the amount calculated as prescribed in division (C)(2)(a) of this section.

(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;

(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty-based assistance the school district receives that year pursuant to division (C) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school. The per pupil amount of that aid for the district shall be calculated by the department.

(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.

(6) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the number of the district's students enrolled in the community school who are identified as limited-English proficient.

(7) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per

pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code is the district's amount per teacher calculated under division (G)(1) or (2) of that section divided by 17.

(8) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code.

(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one-half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.

(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to (10) of this section. However, the department shall calculate and pay to each internet- or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4) to (10) of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions

for the students entitled to attend school in a particular school district exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.

(1) ~~Subject to section 3314.085 of the Revised Code, an~~ An amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one-half of the kindergarten students in the school, reported under divisions (B)(2)(a), (b), and (e) of this section who are not receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code is multiplied by the sum of the community school's base formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(2) ~~Prior to fiscal year 2007, the greater of the amount calculated under division (D)(2)(a) or (b) of this section, and in fiscal year 2007 and thereafter, the amount calculated under division (D)(2)(b) of this section:~~

~~(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;~~

~~(b)~~ The sum of the following amounts ~~calculated under divisions (D)(2)(b)(i) and (ii) of this section~~:

~~(i)~~(a) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, the following amount:

(the school's base formula amount plus
the per pupil amount of the base funding supplements specified in
divisions (C)(1) to (4) of section 3317.012 of the Revised Code)
+ (the applicable special education weight X the
community school's base formula amount);

~~(ii)~~(b) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)~~(b)(i)~~(a) of this section.

(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by

the superintendent of public instruction.

(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty-based assistance that school district receives that year pursuant to division (C) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.

(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend

school, the number of that district's students enrolled in the community school who are identified as limited-English proficient is multiplied by the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school.

(8) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code shall be determined as described in division (C)(7) of this section.

(9) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.

(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under ~~division~~ divisions (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student

receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of education for preschool children with disabilities ~~or gifted~~ unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received such unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division

(D) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. The state board of education within ninety days after April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section and section 3314.13 of the Revised Code including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under divisions (C) and (D) of this section and section 3314.13 of the Revised Code. For purposes of this section and section 3314.13 of the Revised Code:

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school ~~during a school year~~ for the period of time beginning on the later of the date on which the school both has received documentation of the student's enrollment from a parent and the student has commenced participation in learning opportunities as defined in the contract with the sponsor, or thirty days prior to the date on which the student is entered into the education management information system established under section 3301.0714 of the Revised Code. For purposes of applying this division and divisions (L)(3) and (4) of this section to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

Except as otherwise specified in this paragraph, beginning in the 2011-2012 school year, any student who completed the prior school year in an internet- or computer-based community school shall be considered to be enrolled in the same school in the subsequent school year until the student's enrollment has ceased as specified in division (L)(2) of this section. The department shall continue subtracting and paying amounts for the student under divisions (C) and (D) of this section without interruption at the start of the subsequent school year. However, if the student without a legitimate excuse fails to participate in the first one hundred five consecutive hours of learning opportunities offered to the student in that subsequent school year, the student shall be considered not to have re-enrolled in the school for that school year and the department shall recalculate the payments to the school for that school year to account for the fact that the student is not enrolled.

(3) The department shall determine each community school student's percentage of full-time equivalency based on the percentage of learning opportunities offered by the community school to that student, reported either as number of hours or number of days, is of the total learning opportunities offered by the community school to a student who attends for the school's entire school year. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours. Whether it reports hours or days of learning opportunities, each community school shall offer not less than nine hundred twenty hours of learning opportunities during the school year.

(4) With respect to the calculation of full-time equivalency under division (L)(3) of this section, the department shall waive the number of hours or days of learning opportunities not offered to a student because the community school was closed during the school year due to disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, so long as the school was actually open for instruction with students in attendance during that school year for not less than the minimum number of hours required by this chapter. The department shall treat the school as if it were open for instruction with students in attendance during the hours or days waived under this division.

(M) The department of education shall reduce the amounts paid under division (D) of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code.

(N)(1) No student shall be considered enrolled in any internet- or computer-based community school or, if applicable to the student, in any community school that is required to provide the student with a computer pursuant to division (C) of section 3314.22 of the Revised Code, unless both of the following conditions are satisfied:

(a) The student possesses or has been provided with all required hardware and software materials and all such materials are operational so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A) of section 3314.22 of the Revised Code, relative to such student.

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division (D) of this section to any community school that includes in its program the provision of computer hardware and software materials to any student, if such hardware and software materials have not been delivered, installed, and activated for each such student in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such schools.

(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

(P) The department shall not subtract from a school district's state aid account under division (C) of this section and shall not pay to a community school under division (D) of this section any amount for any of the following:

(1) Any student who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any student who is not a resident of the state;

(3) Any student who was enrolled in the community school during the previous school year when assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section, unless the superintendent of public instruction grants the student a waiver from the requirement to take the assessment and a parent is not paying tuition for the student pursuant to section 3314.26 of the Revised Code. The superintendent may grant a waiver only for good cause in accordance with rules adopted by the state board of education.

(4) Any student who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for enrollment in a community school not later than four years after termination of war or their honorable discharge. If, however, any such veteran elects to enroll in special courses organized for veterans for whom tuition is paid under federal law, or otherwise, the department shall not subtract from a school district's state aid account under division (C) of this section and shall not pay to a community school under division (D) of this section any amount for that veteran.

Sec. 3314.087. (A) As used in this section:

(1) "Career-technical program" means vocational programs or classes described in division (A) or (B) of section 3317.014 of the Revised Code in which a student is enrolled.

(2) "Formula ADM," "category one or two vocational education ADM," and "FTE basis" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Resident school district" means the city, exempted village, or local

school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(B) Notwithstanding anything to the contrary in this chapter or Chapter ~~3306. or~~ 3317. of the Revised Code, a student enrolled in a community school may simultaneously enroll in the career-technical program operated by the student's resident school district. On an FTE basis, the student's resident school district shall count the student in the category one or two vocational education ADM for the proportion of the time the student is enrolled in the district's career-technical program and, accordingly, the department of education shall calculate funds under ~~Chapters 3306. and~~ Chapter 3317. for the district attributable to the student for the proportion of time the student attends the career-technical program. The community school shall count the student in its enrollment report under section 3314.08 of the Revised Code and shall report to the department the proportion of time that the student attends classes at the community school. The department shall pay the community school and deduct from the student's resident school district the amount computed for the student under section 3314.08 of the Revised Code in proportion to the fraction of the time on an FTE basis that the student attends classes at the community school. "Full-time equivalency" for a community school student, as defined in division (L) of section 3314.08 of the Revised Code, does not apply to the student.

Sec. 3314.088. ~~(A)~~ For purposes of applying sections 3314.08 and 3314.13 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 2013:

~~(1)~~(A) The base formula amount for community schools for each of fiscal ~~year 2010 is $5,718 and for fiscal year 2011 is $5,703. These respective amounts~~ years 2012 and 2013 is $5,653. That amount shall be applied wherein sections 3314.08 and 3314.13 of the Revised Code the base formula amount is specified, except for deducting and paying amounts for special education weighted funding and vocational education weighted funding.

~~(2)~~(B) The base funding supplements under section 3317.012 of the Revised Code shall be deemed in each year to be the amounts specified in that section for fiscal year 2009. Accordingly, when computing the per-pupil base funding supplements for a community school under that section for fiscal years 2012 and 2013, the department of education shall substitute $5,732 for the "formula amount" as used in divisions (C)(2), (3), and (4) of that section.

~~(3)~~(C) Special education additional weighted funding shall be calculated by first grouping children with disabilities into the appropriate disability

categories prescribed by section 3317.013 of the Revised Code as that section existed for fiscal year 2009, and then by multiplying the ~~applicable weight~~ respective multiple specified for that same fiscal year in that same version of that section ~~3317.013 of the Revised Code for fiscal year 2009,~~ times $5,732.

~~(4)~~(D) Vocational education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.014 of the Revised Code for fiscal year 2009 times $5,732.

~~(5)~~(E) The per pupil amounts paid to a school district under sections 3317.029 and 3317.0217 of the Revised Code shall be deemed to be the respective per pupil amounts paid under those sections to that district for fiscal year 2009.

~~(6)~~(F) A community school may receive all-day kindergarten payments under section 3314.13 of the Revised Code only for all-day kindergarten students who are entitled to attend school in school districts that, for fiscal year 2009, met the eligibility requirements of division (D) of section 3317.029 of the Revised Code. For students entitled to attend school in such school districts that actually received payment for all-day kindergarten for fiscal year 2009, the payments to community schools under section 3314.13 of the Revised Code shall be deducted from the school district's state education aid. For students entitled to attend school in such school districts that did not receive payment for all-day kindergarten for fiscal year 2009, the payments to community schools under section 3314.13 of the Revised Code shall be paid out of the funds appropriated under appropriation item 200550, foundation funding~~, as appropriated in section 265.10 of Am. Sub. H.B. 1 of the 128th General Assembly~~. As used in this division, "entitled to attend school" has the same meaning as in section 3314.08 of the Revised Code.

~~(B) For purposes of applying section 3314.085 of the Revised Code to fiscal years 2010 and 2011, the minimum per pupil expenditure required for pupil instruction under that section is $2,931, which equals the minimum amount required by that section for fiscal year 2009.~~

Sec. 3314.091. (A) A school district is not required to provide transportation for any native student enrolled in a community school if the district board of education has entered into an agreement with the community school's governing authority that designates the community school as responsible for providing or arranging for the transportation of the district's native students to and from the community school. For any such agreement to be effective, it must be certified by the superintendent of public instruction as having met all of the following requirements:

(1) It is submitted to the department of education by a deadline which shall be established by the department.

(2) In accordance with divisions (C)(1) and (2) of this section, it specifies qualifications, such as residing a minimum distance from the school, for students to have their transportation provided or arranged.

(3) The transportation provided by the community school is subject to all provisions of the Revised Code and all rules adopted under the Revised Code pertaining to pupil transportation.

(4) The sponsor of the community school also has signed the agreement.

(B)(1) For the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school, if the community school during the previous school year transported the students enrolled in the school or arranged for the students' transportation, even if that arrangement consisted of having parents transport their children to and from the school, but did not enter into an agreement to transport or arrange for transportation for those students under division (A) of this section, and if the governing authority of the community school by July 15, 2007, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

(2) For any school year subsequent to the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school if the governing authority of the community school, by the thirty-first day of January of the previous school year, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school. If the governing authority of the community school has previously accepted responsibility for providing or arranging for the transportation of a district's native students to and from the community school, under division (B)(1) or (2) of this section, and has since relinquished that responsibility under division (B)(3) of this section, the governing authority shall not accept that responsibility again unless the district board consents to the governing authority's acceptance of that responsibility.

(3) A governing authority's acceptance of responsibility under division (B)(1) or (2) of this section shall cover an entire school year, and shall remain in effect for subsequent school years unless the governing authority submits written notification to the district board that the governing authority

is relinquishing the responsibility. However, a governing authority shall not relinquish responsibility for transportation before the end of a school year, and shall submit the notice relinquishing responsibility by the thirty-first day of January, in order to allow the school district reasonable time to prepare transportation for its native students enrolled in the school.

(C)(1) A community school governing authority that enters into an agreement under division (A) of this section, or that accepts responsibility under division (B) of this section, shall provide or arrange transportation free of any charge for each of its enrolled students who is required to be transported under section 3327.01 of the Revised Code or who would otherwise be transported by the school district under the district's transportation policy. The governing authority shall report to the department of education the number of students transported or for whom transportation is arranged under this section in accordance with rules adopted by the state board of education.

(2) The governing authority may provide or arrange transportation for any other enrolled student who is not eligible for transportation in accordance with division (C)(1) of this section and may charge a fee for such service up to the actual cost of the service.

(3) Notwithstanding anything to the contrary in division (C)(1) or (2) of this section, a community school governing authority shall provide or arrange transportation free of any charge for any disabled student enrolled in the school for whom the student's individualized education program developed under Chapter 3323. of the Revised Code specifies transportation.

(D)(1) If a school district board and a community school governing authority elect to enter into an agreement under division (A) of this section, the department of education shall make payments to the community school according to the terms of the agreement for each student actually transported under division (C)(1) of this section.

If a community school governing authority accepts transportation responsibility under division (B) of this section, the department shall make payments to the community school for each student actually transported or for whom transportation is arranged by the community school under division (C)(1) of this section, calculated as follows:

(a) For any fiscal year which the general assembly has specified that transportation payments to school districts be based on an across-the-board percentage of the district's payment for the previous school year, the per pupil payment to the community school shall be the following quotient:

(i) The total amount calculated for the school district in which the child is entitled to attend school for student transportation other than

transportation of children with disabilities; divided by

(ii) The number of students included in the district's transportation ADM for the current fiscal year, as reported under division (B)(13) of section 3317.03 of the Revised Code, plus the number of students enrolled in the community school not counted in the district's transportation ADM who are transported under division (B)(1) or (2) of this section.

(b) For any fiscal year which the general assembly has specified that the transportation payments to school districts be calculated in accordance with section ~~3306.12~~ 3317.0212 of the Revised Code and any rules of the state board of education implementing that section, the payment to the community school shall be the amount so calculated that otherwise would be paid to the school district in which the student is entitled to attend school by the method of transportation the district would have used. The community school, however, is not required to use the same method to transport that student.

(c) Divisions (D)(1)(a) and (b) of this section do not apply to fiscal years 2012 and 2013. Rather, for each of those fiscal years, the per pupil payment to a community school for transporting a student shall be the total amount paid under former section 3306.12 of the Revised Code for fiscal year 2011 to the school district in which the child is entitled to attend school divided by that district's "qualifying ridership," as defined in that section for fiscal year 2011.

As used in this division "entitled to attend school" means entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(2) The department shall deduct the payment under division (D)(1) of this section from the state education aid, as defined in section 3314.08 of the Revised Code, and, if necessary, the payment under sections 321.14 and 323.156 of the Revised Code, that is otherwise paid to the school district in which the student enrolled in the community school is entitled to attend school. The department shall include the number of the district's native students for whom payment is made to a community school under division (D)(1) of this section in the calculation of the district's transportation payment under section ~~3306.12~~ 3317.0212 of the Revised Code and the operating appropriations act.

(3) A community school shall be paid under division (D)(1) of this section only for students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, and whose transportation to and from school is actually provided, who actually utilized transportation arranged, or for whom a payment in lieu of transportation is made by the community school's governing authority. To qualify for the

payments, the community school shall report to the department, in the form and manner required by the department, data on the number of students transported or whose transportation is arranged, the number of miles traveled, cost to transport, and any other information requested by the department.

(4) A community school shall use payments received under this section solely to pay the costs of providing or arranging for the transportation of students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, which may include payments to a parent, guardian, or other person in charge of a child in lieu of transportation.

(E) Except when arranged through payment to a parent, guardian, or person in charge of a child, transportation provided or arranged for by a community school pursuant to an agreement under this section is subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to the construction, design, equipment, and operation of school buses and other vehicles transporting students to and from school. The drivers and mechanics of the vehicles are subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to drivers and mechanics of such vehicles. The community school also shall comply with sections 3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) of section 3327.16 of the Revised Code and, subject to division (C)(1) of this section, sections 3327.01 and 3327.02 of the Revised Code, as if it were a school district.

Sec. 3314.10. (A)(1) The governing authority of any community school established under this chapter may employ teachers and nonteaching employees necessary to carry out its mission and fulfill its contract.

(2) Except as provided under division (A)(3) of this section, employees hired under this section may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the Revised Code, a unit containing teaching and nonteaching employees employed under this section shall be considered an appropriate unit. As applicable, employment under this section is subject to either Chapter 3307. or 3309. of the Revised Code.

(3) If a school is created by converting all or part of an existing public school rather than by establishment of a new start-up school, at the time of conversion, the employees of the community school shall remain part of any collective bargaining unit in which they were included immediately prior to the conversion and shall remain subject to any collective bargaining agreement for that unit in effect on the first day of July of the year in which

the community school initially begins operation and shall be subject to any subsequent collective bargaining agreement for that unit, unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees. Any new employees of the community school shall also be included in the unit to which they would have been assigned had not the conversion taken place and shall be subject to the collective bargaining agreement for that unit unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees.

Notwithstanding division (B) of section 4117.01 of the Revised Code, the board of education of a school district and not the governing authority of a community school shall be regarded, for purposes of Chapter 4117. of the Revised Code, as the "public employer" of the employees of a conversion community school subject to a collective bargaining agreement pursuant to division (A)(3) of this section unless a petition is certified under division (A)(6) of this section with regard to those employees. Only on and after the effective date of a petition certified as sufficient under division (A)(6) of this section shall division (A)(2) of this section apply to those employees of that community school and only on and after the effective date of that petition shall Chapter 4117. of the Revised Code apply to the governing authority of that community school with regard to those employees.

(4) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division and shall cease to be part of the collective bargaining unit that is subject to that and all subsequent agreements, if a majority of the employees of that community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement and be designated by the state employment relations board as a new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(b) That the employee organization certified as the exclusive representative of the employees of the bargaining unit from which the employees are to be removed be certified as the exclusive representative of the new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(5) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division, shall cease to be part of the collective bargaining unit that is subject to that and all subsequent agreements, and shall cease to be represented by any exclusive representative of that collective bargaining unit, if a majority of the employees of the community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement;

(b) That any employee organization certified as the exclusive representative of the employees of that bargaining unit be decertified as the exclusive representative of the employees of the community school who are subject to that agreement;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(6) Upon receipt of a petition under division (A)(4) or (5) of this section, the state employment relations board shall check the sufficiency of the signatures on the petition. If the signatures are found sufficient, the board shall certify the sufficiency of the petition and so notify the parties involved, including the board of education, the governing authority of the community school, and any exclusive representative of the bargaining unit. The changes requested in a certified petition shall take effect on the first day of the month immediately following the date on which the sufficiency of the petition is certified under division (A)(6) of this section.

(B)(1) The board of education of each city, local, and exempted village school district sponsoring a community school and the governing board of each educational service center in which a community school is located shall adopt a policy that provides a leave of absence of at least three years to each teacher or nonteaching employee of the district or service center who is employed by a conversion or new start-up community school sponsored by

the district or located in the district or center for the period during which the teacher or employee is continuously employed by the community school. The policy shall also provide that any teacher or nonteaching employee may return to employment by the district or service center if the teacher or employee leaves or is discharged from employment with the community school for any reason, unless, in the case of a teacher, the board of the district or service center determines that the teacher was discharged for a reason for which the board would have sought to discharge the teacher under section 3319.16 of the Revised Code, in which case the board may proceed to discharge the teacher utilizing the procedures of that section. Upon termination of such a leave of absence, any seniority that is applicable to the person shall be calculated to include all of the following: all employment by the district or service center prior to the leave of absence; all employment by the community school during the leave of absence; and all employment by the district or service center after the leave of absence. The policy shall also provide that if any teacher holding valid certification returns to employment by the district or service center upon termination of such a leave of absence, the teacher shall be restored to the previous position and salary or to a position and salary similar thereto. If, as a result of teachers returning to employment upon termination of such leaves of absence, a school district or educational service center reduces the number of teachers it employs, it shall make such reductions in accordance with section ~~3319.17 or, if applicable,~~ 3319.171 of the Revised Code.

Unless a collective bargaining agreement providing otherwise is in effect for an employee of a conversion community school pursuant to division (A)(3) of this section, an employee on a leave of absence pursuant to this division shall remain eligible for any benefits that are in addition to benefits under Chapter 3307. or 3309. of the Revised Code provided by the district or service center to its employees provided the employee pays the entire cost associated with such benefits, except that personal leave and vacation leave cannot be accrued for use as an employee of a school district or service center while in the employ of a community school unless the district or service center board adopts a policy expressly permitting this accrual.

(2) While on a leave of absence pursuant to division (B)(1) of this section, a conversion community school shall permit a teacher to use sick leave accrued while in the employ of the school district from which the leave of absence was taken and prior to commencing such leave. If a teacher who is on such a leave of absence uses sick leave so accrued, the cost of any salary paid by the community school to the teacher for that time shall be

reported to the department of education. The cost of employing a substitute teacher for that time shall be paid by the community school. The department of education shall add amounts to the payments made to a community school under this chapter as necessary to cover the cost of salary reported by a community school as paid to a teacher using sick leave so accrued pursuant to this section. The department shall subtract the amounts of any payments made to community schools under this division from payments made to such sponsoring school district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code.

A school district providing a leave of absence and employee benefits to a person pursuant to this division is not liable for any action of that person while the person is on such leave and employed by a community school.

Sec. 3314.102. As used in this section, "municipal school district" and "mayor" have the same meanings as in section 3311.71 of the Revised Code.

Notwithstanding section 3314.10 and sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school that is sponsored by the board of education of a municipal school district shall cease to be subject to any future collective bargaining agreement, if the mayor submits to the board of education sponsoring the school and to the state employment relations board a statement requesting that all employees of the community school be removed from a collective bargaining unit. The employees of the community school who are covered by a collective bargaining agreement in effect on the date the mayor submits the statement shall remain subject to that collective bargaining agreement until the collective bargaining agreement expires on its terms. Upon expiration of that collective bargaining agreement, the employees of that school are not subject to Chapter 4117. of the Revised Code and may not organize or collectively bargain pursuant to that chapter.

Sec. 3314.13. Payments and deductions under this section for fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance with section 3314.088 of the Revised Code.

(A) As used in this section:

(1) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(2) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(B) Except as provided in division (C) of this section, the department of education annually shall pay each community school established under this chapter one-half of the formula amount for each student to whom both of the

following apply:

(1) The student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code in a school district that is eligible to receive a payment under division (D) of section 3317.029 of the Revised Code if it provides all-day kindergarten;

(2) The student is reported by the community school as enrolled in all-day kindergarten at the community school.

(C) The department shall make no payments under this section to any internet- or computer-based community school.

(D) If a student for whom payment is made under division (B) of this section is entitled to attend school in a district that receives any payment for all-day kindergarten under division (D) of section 3317.029 of the Revised Code, the department shall deduct the payment to the community school under this section from the amount paid that school district under that division. If that school district does not receive payment for all-day kindergarten under that division because it does not provide all-day kindergarten, the department shall pay the community school from state funds appropriated generally for poverty-based assistance to school districts.

(E) The department shall adjust the amounts deducted from school districts and paid to community schools under this section to reflect any enrollments of students in all-day kindergarten in community schools for less than the equivalent of a full school year.

Sec. 3314.19. The sponsor of each community school annually shall provide the following assurances in writing to the department of education not later than ten business days prior to the opening of the school:

(A) That a current copy of the contract between the sponsor and the governing authority of the school entered into under section 3314.03 of the Revised Code has been filed with the ~~state office of community schools established under section 3314.11 of the Revised Code~~ department and that any subsequent modifications to that contract will be filed with the ~~office~~ department;

(B) That the school has submitted to the sponsor a plan for providing special education and related services to students with disabilities and has demonstrated the capacity to provide those services in accordance with Chapter 3323. of the Revised Code and federal law;

(C) That the school has a plan and procedures for administering the achievement and diagnostic assessments prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the Revised Code;

(D) That school personnel have the necessary training, knowledge, and resources to properly use and submit information to all databases maintained

by the department for the collection of education data, including the education management information system established under section 3301.0714 of the Revised Code in accordance with methods and timelines established under section 3314.17 of the Revised Code;

(E) That all required information about the school has been submitted to the Ohio education directory system or any successor system;

(F) That the school will enroll at least the minimum number of students required by division (A)(11)(a) of section 3314.03 of the Revised Code in the school year for which the assurances are provided;

(G) That all classroom teachers are licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except for noncertificated persons engaged to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(H) That the school's fiscal officer is in compliance with section 3314.011 of the Revised Code;

(I) That the school has complied with sections 3319.39 and 3319.391 of the Revised Code with respect to all employees and that the school has conducted a criminal records check of each of its governing authority members;

(J) That the school holds all of the following:

(1) Proof of property ownership or a lease for the facilities used by the school;

(2) A certificate of occupancy;

(3) Liability insurance for the school, as required by division (A)(11)(b) of section 3314.03 of the Revised Code, that the sponsor considers sufficient to indemnify the school's facilities, staff, and governing authority against risk;

(4) A satisfactory health and safety inspection;

(5) A satisfactory fire inspection;

(6) A valid food permit, if applicable.

(K) That the sponsor has conducted a pre-opening site visit to the school for the school year for which the assurances are provided;

(L) That the school has designated a date it will open for the school year for which the assurances are provided that is in compliance with division (A)(25) of section 3314.03 of the Revised Code;

(M) That the school has met all of the sponsor's requirements for opening and any other requirements of the sponsor.

Sec. 3314.22. (A)(1) Each child enrolled in an internet- or computer-based community school is entitled to a computer supplied by the school; however, the parent of any child enrolled in the school may waive

this entitlement in the manner specified in division (A)(3) of this section. In no case shall an internet- or computer-based community school provide a stipend or other substitute to an enrolled child or the child's parent in lieu of supplying a computer to the child. The prohibition contained in the preceding sentence is intended to clarify the meaning of this division as it existed prior to September 29, 2005, and is not intended to change that meaning in any way.

(2) Notwithstanding division (A)(1) of this section, if more than one child living in a single residence is enrolled in an internet- or computer-based community school, at the option of the parent of those children, the school may supply less than one computer per child, as long as at least one computer is supplied to the residence. An internet- or computer-based community school may supply no computer at all only if the parent has waived the entitlement prescribed in division (A)(1) of this section in the manner specified in division (A)(3) of this section. The parent may amend the decision to accept less than one computer per child anytime during the school year, and, in such case, within thirty days after the parent notifies the school of such amendment, the school shall provide any additiona1 computers requested by the parent up to the number necessary to comply with division (A)(1) of this section.

(3) The parent of any child enrolled in an internet- or computer-based community school may waive the entitlement to one computer per child, and have no computer at all supplied by the school, if the school and parent set forth that waiver in writing with both parties attesting that there is a computer available to the child in the child's residence with sufficient hardware, software, programming, and connectivity so that the child may fully participate in all of the learning opportunities offered to the child by the school. The parent may amend the decision to waive the entitlement at any time during the school year and, in such case, within thirty days after the parent notifies the school of that decision, the school shall provide any additional computers requested by the parent up to the number necessary to comply with division (A)(1) of this section, regardless of whether there is any change in the conditions attested to in the waiver.

(4) A copy of a waiver executed under division (A)(3) of this section shall be retained by the internet- or computer-based community school and the parent who attested to the conditions prescribed in that division. The school shall submit a copy of the waiver to the ~~office of community schools, established under section 3314.11 of the Revised Code,~~ department of education immediately upon execution of the waiver.

(5) The school shall notify the ~~office of community schools~~ department

of education, in the manner specified by the ~~office~~ department, of any parent's decision under division (A)(2) of this section to accept less than one computer per child or the parent's amendment to that decision, and of any parent's decision to amend the waiver executed under division (A)(3) of this section.

(B) Each internet- or computer-based community school shall provide to each parent who is considering enrolling the parent's child in the school and to the parent of each child already enrolled in the school a written notice of the provisions prescribed in division (A) of this section.

(C) If a community school that is not an internet- or computer-based community school provides any of its enrolled students with nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method and requires such students to participate in any of those learning opportunities from their residences, the school shall be subject to this section and division (C)(1) of section 3314.21 of the Revised Code relative to each such student in the same manner as an internet- or computer-based community school, unless both of the following conditions apply to the student:

(1) The nonclassroom-based learning opportunities in which the student is required to participate from the student's residence are supplemental in nature or do not constitute a significant portion of the total classroom-based and nonclassroom-based learning opportunities provided to the student by the school;

(2) The student's residence is equipped with a computer available for the student's use.

Sec. 3314.23. (A) Subject to division (B) of this section, each internet- or computer-based community school shall do the applicable one of the following:

(1) If the general assembly has enacted standards for the operation of internet- or computer-based community schools by January 1, 2013, comply with the standards so enacted;

(2) If the general assembly has not enacted such standards by that date, comply with the standards developed by the international association for K-12 online learning.

(B) Each internet- or computer-based community school that initially opens for operation on or after January 1, 2013, shall comply with the standards required by division (A) of this section at the time it opens. Each internet- or computer-based community school that initially opened for operation prior to January 1, 2013, shall comply with the standards required by division (A) of this section not later than July 1, 2013.

Sec. 3314.35. (A)(1) ~~Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2008, but before July 1, 2009:~~

~~(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.~~

~~(b) The school satisfies all of the following conditions:~~

~~(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.~~

~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.~~

~~(iii) For two of those school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.~~

~~(c) The school satisfies all of the following conditions:~~

~~(i) The school offers any of grade levels ten to twelve.~~

~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.~~

~~(iii) For two of those school years, the school showed less than two standard years of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.~~

~~(2)~~ Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2009, but before July 1, 2011:

(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.

(b) The school satisfies all of the following conditions:

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.

(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance

with rules adopted under division (A) of section 3302.021 of the Revised Code.

(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.

(2) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2011:

(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(b) The school satisfies all of the following conditions:

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.

(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.

(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(3) This section does not apply to either of the following:

(a) Any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver under section 3314.36 of the Revised Code;

(b) Any community school in which a majority of the enrolled students are children with disabilities receiving special education and related services in accordance with Chapter 3323. of the Revised Code.

(B) Any community school to which this section applies shall permanently close at the conclusion of the school year in which the school first becomes subject to this section. The sponsor and governing authority of the school shall comply with all procedures for closing a community school adopted by the department under division (E) of section 3314.015 of the Revised Code. The governing authority of the school shall not enter into a contract with any other sponsor under section 3314.03 of the Revised Code after the school closes.

(C) ~~Not later than July 1, 2008, the department shall determine the feasibility of using the value-added progress dimension, as defined in section 3302.01 of the Revised Code, as a factor in evaluating the academic performance of community schools described in division (A)(1)(c)(i) of this section. Notwithstanding divisions (A)(1)(c)(ii) and (iii) of this section, if the department determines that using the value-added progress dimension to evaluate community schools described in division (A)(1)(c)(i) of this section is not feasible, a community school described in that division shall be required to permanently close under this section only if it has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.~~

~~(D)~~ In accordance with division (B) of section 3314.012 of the Revised Code, the department shall not consider the performance ratings assigned to a community school for its first two years of operation when determining whether the school meets the criteria prescribed by division (A)(1) or (2) of this section. ~~The department shall reevaluate each community school that the department directed to close at the conclusion of the 2009-2010 school year to determine if the school still meets the criteria prescribed by division (A)(2) of this section when the school's performance ratings for its first two years of operation are not considered and, if the school no longer meets those criteria, the department shall not require the school to close at the conclusion of that school year.~~

Sec. 3314.36. (A) Section 3314.35 of the Revised Code does not apply to any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver by the department of education. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board of education under division ~~(E)~~(D)(6) of section

3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (A)(4) of this section during the remainder of the student's high school experience.

(6) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board of education under section 3301.079 of the Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(B) Notwithstanding division (A) of this section, the department shall not grant a waiver to any community school that did not qualify for a waiver under this section when it initially began operations, unless the state board of education approves the waiver.

Sec. 3315.01. (A) Except as provided in division (B) of this section and notwithstanding sections 3315.12 and 3315.14 of the Revised Code, the board of education of any school district may adopt a resolution requiring the treasurer of the district to credit the earnings made on the investment of the principal of the moneys specified in the resolution to the fund from which the earnings arose or any other fund of the district as the board specifies in its resolution.

(B) This section does not apply to the earnings made on the investment of the bond retirement fund, the sinking fund, a project construction fund established pursuant to sections 3318.01 to 3318.20 of the Revised Code, or the payments received by school districts pursuant to division ~~(I)~~(E) of section 3317.024 of the Revised Code.

Sec. 3316.041. (A) Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, and subject to the approval of the superintendent of public instruction, a school district that is in a state of fiscal watch declared under section 3316.03 of the Revised Code may restructure or refinance loans obtained or in the process of being obtained under section 3313.483 of the Revised Code if all of the following requirements are met:

(1) The operating deficit certified for the school district for the current or preceding fiscal year under section 3313.483 of the Revised Code exceeds fifteen per cent of the district's general revenue fund for the fiscal

year preceding the year for which the certification of the operating deficit is made.

(2) The school district voters have, during the period of the fiscal watch, approved the levy of a tax under section 718.09, 718.10, 5705.194, 5705.21, ~~or~~ 5748.02, or 5748.09 of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue.

(3) The board of education of the school district has adopted or amended the financial plan required by section 3316.04 of the Revised Code to reflect the restructured or refinanced loans, and sets forth the means by which the district will bring projected operating revenues and expenditures, and projected debt service obligations, into balance for the life of any such loan.

(B) Subject to the approval of the superintendent of public instruction, the school district may issue securities to evidence the restructuring or refinancing authorized by this section. Such securities may extend the original period for repayment not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms or agreements under which the loans were originally contracted, provided the loans received under sections 3313.483 of the Revised Code are repaid from funds the district would otherwise receive under Chapter ~~3306.~~ 3317. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. Securities issued for the purpose of restructuring or refinancing under this section shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal to restructure or refinance.

(C) Unless the district is declared to be in a state of fiscal emergency under division (D) of section 3316.04 of the Revised Code, a school district shall remain in a state of fiscal watch for the duration of the repayment period of any loan restructured or refinanced under this section.

Sec. 3316.06. (A) Within one hundred twenty days after the first meeting of a school district financial planning and supervision commission, the commission shall adopt a financial recovery plan regarding the school district for which the commission was created. During the formulation of the plan, the commission shall seek appropriate input from the school district board and from the community. This plan shall contain the following:

(1) Actions to be taken to:

(a) Eliminate all fiscal emergency conditions declared to exist pursuant to division (B) of section 3316.03 of the Revised Code;

(b) Satisfy any judgments, past-due accounts payable, and all past-due and payable payroll and fringe benefits;

(c) Eliminate the deficits in all deficit funds, except that any prior year deficits in the capital and maintenance fund established pursuant to section 3315.18 of the Revised Code shall be forgiven;

(d) Restore to special funds any moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such funds by the purchase of debt obligations of the school district with the moneys of such funds, or missing from the special funds and not accounted for, if any;

(e) Balance the budget, avoid future deficits in any funds, and maintain on a current basis payments of payroll, fringe benefits, and all accounts;

(f) Avoid any fiscal emergency condition in the future;

(g) Restore the ability of the school district to market long-term general obligation bonds under provisions of law applicable to school districts generally.

(2) The management structure that will enable the school district to take the actions enumerated in division (A)(1) of this section. The plan shall specify the level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency, and shall enumerate respectively, the powers and duties of the commission and the powers and duties of the school board during that period. The commission may elect to assume any of the powers and duties of the school board it considers necessary, including all powers related to personnel, curriculum, and legal issues in order to successfully implement the actions described in division (A)(1) of this section.

(3) The target dates for the commencement, progress upon, and completion of the actions enumerated in division (A)(1) of this section and a reasonable period of time expected to be required to implement the plan. The commission shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the plan, and the plan shall be consistent with that time schedule.

(4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the school district and the county auditor. Debt obligations issued pursuant to section 133.301 of the Revised Code shall include assurances that such debt shall be in an amount not to exceed the amount certified under division (B) of such section. If the commission considers it necessary in order to maintain or improve educational

opportunities of pupils in the school district, the plan may include a proposal to restructure or refinance outstanding debt obligations incurred by the board under section 3313.483 of the Revised Code contingent upon the approval, during the period of the fiscal emergency, by district voters of a tax levied under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, ~~or~~ 5748.08, or 5748.09 of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue. Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, following the required approval of the district voters and with the approval of the commission, the school district may issue securities to evidence the restructuring or refinancing. Those securities may extend the original period for repayment, not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms of agreements under which the debt originally was contracted, at the discretion of the commission, provided that any loans received pursuant to section 3313.483 of the Revised Code shall be paid from funds the district would otherwise receive under Chapter ~~3306.~~ 3317. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. The securities issued for the purpose of restructuring or refinancing the debt shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal for the purpose of restructuring or refinancing debt under this section.

(B) Any financial recovery plan may be amended subsequent to its adoption. Each financial recovery plan shall be updated annually.

(C) Each school district financial planning and supervision commission shall submit the financial recovery plan it adopts or updates under this section to the state superintendent of public instruction for approval immediately following its adoption or updating. The state superintendent shall evaluate the plan and either approve or disapprove it within thirty calendar days from the date of its submission. If the plan is disapproved, the state superintendent shall recommend modifications that will render it acceptable. No financial planning and supervision commission shall implement a financial recovery plan that is adopted or updated on or after April 10, 2001, unless the state superintendent has approved it.

Sec. 3316.08. During a school district's fiscal emergency period, the auditor of state shall determine annually, or at any other time upon request of the financial planning and supervision commission, whether the school district will incur an operating deficit. If the auditor of state determines that a school district will incur an operating deficit, the auditor of state shall

certify that determination to the superintendent of public instruction, the financial planning and supervision commission, and the board of education of the school district. Upon receiving the auditor of state's certification, the commission shall adopt a resolution requesting that the board of education work with the county auditor or tax commissioner to estimate the amount and rate of a tax levy that is needed under section 5705.194, 5709.199, or 5705.21 or Chapter 5748. of the Revised Code to produce a positive fund balance not later than the fifth year of the five-year forecast submitted under section 5705.391 of the Revised Code.

The board of education shall recommend to the commission whether the board supports or opposes a tax levy under section 5705.194, 5709.199, or 5705.21 or Chapter 5748. of the Revised Code and shall provide supporting documentation to the commission of its recommendation.

After considering the board of education's recommendation and supporting documentation, the commission shall adopt a resolution to either submit a ballot question proposing a tax levy or not to submit such a question.

Except as otherwise provided in this division, the tax shall be levied in the manner prescribed for a tax levied under section 5705.194, 5709.199, or 5705.21 or under Chapter 5748. of the Revised Code. If the commission decides that a tax should be levied, the tax shall be levied for the purpose of paying current operating expenses of the school district. The rate of a property tax levied under section 5705.194, 5709.199, ~~or~~ 5705.21, or 5748.09 of the Revised Code shall be determined by the county auditor, and the rate of ~~a~~ an income tax levied under section 5748.02 ~~or,~~ 5748.08, or 5748.09 of the Revised Code shall be determined by the tax commissioner, upon the request of the commission. The commission, in consultation with the board of education, shall determine the election at which the question of the tax shall appear on the ballot, and the commission shall submit a copy of its resolution to the board of elections not later than ninety days prior to the day of that election. The board of elections conducting the election shall certify the results of the election to the board of education and to the financial planning and supervision commission.

Sec. 3316.20. (A)(1) The school district solvency assistance fund is hereby created in the state treasury, to consist of such amounts designated for the purposes of the fund by the general assembly. The fund shall be used to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that they are unable to pay from existing resources.

(2) There is hereby created within the fund an account known as the

school district shared resource account, which shall consist of money appropriated to it by the general assembly. The money in the account shall be used solely for solvency assistance to school districts that have been declared under division (B) of section 3316.03 of the Revised Code to be in a state of fiscal emergency.

(3) There is hereby created within the fund an account known as the catastrophic expenditures account, which shall consist of money appropriated to the account by the general assembly plus all investment earnings of the fund. Money in the account shall be used solely for the following:

(a) Solvency assistance to school districts that have been declared under division (B) of section 3316.03 of the Revised Code to be in a state of fiscal emergency, in the event that all money in the shared resource account is utilized for solvency assistance;

(b) Grants to school districts under division (C) of this section.

(B) Solvency assistance payments under division (A)(2) or (3)(a) of this section shall be made from the fund by the superintendent of public instruction in accordance with rules adopted by the director of budget and management, after consulting with the superintendent, specifying approval criteria and procedures necessary for administering the fund.

The fund shall be reimbursed for any solvency assistance amounts paid under division (A)(2) or (3)(a) of this section not later than the end of the second fiscal year following the fiscal year in which the solvency assistance payment was made, except that, upon the approval of the director of budget and management and the superintendent of public instruction, the fund may be reimbursed in another fiscal year designated by the director and superintendent that is not later than the end of the tenth fiscal year following the fiscal year in which the solvency assistance payment was made. If not made directly by the school district, such reimbursement shall be made by the director of budget and management from the amounts the school district would otherwise receive pursuant to Chapter ~~3306.~~ 3317. of the Revised Code, or from any other funds appropriated for the district by the general assembly. Reimbursements shall be credited to the respective account from which the solvency assistance paid to the district was deducted.

(C) The superintendent of public instruction may make recommendations, and the controlling board may grant money from the catastrophic expenditures account to any school district that suffers an unforeseen catastrophic event that severely depletes the district's financial resources. The superintendent shall make recommendations for the grants in accordance with rules adopted by the director of budget and management,

after consulting with the superintendent. A school district shall not be required to repay any grant awarded to the district under this division, unless the district receives money from this state or a third party, including an agency of the government of the United States, specifically for the purpose of compensating the district for revenue lost or expenses incurred as a result of the unforeseen catastrophic event. If a school district receives a grant from the catastrophic expenditures account on the basis of the same circumstances for which an adjustment or recomputation is authorized under section 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, or 3317.0211 of the Revised Code, the department of education shall reduce the adjustment or recomputation by an amount not to exceed the total amount of the grant, and an amount equal to the reduction shall be transferred, from the funding source from which the adjustment or recomputation would be paid, to the catastrophic expenditures account. Any adjustment or recomputation under such sections that is in excess of the total amount of the grant shall be paid to the school district.

Sec. 3317.01. As used in this section ~~and section 3317.011 of the Revised Code~~, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section 5705.211 of the Revised Code. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed periodically to each school district unless otherwise provided for. The state board, in June of each year, shall submit ~~a yearly distribution plan~~ to the controlling board ~~at its first meeting in July. The state board shall submit any proposed midyear revision of the plan to the controlling board in January. Any year-end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each~~

~~fiscal year are distributed other than monthly, such distribution shall be on the same basis for each school district~~ the state board's year-end distributions pursuant to this chapter.

Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (D) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for individualized parent-teacher conference and reporting periods is not less than one hundred seventy-five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy-nine days in any trimester, for those school districts operating on a quarterly plan the number of days the school was actually open for instruction with pupils in attendance not less than fifty-nine days in any quarter, or for those school districts operating on a pentamester plan the number of days the school was actually open for instruction with pupils in attendance not less than forty-four days in any pentamester.

A school district shall not be considered to have failed to comply with this division or section 3313.481 of the Revised Code because schools were

open for instruction but either twelfth grade students were excused from attendance for up to three days or only a portion of the kindergarten students were in attendance for up to three days in order to allow for the gradual orientation to school of such students.

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.

~~(C) The school district has on file, and is paying in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code.~~

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by ~~sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code~~ this chapter, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

Sec. 3317.013. Except for a preschool child with a disability for whom a scholarship has been awarded under section 3310.41 of the Revised Code, this section does not apply to preschool children with disabilities.

Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of related services, can be expressed as a multiple of the ~~base cost per pupil calculated under section 3317.012 of the Revised Code~~ formula amount. The multiples for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows:

(A) A multiple of ~~0.2892~~ 0.2906 for students whose primary or only identified disability is a speech and language disability, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(B) A multiple of ~~0.3691~~ 0.7374 for students identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-minor;

(C) A multiple of ~~1.7695~~ 1.7716 for students identified as hearing disabled~~, vision impaired,~~ or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(D) A multiple of ~~2.3646~~ 2.3643 for students identified as ~~orthopedically disabled~~ vision impaired, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major;

(E) A multiple of ~~3.1129~~ 3.2022 for students identified as orthopedically disabled or as having multiple disabilities, as ~~this term is~~ these terms are defined pursuant to Chapter 3323. of the Revised Code;

(F) A multiple of ~~4.7342~~ 4.7205 for students identified as autistic, having traumatic brain injuries, or as both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

In fiscal years 2008, 2009, 2010, ~~and~~ 2011, 2012, and 2013, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by 0.90.

~~Not later than the thirtieth day of December in 2007, 2008, and 2009, the department of education shall submit to the office of budget and management a report that specifies for each city, local, exempted village, and joint vocational school district the fiscal year allocation of the state and local shares of special education and related services additional weighted funding and federal special education funds passed through to the district.~~

Sec. 3317.014. The ~~average~~ vocational education additional cost per pupil can be expressed as a multiple of the ~~base cost per pupil calculated under section 3317.012 of the Revised Code~~ formula amount. The multiples for the following categories of vocational education programs are as follows:

(A) A multiple of 0.57 for students enrolled in vocational education job-training and workforce development programs approved by the department of education in accordance with rules adopted under section 3313.90 of the Revised Code.

(B) A multiple of 0.28 for students enrolled in vocational education classes other than job-training and workforce development programs.

Vocational education associated services costs can be expressed as a multiple of 0.05 of the ~~base cost per pupil calculated under section 3317.012 of the Revised Code~~ formula amount.

~~By the thirtieth day of each December, the department of education shall report to the office of budget and management and the general assembly the amount of weighted funding for vocational education and associated services that was spent by each city, local, exempted village, and joint vocational school district specifically for vocational educational and associated services during the previous fiscal year.~~

Sec. 3317.018. (A) The department of education shall make no calculations or payments under ~~Chapter 3317. of the Revised Code~~ this chapter for any fiscal year except as prescribed in this section. The payments authorized under this section are in addition to payments computed and paid for fiscal years 2012 and 2013 under the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(B) School districts shall report student enrollment data as prescribed by section 3317.03 of the Revised Code, which data the department shall use to make payments under ~~Chapters 3306. and 3317. of the Revised Code.~~ this chapter and the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(C) The tax commissioner shall report data regarding tax valuation and receipts for school districts as prescribed by sections 3317.015, 3317.021, 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, 3317.0211, and 3317.08 and by division ~~(M)~~(K) of section 3317.02 of the Revised Code, which data the department shall use to make payments under ~~Chapters 3306. and 3317. of the Revised Code.~~ this chapter and the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(D) Unless otherwise specified by another provision of law, ~~in addition to the payments prescribed by Chapter 3306. of the Revised Code,~~ the department shall continue to make payments to or adjustments for school districts in fiscal years after fiscal year 2009 under the following provisions of ~~Chapter 3317. of the Revised Code~~ this chapter:

(1) The catastrophic cost reimbursement under division (C)(3) of section 3317.022 of the Revised Code; however, when computing that payment, the department shall use the disability categories and multiples specified in section 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment. No other payments shall be made under

~~that~~ section 3317.022 of the Revised Code.

(2) All payments or adjustments under section 3317.023 of the Revised Code~~, except no payments or adjustments shall be made under divisions (B), (C), and (D) of that section.~~;

(3) All payments or adjustments under section 3317.024 of the Revised Code~~, except no payments or adjustments shall be made under divisions (F) and (N) of that section for fiscal years after fiscal year 2009 or under division (L) of that section for fiscal years 2010 and 2011.~~;

(4) All payments and adjustments under sections 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, and 3317.0211 of the Revised Code;

(5) ~~Payments under section 3317.04 of the Revised Code;~~

~~(6)~~ Unit payments under sections 3317.05, 3317.051, 3317.052, and 3317.053 of the Revised Code, except that no units for gifted funding are authorized ~~for~~ after fiscal ~~years 2010 and 2011~~ year 2009.

~~(7)~~(6) Payments under sections 3317.06, 3317.063, and 3317.064 of the Revised Code;

~~(8) Payments under section 3317.07 of the Revised Code;~~

~~(9)~~(7) Payments to educational service centers under section 3317.11 of the Revised Code;

~~(10)~~(8) The catastrophic cost reimbursement under division (E) of section 3317.16 of the Revised Code and excess cost reimbursements under division (G) of that section; however, when computing that payment, the department shall use the disability categories and multiples specified in section 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment. No other payments shall be made under ~~that~~ section~~;~~ 3317.16 of the Revised Code.

~~(11) Payments under section 3317.17 of the Revised Code;~~

~~(12)~~(9) Adjustments under section 3317.18 of the Revised Code;

~~(13)~~(10) Payments to cooperative education school districts under section 3317.19 of the Revised Code;

~~(14)~~(11) Payments to county ~~MR/DD~~ DD boards under section 3317.20 of the Revised Code;

~~(15)~~(12) Payments to state institutions for weighted special education funding under section 3317.201 of the Revised Code.

(E) ~~Sections 3317.016 and 3317.017 shall not apply to fiscal years after fiscal year 2009.~~

~~(F)~~ This section does not affect the provisions of sections 3317.031, 3317.032, 3317.033, 3317.035, 3317.061, 3317.08, 3317.081, 3317.082, 3317.09, 3317.12, 3317.13, 3317.14, 3317.141, 3317.15, 3317.50, and 3317.51~~, 3317.62, 3317.63, and 3317.64~~ of the Revised Code.

(F) The department shall make no payments for fiscal years 2012 or 2013 under section 3317.0212 of the Revised Code.

Sec. 3317.02. As used in this chapter:

(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts.

(B) "Formula amount" means ~~$5,732~~ $5,653 for fiscal year ~~2010~~ 2012 and fiscal year ~~2011~~ 2013.

(C) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one or two vocational education ADM in the same proportion the student is counted in formula ADM.

(D)(1) "Formula ADM" means, for a city, local, or exempted village school district, ~~"formula ADM" as defined in section 3306.02 of the Revised Code.~~ the average daily membership described in division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by the department of education, as follows:

(a) Count only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code;

(b) Add twenty per cent of the number of students who are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and are enrolled in another school district under a career-technical educational compact.

(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the number reported pursuant to division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section. ~~For purposes of the calculation of payments to or adjustments for a city, exempted village, local, or joint vocational school district under this chapter or under Chapter 3306. of the Revised Code, calculations required under Chapter 3318. of the Revised Code, or adjustments required under Chapter 3365. of the Revised Code, the department of education shall use the district's formula ADM for the previous fiscal year, unless the district's average daily membership reported and verified for the current fiscal year is at least two per cent greater than the formula ADM reported for the previous fiscal year, in which case the department shall use the district's formula~~

~~ADM for the current fiscal year.~~

(E) "Three-year average formula ADM" means the average of formula ADMs for the preceding three fiscal years.

(F)(1) "Category one special education ADM" means the average daily membership of children with disabilities receiving special education services for the disability specified in division ~~(D)(1)~~(A) of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the average daily membership of children with disabilities receiving special education services for those disabilities specified in division ~~(D)(2)~~(B) of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code.

(3) "Category three special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division ~~(D)(3)~~(C) of section ~~3306.02~~ 3317.013 of the Revised Code, and reported under division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code.

(4) "Category four special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division (D)~~(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code.

(5) "Category five special education ADM" means the average daily membership of students receiving special education services for the disabilities specified in division ~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code.

(6) "Category six special education ADM" means the average daily membership of students receiving special education services for the disabilities specified in division ~~(D)(6)~~(F) of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code.

(7) "Category one vocational education ADM" means the average daily membership of students receiving vocational education services described in division (A) of section 3317.014 of the Revised Code and reported under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code.

(8) "Category two vocational education ADM" means the average daily membership of students receiving vocational education services described in division (B) of section 3317.014 of the Revised Code and reported under

division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code.

(G) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

(H) "County DD board" means a county board of developmental disabilities.

(I) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code.

(J) ~~"Transportation ADM" means the number of children reported under division (B)(13) of section 3317.03 of the Revised Code.~~

~~(K) "Average efficient transportation use cost per student" means a statistical representation of transportation costs as calculated under division (D)(2) of section 3317.022 of the Revised Code.~~

~~(L)~~ "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

~~(M)~~(K) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

~~(N)~~(L) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

~~(O)~~(M) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

~~(P)~~(N) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education and the office of budget and management for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

~~(Q)~~(O) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

~~(R)~~(P) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

~~(S)~~(Q) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.

~~(T)~~(R) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, and if either of the following apply:

(1) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." The superintendent of public instruction shall issue an initial list no later than September 1, 2001.

(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

~~(U)~~(S) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, but the child's condition does not meet either of the conditions specified in division ~~(T)~~(R)(1) or (2) of this section.

~~(V)~~(T) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

~~(W)~~(U) "Property exemption value" means zero in fiscal year 2006, and in fiscal year 2007 and each fiscal year thereafter, the amount certified for a school district under divisions (A)(6) and (7) of section 3317.021 of the Revised Code.

~~(X)~~(V) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

~~(Y)~~(W) "State share percentage~~" has the same meaning as in~~," for a city, exempted village, or local school district, for fiscal years 2012 and 2013, means the district's state share percentage as computed for fiscal year 2011 under former section 3306.02 of the Revised Code. "State share percentage," for a joint vocational school district, for fiscal years 2012 and 2013, means the district's state share percentage as computed for fiscal year 2009 under section 3317.16 of the Revised Code as that section existed for that fiscal year.

Sec. 3317.021. ~~The information certified under this section shall be used to calculate payments under this chapter and Chapter 3306. of the Revised Code.~~

(A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education and the office of budget and management the information described in divisions (A)(1) to (7) of this section for each city, exempted village, and local school district, and the information required by divisions (A)(1) and (2) of this section for each joint vocational school district, and it shall be used, along with the information certified under division (B) of this section, in making the computations for the district under this chapter ~~and Chapter 3306. of the Revised Code~~.

(1) The taxable value of real and public utility real property in the school district subject to taxation in the preceding tax year, by class and by county of location.

(2) The taxable value of tangible personal property, including public utility personal property, subject to taxation by the district for the preceding tax year.

(3)(a) The total property tax rate and total taxes charged and payable for the current expenses for the preceding tax year and the total property tax rate and the total taxes charged and payable to a joint vocational district for the preceding tax year that are limited to or to the extent apportioned to current expenses.

(b) The portion of the amount of taxes charged and payable reported for each city, local, and exempted village school district under division (A)(3)(a) of this section attributable to a joint vocational school district.

(4) The value of all real and public utility real property in the school district exempted from taxation minus both of the following:

(a) The value of real and public utility real property in the district owned by the United States government and used exclusively for a public purpose;

(b) The value of real and public utility real property in the district exempted from taxation under Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code.

(5) The total federal adjusted gross income of the residents of the school district, based on tax returns filed by the residents of the district, for the most recent year for which this information is available.

(6) The sum of the school district compensation value as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code as if such property had been assessed for

taxation that year and the other compensation value for the school district, minus the amounts described in divisions (A)(6)(c) to (i) of this section. The portion of school district compensation value or other compensation value attributable to an incentive district exemption may be subtracted only once even if that incentive district satisfies more than one of the criteria in divisions (A)(6)(c) to (i) of this section.

(a) "School district compensation value" means the aggregate value of real property in the school district exempted from taxation pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code to the extent that the exempted value results in the charging of payments in lieu of taxes required to be paid to the school district under division (D)(1) or (2) of section 5709.40, division (D) of section 5709.73, or division (C) of section 5709.78 of the Revised Code.

(b) "Other compensation value" means the quotient that results from dividing (i) the dollar value of compensation received by the school district during the preceding tax year pursuant to division (B), (C), or (D) of section 5709.82 of the Revised Code and the amounts received pursuant to an agreement as specified in division (D)(2) of section 5709.40, division (D) of section 5709.73, or division (C) of section 5709.78 of the Revised Code to the extent those amounts were not previously reported or included in division (A)(6)(a) of this section, and so that any such amount is reported only once under division (A)(6)(b) of this section, in relation to exemptions from taxation granted pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code, by (ii) the real property tax rate in effect for the preceding tax year for nonresidential/agricultural real property after making the reductions required by section 319.301 of the Revised Code.

(c) The portion of school district compensation value or other compensation value that was exempted from taxation pursuant to such an ordinance or resolution for the preceding tax year, if the ordinance or resolution is adopted prior to January 1, 2006, and the legislative authority or board of township trustees or county commissioners, prior to January 1, 2006, executes a contract or agreement with a developer, whether for-profit or not-for-profit, with respect to the development of a project undertaken or to be undertaken and identified in the ordinance or resolution, and upon which parcels such project is being, or will be, undertaken;

(d) The portion of school district compensation value that was exempted from taxation for the preceding tax year and for which payments in lieu of

taxes for the preceding tax year were provided to the school district under division (D)(1) of section 5709.40 of the Revised Code.

(e) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if and to the extent that, on or before April 1, 2006, the fiscal officer of the municipal corporation that adopted the ordinance, or of the township or county that adopted the resolution, certifies and provides appropriate supporting documentation to the tax commissioner and the director of development that, based on hold-harmless provisions in any agreement between the school district and the legislative authority of the municipal corporation, board of township trustees, or board of county commissioners that was entered into on or before June 1, 2005, the ability or obligation of the municipal corporation, township, or county to repay bonds, notes, or other financial obligations issued or entered into prior to January 1, 2006, will be impaired, including obligations to or of any other body corporate and politic with whom the legislative authority of the municipal corporation or board of township trustees or county commissioners has entered into an agreement pertaining to the use of service payments derived from the improvements exempted;

(f) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, in a municipal corporation with a population that exceeds one hundred thousand, as shown by the most recent federal decennial census, that includes a major employment center and that is adjacent to historically distressed neighborhoods, if the legislative authority of the municipal corporation that exempted the property prepares an economic analysis that demonstrates that all taxes generated within the incentive district accruing to the state by reason of improvements constructed within the district during its existence exceed the amount the state pays the school district under section 3317.022 of the Revised Code attributable to such property exemption from the school district's recognized valuation. The analysis shall be submitted to and approved by the department of development prior to January 1, 2006, and the department shall not unreasonably withhold approval.

(g) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, and if service payments have been pledged to be used for mixed-use riverfront entertainment development in any county with a population that exceeds six hundred thousand, as shown by the most recent federal

decennial census;

(h) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution, if, prior to January 1, 2006, the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners has pledged service payments for a designated transportation capacity project approved by the transportation review advisory council under Chapter 5512. of the Revised Code;

(i) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution if the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners have, by January 1, 2006, pledged proceeds for designated transportation improvement projects that involve federal funds for which the proceeds are used to meet a local share match requirement for such funding.

As used in division (A)(6) of this section, "project" has the same meaning as in section 5709.40 of the Revised Code.

(7) The aggregate value of real property in the school district for which an exemption from taxation is granted by an ordinance or resolution adopted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code, as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code and as if such property had been assessed for taxation that year, minus the product determined by multiplying (a) the aggregate value of the real property in the school district exempted from taxation for the preceding tax year under any of the chapters or sections specified in this division, by (b) a fraction, the numerator of which is the difference between (i) the amount of anticipated revenue such school district would have received for the preceding tax year if the real property exempted from taxation had not been exempted from taxation and (ii) the aggregate amount of payments in lieu of taxes on the exempt real property for the preceding tax year and other compensation received for the preceding tax year by the school district pursuant to any agreements entered into on or after January 1, 2006, under section 5709.82 of the Revised Code between the school district and the legislative authority of a political subdivision that acted under the authority of a chapter or statute specified in this division, that were entered into in relation to such exemption, and the denominator of which is the amount of anticipated revenue such school district would have received in the preceding fiscal year if the real property exempted from taxation had not been exempted.

(B) On or before the first day of May each year, the tax commissioner shall certify to the department of education and the office of budget and management the total taxable real property value of railroads and, separately, the total taxable tangible personal property value of all public utilities for the preceding tax year, by school district and by county of location.

(C) If a public utility has properly and timely filed a petition for reassessment under section 5727.47 of the Revised Code with respect to an assessment issued under section 5727.23 of the Revised Code affecting taxable property apportioned by the tax commissioner to a school district, the taxable value of public utility tangible personal property included in the certification under divisions (A)(2) and (B) of this section for the school district shall include only the amount of taxable value on the basis of which the public utility paid tax for the preceding year as provided in division (B)(1) or (2) of section 5727.47 of the Revised Code.

(D) If on the basis of the information certified under division (A) of this section, the department determines that any district fails in any year to meet the qualification requirement specified in ~~division (A)(1) of section 3306.01 and~~ division (A) of section 3317.01 of the Revised Code, the department shall immediately request the tax commissioner to determine the extent to which any school district income tax levied by the district under Chapter 5748. of the Revised Code shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division (D)(3) of this section to the department and the office of budget and management. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of ~~division (A)(1) of section 3306.01 and~~ division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this section;

(2) Estimate the total amount of tax liability for the current tax year under taxes levied by Chapter 5748. of the Revised Code that are apportioned to current operating expenses of the district, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code;

(3) Divide the amount estimated under division (D)(2) of this section by the product obtained under division (D)(1) of this section.

(E)(1) On or before June 1, 2006, and the first day of April of each year thereafter, the director of development shall report to the department of education, the tax commissioner, and the director of budget and management the total amounts of payments received by each city, local, exempted village, or joint vocational school district for the preceding tax year pursuant to division (D) of section 5709.40, division (D) of section 5709.73, division (C) of section 5709.78, or division (B)(1), (B)(2), (C), or (D) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to an ordinance adopted by the legislative authority of a municipal corporation under division (C) of section 5709.40 of the Revised Code, or a resolution adopted by a board of township trustees or board of county commissioners under division (C) of section 5709.73 or division (B) of section 5709.78 of the Revised Code, respectively. On or before April 1, 2006, and the first day of March of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided in this section. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.

(2) On or before April 1, 2007, and the first day of April of each year thereafter, the director of development shall report to the department of education, the tax commissioner, and the director of budget and management the total amounts of payments received by each city, local, exempted village, or joint vocational school district for the preceding tax year pursuant to divisions (B), (C), and (D) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to ordinances or resolutions adopted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code. On or before March 1, 2007, and the first day of March of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided by this section. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported

erroneous, inaccurate, or incomplete data under this division.

Sec. 3317.022. (A)(1) The department of education shall compute and distribute state base cost funding to each eligible school district for the fiscal year, using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins, according to the following formula:

{[the formula amount X (formula ADM +
preschool scholarship ADM)] +
the sum of the base funding supplements
prescribed in divisions (C)(1) to (4)
of section 3317.012 of the Revised Code} -
[.023 x (the sum of recognized valuation
and property exemption value)] +
the amounts calculated for the district under
sections 3317.029 and 3317.0217 of the Revised Code

If the difference obtained is a negative number, the district's computation shall be zero.

(2)(a) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department of education shall calculate the difference between the district's tax exempt value and twenty-five per cent of the district's potential value.

(b) For each school district to which division (A)(2)(a) of this section applies, the department shall adjust the recognized valuation used in the calculation under division (A)(1) of this section by subtracting from it the amount calculated under division (A)(2)(a) of this section.

(B) As used in this section:

(1) The "total special education weight" for a district means the sum of the following amounts:

(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;

(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;

(c) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code;

(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;

(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code;

(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.

(2) "Related services" includes:

(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(b) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability;

(c) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(d) Any service included in units funded under former division (O)(1) of section 3317.024 of the Revised Code;

(e) Any other related service needed by children with disabilities in accordance with their individualized education programs.

(3) The "total vocational education weight" for a district means the sum of the following amounts:

(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code;

(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code.

(4) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code.

(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula:

The district's state share percentage X
the formula amount for the year for which
the aid is calculated X the district's
total special education weight

(2) The attributed local share of special education and related services additional weighted costs equals:

(1 - the district's state share percentage) X the district's
total special education weight X the formula amount

(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(i) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals:

(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-seven thousand three hundred seventy-five dollars;

(ii) For a student in the district's category six special education ADM, thirty-two thousand eight hundred fifty dollars.

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(4)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2008 and 2009.

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department of education shall pay each school district an amount calculated under the following formula:

(formula ADM divided by 2000) X
the personnel allowance X
the state share percentage

(5) In any fiscal year, a school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(formula amount X the sum of categories
one through six special education ADM) +
(total special education weight X formula amount)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, identification of children with disabilities, compliance with state rules governing the education of children with disabilities and prescribing the continuum of program options for children with disabilities, provision of speech language pathology services, and the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population.

The scholarships deducted from the school district's account under section 3310.41 of the Revised Code shall be considered to be an approved special education and related services expense for the purpose of the school district's compliance with division (C)(5) of this section.

The department shall require school districts to report data annually to allow for monitoring compliance with division (C)(5) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each school district for special education and related services.

(6) In any fiscal year, a school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (C)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (C)(4) of this section.

(D)(1) ~~As used in this division:~~

~~(a) "Daily bus miles per student" equals the number of bus miles traveled per day, divided by transportation base.~~

~~(b) "Transportation base" equals total student count as defined in section 3301.011 of the Revised Code, minus the number of students enrolled in units for preschool children with disabilities, plus the number of nonpublic school students included in transportation ADM.~~

~~(c) "Transported student percentage" equals transportation ADM divided by transportation base.~~

~~(d) "Transportation cost per student" equals total operating costs for board-owned or contractor-operated school buses divided by transportation base.~~

~~(2) Analysis of student transportation cost data has resulted in a finding that an average efficient transportation use cost per student can be calculated by means of a regression formula that has as its two independent variables the number of daily bus miles per student and the transported student percentage. For fiscal year 1998 transportation cost data, the average efficient transportation use cost per student is expressed as follows:~~

~~51.79027 + (139.62626 X daily bus miles per student) +~~
~~(116.25573 X transported student percentage)~~

~~The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles stated in division (D)(2) of this section, updating the intercept and regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.~~

~~(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight-tenths per cent to account for the one-year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:~~

~~FISCAL YEAR~~	~~PERCENTAGE~~
~~2000~~	~~52.5%~~
~~2001~~	~~55%~~
~~2002~~	~~57.5%~~
~~2003 and thereafter~~	~~The greater of 60% or the district's state share percentage~~

~~The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula.~~

~~(4) In addition to funds paid under divisions (D)(2) and (3) of this section, a school district shall receive a rough road subsidy if both of the~~

~~following apply:~~

~~(a) Its county rough road percentage is higher than the statewide rough road percentage, as those terms are defined in division (D)(5) of this section;~~

~~(b) Its district student density is lower than the statewide student density, as those terms are defined in that division.~~

~~(5) The rough road subsidy paid to each district meeting the qualifications of division (D)(4) of this section shall be calculated in accordance with the following formula:~~

~~(per rough mile subsidy X total rough road miles)~~
~~X density multiplier~~

~~where:~~

~~(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula:~~

~~0.75 - {0.75 X [(maximum rough road percentage - county rough road percentage)/(maximum rough road percentage - statewide rough road percentage)]}~~

~~(i) "Maximum rough road percentage" means the highest county rough road percentage in the state.~~

~~(ii) "County rough road percentage" equals the percentage of the mileage of state, municipal, county, and township roads that is rated by the department of transportation as type A, B, C, E2, or F in the county in which the school district is located or, if the district is located in more than one county, the county to which it is assigned for purposes of determining its cost-of-doing-business factor.~~

~~(iii) "Statewide rough road percentage" means the percentage of the statewide total mileage of state, municipal, county, and township roads that is rated as type A, B, C, E2, or F by the department of transportation.~~

~~(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.~~

~~(c) "Density multiplier" means a figure calculated in accordance with the following formula:~~

~~1 - [(minimum student density - district student density)/(minimum student density - statewide student density)]~~

~~(i) "Minimum student density" means the lowest district student density in the state.~~

~~(ii) "District student density" means a school district's transportation base divided by the number of square miles in the district.~~

~~(iii) "Statewide student density" means the sum of the transportation bases for all school districts divided by the sum of the square miles in all~~

~~school districts.~~

~~(6) In addition to funds paid under divisions (D)(2) to (5) of this section, each district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than board-owned or contractor-operated buses and whose transportation is not funded under division (G) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.~~

~~(E)~~(1) The department shall compute and distribute state vocational education additional weighted costs funds to each school district in accordance with the following formula:

state share percentage X
the formula amount X
total vocational education weight

In any fiscal year, a school district receiving funds under division ~~(E)~~(D)(1) of this section shall spend those funds only for the purposes that the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division ~~(E)~~(D)(1) of this section may be spent.

(2) The department shall compute for each school district state funds for vocational education associated services in accordance with the following formula:

state share percentage X .05 X the formula amount X
the sum of categories one and two vocational education ADM

In any fiscal year, a school district receiving funds under division ~~(E)~~(D)(2) of this section, or through a transfer of funds pursuant to division ~~(L)~~(I) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division ~~(E)~~(D)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division ~~(E)~~(D)(2) of this section, or through a transfer of funds pursuant to division ~~(L)~~(I) of section 3317.023 of the Revised Code, for other purposes.

~~(F)~~(E) The actual local share in any fiscal year for the combination of

special education and related services additional weighted costs funding calculated under division (C)(1) of this section, transportation ~~funding~~ base payment calculated under divisions ~~(D)(2) and (3)~~ division (E) of ~~this~~ section 3317.0212 of the Revised Code, and vocational education and associated services additional weighted costs funding calculated under divisions ~~(E)~~(D)(1) and (2) of this section shall not exceed for any school district the product of three and three-tenths mills times the district's recognized valuation. The department annually shall pay each school district as an excess cost supplement any amount by which the sum of the district's attributed local shares for that funding exceeds that product. For purposes of calculating the excess cost supplement:

(1) The attributed local share for special education and related services additional weighted costs funding is the amount specified in division (C)(2) of this section.

(2) The attributed local share of the district's transportation ~~funding~~ base payment equals the difference of the total amount calculated for the district ~~using the formula developed~~ under division ~~(D)(2)~~(E) of ~~this~~ section 3317.0212 of the Revised Code minus the actual amount paid to the district after applying the percentage specified in division ~~(D)~~(E)(3) of ~~this~~ that section.

(3) The attributed local share of vocational education and associated services additional weighted costs funding is the amount determined as follows:

(1 - state share percentage) X
[(total vocational education weight X
the formula amount) + the payment under
division ~~(E)~~(D)(2) of this section]

Sec. 3317.023. (A) The amounts required to be paid to a district under this chapter ~~and Chapter 3306. of the Revised Code~~ shall be adjusted by the amount of the computations made under divisions (B) to ~~(N)~~(K) of this section. ~~The department of education shall not make payments or adjustments under divisions (B), (C), and (D) of this section for any fiscal year after fiscal year 2009.~~

As used in this section:

(1) ~~"Classroom teacher" means a licensed employee who provides direct instruction to pupils, excluding teachers funded from money paid to the district from federal sources; educational service personnel; and vocational and special education teachers.~~

~~(2) "Educational service personnel" shall not include such specialists funded from money paid to the district from federal sources or assigned~~

~~full-time to vocational or special education students and classes and may only include those persons employed in the eight specialist areas in a pattern approved by the department of education under guidelines established by the state board of education.~~

~~(3) "Annual salary" means the annual base salary stated in the state minimum salary schedule for the performance of the teacher's regular teaching duties that the teacher earns for services rendered for the first full week of October of the fiscal year for which the adjustment is made under division (C) of this section. It shall not include any salary payments for supplemental teachers contracts.~~

~~(4) "Regular student population" means the formula ADM plus the number of students reported as enrolled in the district pursuant to division (A)(1) of section 3313.981 of the Revised Code; minus the number of students reported under division (A)(2) of section 3317.03 of the Revised Code; minus the FTE of students reported under division (B)(6), (7), (8), (9), (10), (11), or (12) of that section who are enrolled in a vocational education class or receiving special education; and minus twenty per cent of the students enrolled concurrently in a joint vocational school district.~~

~~(5)~~ "VEPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of vocational education services to students within the district or group.

~~(6)~~(2) "Lead district" means a school district, including a joint vocational school district, designated by the department as a VEPD, or designated to provide primary vocational education leadership within a VEPD composed of a group of districts.

(B) ~~If the district employs less than one full-time equivalent classroom teacher for each twenty-five pupils in the regular student population in any school district, deduct the sum of the amounts obtained from the following computations:~~

~~(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty-fifth;~~

~~(2) Subtract the quotient in (1) from the district's regular student population;~~

~~(3) Multiply the difference in (2) by seven hundred fifty-two dollars.~~

~~(C) If a positive amount, add one-half of the amount obtained by multiplying the number of full-time equivalent classroom teachers by:~~

~~(1) The mean annual salary of all full-time equivalent classroom teachers employed by the district at their respective training and experience levels minus;~~

~~(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.~~

~~The number of full-time equivalent classroom teachers used in this computation shall not exceed one twenty-fifth of the district's regular student population. In calculating the district's mean salary under this division, those full-time equivalent classroom teachers with the highest training level shall be counted first, those with the next highest training level second, and so on, in descending order. Within the respective training levels, teachers with the highest years of service shall be counted first, the next highest years of service second, and so on, in descending order.~~

~~(D) This division does not apply to a school district that has entered into an agreement under division (A) of section 3313.42 of the Revised Code. Deduct the amount obtained from the following computations if the district employs fewer than five full-time equivalent educational service personnel, including elementary school art, music, and physical education teachers, counselors, librarians, visiting teachers, school social workers, and school nurses for each one thousand pupils in the regular student population:~~

~~(1) Divide the number of full-time equivalent educational service personnel employed by the district by five one-thousandths;~~

~~(2) Subtract the quotient in (1) from the district's regular student population;~~

~~(3) Multiply the difference in (2) by ninety-four dollars.~~

~~(E)~~ If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of the Revised Code.

~~(F)~~(C)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (J) of section 3313.64 or section 3317.08 of the Revised Code.

(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible.

~~(G)~~(D) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance

with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under ~~Chapter 3306. of the Revised Code~~ this chapter.

~~(H)~~(E) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3) of section 3313.483 of the Revised Code, deduct an amount equal to such payments.

~~(I)~~(F)(1) If the district is a party to an agreement entered into under division (D), (E), or (F) of section 3311.06 or division (B) of section 3311.24 of the Revised Code and is obligated to make payments to another district under such an agreement, deduct an amount equal to such payments if the district school board notifies the department in writing that it wishes to have such payments deducted.

(2) If the district is entitled to receive payments from another district that has notified the department to deduct such payments under division ~~(I)~~(F)(1) of this section, add the amount of such payments.

~~(J)~~(G) If the district is required to pay an amount of funds to a cooperative education district pursuant to a provision described by division (B)(4) of section 3311.52 or division (B)(8) of section 3311.521 of the Revised Code, deduct such amounts as provided under that provision and credit those amounts to the cooperative education district for payment to the district under division (B)(1) of section 3317.19 of the Revised Code.

~~(K)~~(H)(1) If a district is educating a student entitled to attend school in another district pursuant to a shared education contract, compact, or cooperative education agreement other than an agreement entered into pursuant to section 3313.842 of the Revised Code, credit to that educating district on an FTE basis both of the following:

(a) An amount equal to the formula amount.

(b) An amount equal to ~~the current formula amount~~ $5,732 times the state share percentage times any multiple applicable to the student for fiscal year 2009 pursuant to section ~~3306.11~~ 3317.013 or 3317.014 of the Revised Code, as those sections existed for that fiscal year.

(2) Deduct any amount credited pursuant to division ~~(K)~~(H)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11

of the Revised Code.

~~(L)~~(I)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the following amounts calculated for all the school districts within that VEPD ~~pursuant to~~:

(a) In any fiscal year except fiscal year 2012 or 2013, the amount computed under division ~~(E)~~(D)(2) of section 3317.022 of the Revised Code~~.~~:

(b) In fiscal years 2012 and 2013, an amount equal to the following:

state share percentage X .05 X $5,732 X
the sum of categories one
and two vocational education ADM

(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division ~~(L)~~(I)(1) of this section.

~~(M)~~(J) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a student with a disability, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.

~~(N)~~(K)(1) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall pay that amount to the district.

(2) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall deduct that amount from the district of residence of that child.

Sec. 3317.024. The following shall be distributed monthly, quarterly, or annually as may be determined by the state board of education~~, except that the department of education shall not make payments under divisions (F) and (N) of this section for any fiscal year after fiscal year 2009 or under division (L) of this section for fiscal year 2010 or 2011~~:

(A) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such district and for capital improvements for such schools. Such amounts shall be determined on the basis of standards adopted by the state board of education. However, for fiscal years 2012 and 2013, an island district shall receive the lesser of its actual cost of operation, as certified to the department of education, or ninety-three per cent of the

amount the district received in state operating funding for fiscal year 2011. If an island district received no funding for fiscal year 2011, it shall receive no funding for either of fiscal year 2012 or 2013.

(B) ~~An amount for each school district operating classes for children of migrant workers who are unable to be in attendance in an Ohio school during the entire regular school year. The amounts shall be determined on the basis of standards adopted by the state board of education, except that payment shall be made only for subjects regularly offered by the school district providing the classes.~~

~~(C) An amount for each school district with guidance, testing, and counseling programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.~~

~~(D) An amount for the emergency purchase of school buses as provided for in section 3317.07 of the Revised Code;~~

~~(E)~~ An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year.

~~(F) An amount for adult basic literacy education for each district participating in programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.~~

~~(G)~~(C) An amount for the approved cost of transporting eligible pupils with disabilities attending a special education program approved by the department of education whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by the school district or educational service center. No district or service center is eligible to receive a payment under this division for the cost of transporting any pupil whom it transports by regular school bus and who is included in the district's transportation ADM. The state board of education shall establish standards and guidelines for use by the department of education in determining the approved cost of such transportation for each district or service center.

~~(H)~~(D) An amount to each school district, including each cooperative education school district, pursuant to section 3313.81 of the Revised Code to assist in providing free lunches to needy children ~~and an amount to assist needy school districts in purchasing necessary equipment for food preparation~~. The amounts shall be determined on the basis of rules adopted

by the state board of education.

~~(I)~~(E) An amount to each school district, for each pupil attending a chartered nonpublic elementary or high school within the district. The amount shall equal the amount appropriated for the implementation of section 3317.06 of the Revised Code divided by the average daily membership in grades kindergarten through twelve in nonpublic elementary and high schools within the state as determined during the first full week in October of each school year.

~~(J)~~(F) An amount for each county DD board, distributed on the basis of standards adopted by the state board of education, for the approved cost of transportation required for children attending special education programs operated by the county DD board under section 3323.09 of the Revised Code;

~~(K) An amount for each school district that establishes a mentor teacher program that complies with rules of the state board of education. No school district shall be required to establish or maintain such a program in any year unless sufficient funds are appropriated to cover the district's total costs for the program.~~

~~(L) An amount to each school district or educational service center for the total number of gifted units approved pursuant to section 3317.05 of the Revised Code. The amount for each such unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001, plus fifteen per cent of that minimum salary amount, plus two thousand six hundred seventy-eight dollars.~~

~~(M)~~(G) An amount to each institution defined under section 3317.082 of the Revised Code providing elementary or secondary education to children other than children receiving special education under section 3323.091 of the Revised Code. This amount for any institution in any fiscal year shall equal the total of all tuition amounts required to be paid to the institution under division (A)(1) of section 3317.082 of the Revised Code.

~~(N) A grant to each school district and joint vocational school district that operates a "graduation, reality, and dual-role skills" (GRADS) program for pregnant and parenting students that is approved by the department. The amount of the payment shall be the district's state share percentage, as defined in section 3317.022 or 3317.16 of the Revised Code, times the GRADS personnel allowance times the full-time equivalent number of GRADS teachers approved by the department. The GRADS personnel allowance is $47,555 in fiscal years 2008 and 2009. The GRADS program~~

~~shall include instruction on adoption as an option for unintended pregnancies.~~

The state board of education or any other board of education or governing board may provide for any resident of a district or educational service center territory any educational service for which funds are made available to the board by the United States under the authority of public law, whether such funds come directly or indirectly from the United States or any agency or department thereof or through the state or any agency, department, or political subdivision thereof.

Sec. 3317.025. On or before the first day of June of each year, the tax commissioner shall certify the following information to the department of education and the office of budget and management, for each school district in which the value of the property described under division (A) of this section exceeds one per cent of the taxable value of all real and tangible personal property in the district or in which is located tangible personal property designed for use or used in strip mining operations, whose taxable value exceeds five million dollars, and the taxes upon which the district is precluded from collecting by virtue of legal proceedings to determine the value of such property:

(A) The total taxable value of all property in the district owned by a public utility or railroad that has filed a petition for reorganization under the "Bankruptcy Act," 47 Stat. 1474 (1898), 11 U.S.C. 205, as amended, and all tangible personal property in the district designed for use or used in strip mining operations whose taxable value exceeds five million dollars upon which have not been paid in full on or before the first day of April of that calendar year all real and tangible personal property taxes levied for the preceding calendar year and which the district was precluded from collecting by virtue of proceedings under section 205 of said act or by virtue of legal proceedings to determine the tax liability of such strip mining equipment;

(B) The percentage of the total operating taxes charged and payable for school district purposes levied against such valuation for the preceding calendar year that have not been paid by such date;

(C) The product obtained by multiplying the value certified under division (A) of this section by the percentage certified under division (B) of this section. If the value certified under division (A) of this section includes taxable property owned by a public utility or railroad that has filed a petition for reorganization under the bankruptcy act, the amount used in making the calculation under this division shall be reduced by one per cent of the total value of all real and tangible personal property in the district or the value of

the utility's or railroad's property, whichever is less.

Upon receipt of the certification, the department shall recompute the payments required under ~~Chapter 3306. of the Revised Code~~ this chapter in the manner the payments would have been computed if:

(1) The amount certified under division (C) of this section was not subject to taxation by the district and was not included in the certification made under division (A)(1), (A)(2), or (D) of section 3317.021 of the Revised Code.

(2) The amount of taxes charged and payable and unpaid and used to make the computation under division (B) of this section had not been levied and had not been used in the computation required by division (B) of section 3317.021 of the Revised Code. The department shall pay the district that amount in the ensuing fiscal year in lieu of the amounts computed under ~~Chapter 3306. of the Revised Code~~ this chapter.

If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.0210. (A) As used in this section:

(1) "Bankruptcy Reform Act" means the "Bankruptcy Reform Act of 1978," 92 Stat. 2558, 11 U.S.C. 301, as amended.

(2) "Chapter 11 corporation" means a corporation, company, or other business organization that has filed a petition for reorganization under Chapter 11 of the "Bankruptcy Reform Act," 92 Stat. 2626, 11 U.S.C. 1101, as amended.

(3) "Uncollectable taxes" means property taxes payable in a calendar year by a Chapter 11 corporation on its property that a school district is precluded from collecting by virtue of proceedings under the Bankruptcy Reform Act.

(4) "Basic state aid" means ~~the~~ a school district's state education aid ~~calculated for a school district under Chapter 3306. of the Revised Code~~.

(5) "Effective value" means the amount obtained by multiplying the total taxable value certified in a calendar year under section 3317.021 of the Revised Code by a fraction, the numerator of which is the total taxes charged and payable in that calendar year exclusive of the uncollectable taxes payable in that year, and the denominator of which is the total taxes charged and payable in that year.

(6) "Total taxes charged and payable" has the same meaning given

"taxes charged and payable" in section 3317.02 of the Revised Code.

(B)(1) Between the first day of January and the first day of February of any year, a school district shall notify the department of education if it has uncollectable taxes payable in the preceding calendar year from one Chapter 11 corporation.

(2) The department shall verify whether the district has such uncollectable taxes from such a corporation, and if the district does, shall immediately request the tax commissioner to certify the district's total taxes charged and payable in the preceding calendar year, and the tax commissioner shall certify that information to the department within thirty days after receiving the request. For the purposes of this section, taxes are payable in the calendar year that includes the day prescribed by law for their payment, including any lawful extension thereof.

(C) Upon receiving the certification from the tax commissioner, the department shall determine whether the amount of uncollectable taxes from the corporation equals at least one per cent of the total taxes charged and payable as certified by the tax commissioner. If it does, the department shall compute the district's effective value and shall recompute the basic state aid payable to the district for the current fiscal year using the effective value in lieu of the total taxable value used to compute the basic state aid for the current fiscal year. The difference between the basic state aid amount originally computed for the district for the current fiscal year and the recomputed amount shall be paid to the district from the lottery profits education fund before the end of the current fiscal year.

(D) Except as provided in division (E) of this section, amounts received by a school district under division (C) of this section shall be repaid to the department of education in any future year to the extent the district receives payments of uncollectable taxes in such future year. The district shall notify the department of any amount owed under this division.

(E) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.0211. (A) As used in this section:

(1) "Port authority" means any port authority as defined in section 4582.01 or 4582.21 of the Revised Code.

(2) "Real property" includes public utility real property and "personal property" includes public utility personal property.

(3) "Uncollected taxes" means property taxes charged and payable against the property of a port authority for a tax year that a school district has not collected.

(4) "Basic state aid" means ~~the~~ a school district's state education aid ~~calculated for a school district under Chapter 3306. of the Revised Code~~.

(5) "Effective value" means the sum of the effective residential/agricultural real property value, the effective nonresidential/agricultural real property value, and the effective personal value.

(6) "Effective residential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of residential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district, exclusive of the uncollected taxes for that year on all real property subject to taxation in the district, and the denominator of which is the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district.

(7) "Effective nonresidential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of nonresidential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the nonresidential/agricultural real property subject to taxation in the district, exclusive of the uncollected taxes for that year on all real property subject to taxation in the district, and the denominator of which is the total taxes charged and payable for that year against the nonresidential/agricultural real property subject to taxation in the district.

(8) "Effective personal value" means, for a tax year, the amount obtained by multiplying the value for that year certified under division (A)(2) of section 3317.021 of the Revised Code by a fraction, the numerator of which is the total taxes charged and payable for that year against personal property subject to taxation in the district, exclusive of the uncollected taxes for that year on that property, and the denominator of which is the total taxes charged and payable for that year against personal property subject to taxation in the district.

(9) "Nonresidential/agricultural real property value" means, for a tax year, the sum of the values certified for a school district for that year under division (B)(2)(a) of this section, and "residential/agricultural real property value" means, for a tax year, the sum of the values certified for a school district under division (B)(2)(b) of this section.

(10) "Taxes charged and payable against real property" means the taxes charged and payable against that property after making the reduction required by section 319.301 of the Revised Code.

(11) "Total taxes charged and payable" has the same meaning given "taxes charged and payable" in section 3317.02 of the Revised Code.

(B)(1) By the first day of August of any calendar year, a school district shall notify the department of education if it has any uncollected taxes from one port authority for the second preceding tax year whose taxes charged and payable represent at least one-half of one per cent of the district's total taxes charged and payable for that tax year.

(2) The department shall verify whether the district has such uncollected taxes by the first day of September, and if the district does, shall immediately request the county auditor of each county in which the school district has territory to certify the following information concerning the district's property values and taxes for the second preceding tax year, and each such auditor shall certify that information to the department within thirty days of receiving the request:

(a) The value of the property subject to taxation in the district that was classified as nonresidential/agricultural real property pursuant to section 5713.041 of the Revised Code, and the taxes charged and payable on that property; and

(b) The value of the property subject to taxation in the district that was classified as residential/agricultural real property under section 5713.041 of the Revised Code.

(C) By the fifteenth day of November, the department shall compute the district's effective nonresidential/agricultural real property value, effective residential/agricultural real property value, effective personal value, and effective value, and shall determine whether the school district's effective value for the second preceding tax year is at least one per cent less than its total value for that year certified under divisions (A)(1) and (2) of section 3317.021 of the Revised Code. If it is, the department shall recompute the basic state aid payable to the district for the immediately preceding fiscal year using the effective value in lieu of the amounts previously certified under section 3317.021 of the Revised Code. The difference between the original basic state aid amount computed for the district for the preceding fiscal year and the recomputed amount shall be paid to the district from the lottery profits education fund before the end of the current fiscal year.

(D) Except as provided in division (E) of this section, amounts received by a school district under division (C) of this section shall be repaid to the department of education in any future year to the extent the district receives

payments of uncollectable taxes in such future year. The department shall notify a district of any amount owed under this division.

(E) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. ~~3306.12~~ 3317.0212. ~~(A)~~ The department of education shall make no payments under this section for fiscal year 2012 or 2013.

(A) As used in this section:

(1) "Assigned bus" means a school bus used to transport qualifying riders.

(2) "Nontraditional ridership" means the average number of qualifying riders who are enrolled in a community school established under Chapter 3314. of the Revised Code, in a STEM school established under Chapter 3326. of the Revised Code, or in a nonpublic school and are provided school bus service by a school district during the first full week of October.

(3) "Qualifying riders" means resident students enrolled in regular education in grades kindergarten to twelve who are provided school bus service by a school district and who live more than one mile from the school they attend, including students with dual enrollment in a joint vocational school district or a cooperative education school district, and students enrolled in a community school, STEM school, or nonpublic school.

(4) "Qualifying ridership" means the average number of qualifying riders who are provided school bus service by a school district during the first full week of October.

(5) "Rider density" means the number of qualifying riders per square mile of a school district.

(6) "School bus service" means a school district's transportation of qualifying riders in any of the following types of vehicles:

(a) School buses owned or leased by the district;

(b) School buses operated by a private contractor hired by the district;

(c) School buses operated by another school district or entity with which the district has contracted, either as part of a consortium for the provision of transportation or otherwise.

(B) Not later than the fifteenth day of October each year, each city, local, and exempted village school district shall report to the department of education its qualifying ridership, nontraditional ridership, number of qualifying riders per assigned bus, and any other information requested by

the department. Subsequent adjustments to the reported numbers shall be made only in accordance with rules adopted by the department.

(C) The department shall calculate the statewide transportation cost per student as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per student by dividing the district's total costs for school bus service in the previous fiscal year by its qualifying ridership in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per student and the ten districts with the lowest transportation costs per student, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate qualifying ridership of those districts in the previous fiscal year.

(D) The department shall calculate the statewide transportation cost per mile as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per mile by dividing the district's total costs for school bus service in the previous fiscal year by its total number of miles driven for school bus service in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per mile and the ten districts with the lowest transportation costs per mile, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate miles driven for school bus service in those districts in the previous fiscal year.

(E) The department shall calculate each city, local, and exempted village school district's transportation base payment as follows:

(1) Multiply the statewide transportation cost per student by the district's qualifying ridership for the current fiscal year.

(2) Multiply the statewide transportation cost per mile by the district's total number of miles driven for school bus service in the current fiscal year.

(3) Multiply the greater of the amounts calculated under divisions (E)(1) and (2) of this section by the greater of sixty per cent or the district's state share percentage, as defined in section 3317.02 of the Revised Code.

(F) The department shall calculate each city, local, and exempted village school district's nontraditional ridership adjustment according to the following formula:

(nontraditional ridership for the current fiscal year /
qualifying ridership for the current fiscal year) X 0.1 X

transportation base payment

(G) If a city, local, ~~and~~ or exempted village school district offers school bus service to all resident students who are enrolled in regular education in district schools in grades nine to twelve and who live more than one mile from the school they attend, the department shall calculate the district's high school ridership adjustment according to the following formula:

0.025 X transportation base payment

(H) If a city, local, ~~and~~ or exempted village school district offers school bus service to students enrolled in grades kindergarten to eight who live more than one mile, but two miles or less, from the school they attend, the department shall calculate an additional adjustment according to the following formula:

0.025 X transportation base payment

(I)(1) The department annually shall establish a target number of qualifying riders per assigned bus for each city, local, and exempted village school district. The department shall use the most recently available data in establishing the target number. The target number shall be based on the statewide median number of qualifying riders per assigned bus as adjusted to reflect the district's rider density in comparison to the rider density of all other districts. The department shall post on the department's web site each district's target number of qualifying riders per assigned bus and a description of how the target number was determined.

(2) The department shall determine each school district's efficiency index by dividing the district's median number of qualifying riders per assigned bus by its target number of qualifying riders per assigned bus.

(3) The department shall determine each city, local, and exempted village school district's efficiency adjustment as follows:

(a) If the district's efficiency index is equal to or greater than 1.5, the efficiency adjustment shall be calculated according to the following formula:

0.1 X transportation base payment

(b) If the district's efficiency index is less than 1.5 but equal to or greater than 1.0, the efficiency adjustment shall be calculated according to the following formula:

[(efficiency index – 1) / 5] X transportation base payment

(c) If the district's efficiency index is less than 1.0, the efficiency adjustment shall be zero.

(J) The department shall pay each city, local, and exempted village school district the lesser of the following:

(1) The sum of the amounts calculated under divisions (E) to (H) and

(I)(3) of this section;

(2) The district's total costs for school bus service for the prior fiscal year.

(K) In addition to funds paid under division (J) of this section, each city, local, and exempted village district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than school bus service and whose transportation is not funded under division ~~(G)~~(C) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.

~~(L)(1) In fiscal years 2010 and 2011, the department shall pay each district a pro rata portion of the amounts calculated under division (J) of this section and described in division (K) of this section, based on state appropriations.~~

~~(2) In addition to the prorated payment under division (L)(1) of this section, in fiscal years 2010 and 2011, the department shall pay each school district that meets the conditions prescribed in division (L)(3) of this section an additional amount equal to the following product:~~

~~(a) The difference of (i) the amounts calculated under division (J) of this section and prescribed in division (K) of this section minus (ii) that prorated payment; times~~

~~(b) 0.30 in fiscal year 2010 and 0.70 in fiscal year 2011.~~

~~(3) Division (L)(2) of this section applies to each school district that meets all of the following conditions:~~

~~(a) The district qualifies for the calculation of a payment under division (J) of this section because it transports students on board-owned or contractor-owned school buses.~~

~~(b) The district's local wealth per pupil, calculated as prescribed in section 3317.0217 of the Revised Code, is at or below the median local wealth per pupil of all districts that qualify for calculation of a payment under division (J) of this section.~~

~~(c) The district's rider density is at or below the median rider density of all districts that qualify for calculation of a payment under division (J) of this section.~~

Sec. 3317.03. ~~The information certified and verified under this section shall be used to calculate payments under this chapter and Chapter 3306. of the Revised Code.~~

(A) The superintendent of each city, local, and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week

in October the average daily membership of students receiving services from schools under the superintendent's supervision, and the numbers of other students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code the superintendent is required to report under this section, so that the department of education can calculate the district's formula ADM. If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the average daily membership for that school for that week and specify an alternate week for certifying the average daily membership of that school.

The average daily membership during such week shall consist of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code;

(e) Students receiving services in the district through a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of

the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract;

(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(h) An alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 or 3310.51 of the Revised Code, as applicable.

(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(j) A college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(3) The number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;

(4) The number of children with disabilities, other than preschool children with disabilities, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed by the district with a county DD board, minus the number of such children placed with a county DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter ~~and Chapter~~

~~3306. of the Revised Code~~, in addition to the average daily membership, each superintendent shall report separately the following student counts for the same week for which average daily membership is certified:

(1) The total average daily membership in regular learning day classes included in the report under division (A)(1) or (2) of this section for each of the individual grades kindergarten through twelve in schools under the superintendent's supervision;

(2) The number of all preschool children with disabilities enrolled as of the first day of December in classes in the district that are eligible for approval under division (B) of section 3317.05 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December, in accordance with rules adopted under that section;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are:

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;

(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded

under section 3310.41 of the Revised Code;

(i) Participating in a program operated by a county DD board or a state institution;

(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(4) The number of pupils enrolled in joint vocational schools;

(5) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division ~~(D)(1)~~(A) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(6) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities described in division ~~(D)(2)~~(B) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(7) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division ~~(D)(3)~~(C) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(8) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division (D)~~(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(9) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category five disabilities described in division ~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(10) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education services for category six disabilities described in division ~~(D)(6)~~(F) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code;

(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

Beginning with fiscal year 2010, vocational education ADM shall not be used to calculate a district's funding but shall be reported under divisions (B)(11) and (12) of this section for statistical purposes.

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(14)(a) The number of children, other than preschool children with disabilities, the district placed with a county DD board in fiscal year 1998;

(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category one disability described in division ~~(D)(1)~~(A) of section ~~3306.02~~ 3317.013 of the Revised Code;

(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category two disabilities described in division ~~(D)(2)~~(B) of section ~~3306.02~~ 3317.013 of the Revised Code;

(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category three disabilities described in division ~~(D)(3)~~(C) of section ~~3306.02~~ 3317.013 of the Revised Code;

(e) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category four disabilities described in division (D)~~(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(f) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category five disabilities described in division ~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code;

(g) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category six disabilities described in division ~~(D)(6)~~(F) of section ~~3306.02~~ 3317.013 of the Revised Code.

(C)(1) The average daily membership in divisions (B)(1) to (12) of this section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom for the purposes of divisions (A), (B), and (D) of this section. Each student enrolled in kindergarten shall be counted as one full-time equivalent student regardless of whether the student is enrolled in a part-day or all-day kindergarten class.

(2) A student enrolled in a community school established under Chapter 3314. ~~or,~~ a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of the school year that the student is counted in the enrollment of the community school ~~or,~~ the science, technology, engineering, and mathematics school, or the college-preparatory boarding school for purposes of section 3314.08 ~~or,~~ 3326.33, or 3328.24 of the Revised Code. Notwithstanding the number of students reported pursuant to division (B)(3)(d), (e), ~~or~~ (j), or (k) of this section, the department may adjust the formula ADM of a school district to account for students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in a community school ~~or,~~ a science, technology, engineering, and mathematics school, or a college-preparatory boarding school for only a portion of the school year.

(3) No child shall be counted as more than a total of one child in the sum of the average daily memberships of a school district under division (A), divisions (B)(1) to (12), or division (D) of this section, except as follows:

(a) A child with a disability described in ~~division (D) of~~ section ~~3306.02~~ 3317.013 of the Revised Code may be counted both in formula ADM and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one or two vocational education ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school district shall

certify to the superintendent of public instruction on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, for purposes of section 3318.42 of the Revised Code and for any other purpose prescribed by law for which "formula ADM" of the joint vocational district is a factor. If a school operated by the joint vocational school district is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the formula ADM for that school for that week and specify an alternate week for certifying the formula ADM of that school.

The formula ADM, except as otherwise provided in this division, shall consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code who are attending the joint vocational district under an agreement between the district board of education and the governing authority of the community school or the governing body of the science, technology, engineering, and mathematics school and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district.

The following categories of students shall not be included in the determination made under division (D)(1) of this section:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) ~~In~~ To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average

daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:

(a) Students enrolled in each individual grade included in the joint vocational district schools;

(b) Children with disabilities receiving special education services for the category one disability described in division ~~(D)(1)~~(A) of section ~~3306.02~~ 3317.013 of the Revised Code;

(c) Children with disabilities receiving special education services for the category two disabilities described in division ~~(D)(2)~~(B) of section ~~3306.02~~ 3317.013 of the Revised Code;

(d) Children with disabilities receiving special education services for category three disabilities described in division ~~(D)(3)~~(C) of section ~~3306.02~~ 3317.013 of the Revised Code;

(e) Children with disabilities receiving special education services for category four disabilities described in division (D)~~(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(f) Children with disabilities receiving special education services for the category five disabilities described in division ~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code;

(g) Children with disabilities receiving special education services for category six disabilities described in division ~~(D)(6)~~(F) of section ~~3306.02~~ 3317.013 of the Revised Code;

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such

manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the previous school year when assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.

Notwithstanding division (E)(3) of this section, the membership of any school may include a pupil who did not take an assessment required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the assessment to the specific pupil and a parent is not paying tuition for the pupil pursuant to section 3313.6410 of the Revised Code. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the week for which the average daily membership is being certified by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those children with

disabilities currently receiving home instruction.

The average daily membership figure of any cooperative education school district shall be determined in accordance with rules adopted by the state board of education.

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating the amounts to be allocated in accordance with section 3317.022 or 3317.16 of the Revised Code. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February. Division (F)(1) of this section does not apply after fiscal year 2006.

(2) If on the first school day of April the total number of classes or units for preschool children with disabilities that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. ~~or~~, a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code is not included in the formula ADM certified for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter ~~and Chapter 3306. of the Revised Code~~ for the entire fiscal year on the basis of

that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school ~~or,~~ the science, technology, engineering, and mathematics school, or the college-preparatory boarding school during the week for which the formula ADM is being certified.

(4) If a student awarded an educational choice scholarship is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.08 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the deduction, and shall recalculate the school district's payments under this chapter ~~and Chapter 3306. of the Revised Code~~ for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the chartered nonpublic school, the school district, or a community school during the week for which the formula ADM is being certified.

(5) If a student awarded a scholarship under the Jon Peterson special needs scholarship program is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.55 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the deduction, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in an alternative public provider, a registered private provider, or the school district during the week for which the formula ADM is being certified.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education, in the manner prescribed by the superintendent of public instruction, both of the following:

(i) The average daily membership of all children with disabilities other than preschool children with disabilities receiving services at the institution for each category of disability described in divisions ~~(D)(1) to (6)~~(A) to (F) of section ~~3306.02~~ 3317.013 of the Revised Code;

(ii) The average daily membership of all preschool children with disabilities in classes or programs approved annually by the department of education for unit funding under section 3317.05 of the Revised Code.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all preschool children with disabilities enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for preschool children with disabilities by the county DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.

(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of that district's formula ADM or included in the determination of any unit approved for the district under section 3317.05 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in

which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend ~~any such~~ an alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(K) If the superintendent of public instruction determines that a component of the average daily membership certified or reported by a district superintendent, or other reporting entity, is not correct, the superintendent of public instruction may order that the formula ADM used for the purposes of payments under any section of Title XXXIII of the Revised Code be adjusted in the amount of the error.

Sec. 3317.031. A membership record shall be kept by grade level in each city, local, exempted village, joint vocational, and cooperative education school district and such a record shall be kept by grade level in each educational service center that provides academic instruction to pupils, classes for pupils with disabilities, or any other direct instructional services to pupils. Such membership record shall show the following information for each pupil enrolled: Name, date of birth, name of parent, date entered school, date withdrawn from school, days present, days absent, and the number of days school was open for instruction while the pupil was enrolled. At the end of the school year this membership record shall show the total days present, the total days absent, and the total days due for all

pupils in each grade. Such membership record shall show the pupils that are transported to and from school and it shall also show the pupils that are transported living within one mile of the school attended. This membership record shall also show any other information prescribed by the state board of education.

This membership record shall be kept intact for at least five years and shall be made available to the state board of education or its representative in making an audit of the average daily membership or the transportation of the district or educational service center. ~~The membership records of local school districts shall be filed at the close of each school year in the office of the educational service center superintendent.~~

The state board of education may withhold any money due any school district or educational service center under this chapter ~~and Chapter 3306. of the Revised Code~~ until it has satisfactory evidence that the board of education or educational service center governing board has fully complied with all of the provisions of this section.

Nothing in this section shall require any person to release, or to permit access to, public school records in violation of section 3319.321 of the Revised Code.

Sec. 3317.05. (A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of vocational education units or fractions of units approved by the department on the basis of standards and rules adopted by the state board of education. As used in this division, "institution" means an institution operated by a department specified in section 3323.091 of the Revised Code and that provides vocational education programs under the supervision of the division of vocational education of the department that meet the standards and rules for these programs, including licensure of professional staff involved in the programs, as established by the state board.

(B) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each educational service center, for each school district, including each cooperative education school district, for each institution eligible for payment under section 3323.091 of the Revised Code, and for each county DD board: the number of classes operated by the school district, service

center, institution, or county DD board for preschool children with disabilities, or fraction thereof, including in the case of a district or service center that is a funding agent, classes taught by a licensed teacher employed by that district or service center under section 3313.841 of the Revised Code, approved annually by the department on the basis of standards and rules adopted by the state board.

(C) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each school district, including each cooperative education school district, for each institution eligible for payment under section 3323.091 of the Revised Code, and for each county DD board: the number of units for related services, as defined in section 3323.01 of the Revised Code, for preschool children with disabilities approved annually by the department on the basis of standards and rules adopted by the state board.

(D) All of the arithmetical calculations made under this section shall be carried to the second decimal place. The total number of units for school districts, service centers, and institutions approved annually under this section shall not exceed the number of units included in the estimate of cost for these units and appropriations made for them by the general assembly.

In the case of units for preschool children with disabilities described in division (B) of this section, the department shall approve only preschool units for children who are under age six on the thirtieth day of September of the academic year, or on the first day of August of the academic year if the school district in which the child is enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the academic year, except that such a unit may include one or more children who are under age three or are age six or over on the applicable date, as reported under division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board. The number of units for county DD boards and institutions eligible for payment under section 3323.091 of the Revised Code approved under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.

No unit shall be approved under divisions (B) and (C) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.

~~(E) The department shall approve units or fractions thereof for gifted~~

~~children on the basis of standards and rules adopted by the state board.~~

Sec. 3317.051. ~~(A)(1) Notwithstanding sections 3317.05 and 3317.11 of the Revised Code, a unit funded pursuant to division (L) of section 3317.024 or division (A)(2) of section 3317.052 of the Revised Code shall not be approved for state funding in one school district, including any cooperative education school district or any educational service center, to the extent that such unit provides programs in or services to another district which receives payment pursuant to section 3317.04 of the Revised Code.~~

~~(2)~~ Any city, local, exempted village, or cooperative education school district or any educational service center may combine partial unit eligibility for programs for preschool children with disabilities pursuant to section 3317.05 of the Revised Code, and such combined partial units may be approved for state funding in one school district or service center.

~~(B) After units have been initially approved for any fiscal year under section 3317.05 of the Revised Code, no unit shall be subsequently transferred from a school district or educational service center to another city, exempted village, local, or cooperative education school district or educational service center or to an institution or county DD board solely for the purpose of reducing the financial obligations of the school district in a fiscal year it receives payment pursuant to section 3317.04 of the Revised Code.~~

Sec. 3317.053. (A) As used in this section:

(1) "State share percentage" has the same meaning as in section 3317.022 of the Revised Code.

(2) "Dollar amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	DOLLAR AMOUNT
Division (B) of section 3317.05 of the Revised Code	$8,334
Division (C) of that section	$3,234
~~Division (E) of that section~~	~~$5,550~~

(3) "Average unit amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	AVERAGE UNIT AMOUNT
Division (B) of section 3317.05 of the Revised Code	$7,799
Division (C) of that section	$2,966
~~Division (E) of that section~~	~~$5,251~~

(B) In the case of each unit described in division (B)~~,~~ or (C)~~, or (E)~~ of

section 3317.05 of the Revised Code and allocated to a city, local, or exempted village school district, the department of education, in addition to the amounts specified in ~~division (L) of section 3317.024 and~~ sections 3317.052 and 3317.19 of the Revised Code, shall pay a supplemental unit allowance equal to the sum of the following amounts:

(1) An amount equal to 50% of the average unit amount for the unit;

(2) An amount equal to the percentage of the dollar amount for the unit that equals the district's state share percentage.

If, prior to the fifteenth day of May of a fiscal year, a school district's aid computed under section 3317.022 of the Revised Code is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing a new state share percentage. Such new state share percentage shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise calculated under this section.

(C)(1) In the case of each unit allocated to an institution pursuant to division (A) of section 3317.05 of the Revised Code, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of $7,227.

(2) In the case of each unit described in division (B) of section 3317.05 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of $7,799.

(3) In the case of each unit described in division (C) of section 3317.05 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amounts specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of $2,966.

~~(4) In the case of each unit described in division (E) of section 3317.05 of the Revised Code and allocated to an educational service center, the department, in addition to the amounts specified in division (L) of section 3317.024 of the Revised Code, shall pay a supplemental unit allowance of $5,251.~~

Sec. 3317.06. Moneys paid to school districts under division ~~(I)~~(E) of section 3317.024 of the Revised Code shall be used for the following independent and fully severable purposes:

(A) To purchase such secular textbooks or electronic textbooks as have been approved by the superintendent of public instruction for use in public schools in the state and to loan such textbooks or electronic textbooks to pupils attending nonpublic schools within the district or to their parents and to hire clerical personnel to administer such lending program. Such loans shall be based upon individual requests submitted by such nonpublic school pupils or parents. Such requests shall be submitted to the school district in which the nonpublic school is located. Such individual requests for the loan of textbooks or electronic textbooks shall, for administrative convenience, be submitted by the nonpublic school pupil or the pupil's parent to the nonpublic school, which shall prepare and submit collective summaries of the individual requests to the school district. As used in this section:

(1) "Textbook" means any book or book substitute that a pupil uses as a consumable or nonconsumable text, text substitute, or text supplement in a particular class or program in the school the pupil regularly attends.

(2) "Electronic textbook" means ~~computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, local and remote computer assisted instruction, on-line service, electronic medium, or other means of conveying information to the student or otherwise contributing~~ any book or book substitute that a student accesses through the use of a computer or other electronic medium or that is available through an internet-based provider of course content, or any other material that contributes to the learning process through electronic means.

(B) To provide speech and hearing diagnostic services to pupils attending nonpublic schools within the district. Such service shall be provided in the nonpublic school attended by the pupil receiving the service.

(C) To provide physician, nursing, dental, and optometric services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the pupil receiving the service.

(E) To provide therapeutic psychological and speech and hearing services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(F) To provide guidance, counseling, and social work services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(G) To provide remedial services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(H) To supply for use by pupils attending nonpublic schools within the district such standardized tests and scoring services as are in use in the public schools of the state;

(I) To provide programs for children who attend nonpublic schools within the district and are children with disabilities as defined in section 3323.01 of the Revised Code or gifted children. Such programs shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such programs are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(J) To hire clerical personnel to assist in the administration of programs pursuant to divisions (B), (C), (D), (E), (F), (G), and (I) of this section and to hire supervisory personnel to supervise the providing of services and textbooks pursuant to this section.

(K) To purchase or lease any secular, neutral, and nonideological computer application software ~~(including~~ designed to assist students in performing a single task or multiple related tasks, device management software, learning management software, site-licensing~~)~~, ~~prerecorded video laserdiscs,~~ digital video on demand (DVD), ~~compact discs, and video cassette cartridges,~~ wide area connectivity and related technology as it relates to internet access, mathematics or science equipment and materials, instructional materials, and school library materials that are in general use in the public schools of the state and loan such items to pupils attending nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program. Only such items that are incapable of diversion to religious use and that are susceptible of loan to

individual pupils and are furnished for the use of individual pupils shall be purchased and loaned under this division. As used in this section, "instructional materials" means prepared learning materials that are secular, neutral, and nonideological in character and are of benefit to the instruction of school children, and may include educational resources and services developed by the eTech Ohio commission.

(L) To purchase or lease instructional equipment, including computer hardware and related equipment in general use in the public schools of the state, for use by pupils attending nonpublic schools within the district and to loan such items to pupils attending nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program. "Computer hardware and related equipment" includes desktop computers and workstations; laptop computers, computer tablets, and other mobile handheld devices; and their operating systems and accessories.

(M) To purchase mobile units to be used for the provision of services pursuant to divisions (E), (F), (G), and (I) of this section and to pay for necessary repairs and operating costs associated with these units.

(N) To reimburse costs the district incurred to store the records of a chartered nonpublic school that closes. Reimbursements under this division shall be made one time only for each chartered nonpublic school that closes.

(O) To purchase life-saving medical or other emergency equipment for placement in nonpublic schools within the district or to maintain such equipment.

Clerical and supervisory personnel hired pursuant to division (J) of this section shall perform their services in the public schools, in nonpublic schools, public centers, or mobile units where the services are provided to the nonpublic school pupil, except that such personnel may accompany pupils to and from the service sites when necessary to ensure the safety of the children receiving the services.

All services provided pursuant to this section may be provided under contract with educational service centers, the department of health, city or general health districts, or private agencies whose personnel are properly licensed by an appropriate state board or agency.

Transportation of pupils provided pursuant to divisions (E), (F), (G), and (I) of this section shall be provided by the school district from its general funds and not from moneys paid to it under division ~~(I)~~(E) of section 3317.024 of the Revised Code unless a special transportation request is submitted by the parent of the child receiving service pursuant to such divisions. If such an application is presented to the school district, it may pay for the transportation from moneys paid to it under division ~~(I)~~(E) of

section 3317.024 of the Revised Code.

No school district shall provide health or remedial services to nonpublic school pupils as authorized by this section unless such services are available to pupils attending the public schools within the district.

Materials, equipment, computer hardware or software, textbooks, electronic textbooks, and health and remedial services provided for the benefit of nonpublic school pupils pursuant to this section and the admission of pupils to such nonpublic schools shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers.

No school district shall provide services, materials, or equipment that contain religious content for use in religious courses, devotional exercises, religious training, or any other religious activity.

As used in this section, "parent" includes a person standing in loco parentis to a child.

Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high schools and any payments made to school districts under division ~~(I)~~(E) of section 3317.024 of the Revised Code for purposes of this section may be disbursed without submission to and approval of the controlling board.

The allocation of payments for materials, equipment, textbooks, electronic textbooks, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district.

Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used.

The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and services, and under which any unexpended balance of the amounts appropriated by the general assembly to implement this section may be transferred to the auxiliary services personnel unemployment compensation fund established pursuant to section 4141.47 of the Revised Code. The department shall also adopt guidelines and procedures limiting the purchase and loan of the items described in division (K) of this section to items that are in general use in the public schools of the state, that are

incapable of diversion to religious use, and that are susceptible to individual use rather than classroom use. Within thirty days after the end of each biennium, each board of education shall remit to the department all moneys paid to it under division ~~(I)~~(E) of section 3317.024 of the Revised Code and any interest earned on those moneys that are not required to pay expenses incurred under this section during the biennium for which the money was appropriated and during which the interest was earned. If a board of education subsequently determines that the remittal of moneys leaves the board with insufficient money to pay all valid expenses incurred under this section during the biennium for which the remitted money was appropriated, the board may apply to the department of education for a refund of money, not to exceed the amount of the insufficiency. If the department determines the expenses were lawfully incurred and would have been lawful expenditures of the refunded money, it shall certify its determination and the amount of the refund to be made to the director of job and family services who shall make a refund as provided in section 4141.47 of the Revised Code.

Each school district shall label materials, equipment, computer hardware or software, textbooks, and electronic textbooks purchased or leased for loan to a nonpublic school under this section, acknowledging that they were purchased or leased with state funds under this section. However, a district need not label materials, equipment, computer hardware or software, textbooks, or electronic textbooks that the district determines are consumable in nature or have a value of less than two hundred dollars.

Sec. 3317.061. The superintendent of each school district, including each cooperative education and joint vocational school district and the superintendent of each educational service center, shall, on forms prescribed and furnished by the state board of education, certify to the state board of education, on or before the fifteenth day of October of each year, the name of each licensed employee employed, on an annual salary, in each school under such superintendent's supervision during the first full school week of said month of October, the number of years of recognized college training such licensed employee has completed, the college degrees from a recognized college earned by such licensed employee, the type of teaching license held by such licensed employee, the number of months such licensed employee is employed in the school district, the annual salary of such licensed employee, and such other information as the state board of education may request. For the purposes of ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code, a licensed employee is any employee in a position that requires a license issued pursuant to sections 3319.22 to

3319.31 of the Revised Code.

Pursuant to standards adopted by the state board of education, experience of vocational teachers in trade and industry shall be recognized by such board for the purpose of complying with the requirements of recognized college training provided by ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code.

Sec. 3317.07. ~~The state board of education shall establish rules for the purpose of distributing subsidies for the purchase of school buses under division (D) of section 3317.024 of the Revised Code.~~

~~No school bus subsidy payments shall be paid to any district unless such district can demonstrate that pupils residing more than one mile from the school could not be transported without such additional aid.~~

~~The amount paid to a county DD board for buses purchased for transportation of children in special education programs operated by the board shall be based on a per pupil allocation for eligible students.~~

~~The amount paid to a school district for buses purchased for transportation of pupils with disabilities and nonpublic school pupils shall be determined by a per pupil allocation based on the number of special education and nonpublic school pupils for whom transportation is provided.~~

~~The state board of education shall adopt a formula to determine the amount of payments that shall be distributed to school districts to purchase school buses for pupils other than pupils with disabilities or nonpublic school pupils.~~

~~If any district or county DD board obtains bus services for pupil transportation pursuant to a contract, such district or board may use payments received under this section to defray the costs of contracting for bus services in lieu of for purchasing buses.~~

If the department of education determines that a county DD board no longer needs a school bus because the board no longer transports children to a special education program operated by the board, or if the department determines that a school district no longer needs a school bus to transport pupils to a nonpublic school or special education program, the department may reassign a bus that was funded with payments provided pursuant to the version of this section in effect prior to the effective date of this amendment for the purpose of transporting such pupils. The department may reassign a bus to a county DD board or school district that transports children to a special education program designated in the children's individualized education plans, or to a school district that transports pupils to a nonpublic school, and needs an additional school bus.

Sec. 3317.08. A board of education may admit to its schools a child it is

not required by section 3313.64 or 3313.65 of the Revised Code to admit, if tuition is paid for the child.

Unless otherwise provided by law, tuition shall be computed in accordance with this section. A district's tuition charge for a school year shall be one of the following:

(A) For any child, except a preschool child with a disability described in division (B) of this section, the quotient obtained by dividing the sum of the amounts described in divisions (A)(1) and (2) of this section by the district's formula ADM.

(1) The district's total taxes charged and payable for current expenses for the tax year preceding the tax year in which the school year begins as certified under division (A)(3) of section 3317.021 of the Revised Code.

(2) The district's total taxes collected for current expenses under a school district income tax adopted pursuant to section 5748.03 ~~or~~, 5748.08, or 5748.09 of the Revised Code that are disbursed to the district during the fiscal year, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code. On or before the first day of June of each year, the tax commissioner shall certify the amount to be used in the calculation under this division for the next fiscal year to the department of education and the office of budget and management for each city, local, and exempted village school district that levies a school district income tax.

(B) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, an amount computed for the school year as follows:

(1) For each type of special education service provided to the child for whom tuition is being calculated, determine the amount of the district's operating expenses in providing that type of service to all preschool children with disabilities not included in units approved under division (B) of section 3317.05 of the Revised Code;

(2) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, determine the amount of such operating expenses that was paid from any state funds received under this chapter;

(3) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, divide the difference between the amount determined under division (B)(1) of this section and the amount determined under division (B)(2) of this section by the total number of preschool children with disabilities not included in units

approved under division (B) of section 3317.05 of the Revised Code who received that type of service;

(4) Determine the sum of the quotients obtained under division (B)(3) of this section for all types of special education services provided to the child for whom tuition is being calculated.

The state board of education shall adopt rules defining the types of special education services and specifying the operating expenses to be used in the computation under this section.

If any child for whom a tuition charge is computed under this section for any school year is enrolled in a district for only part of that school year, the amount of the district's tuition charge for the child for the school year shall be computed in proportion to the number of school days the child is enrolled in the district during the school year.

Except as otherwise provided in division (J) of section 3313.64 of the Revised Code, whenever a district admits a child to its schools for whom tuition computed in accordance with this section is an obligation of another school district, the amount of the tuition shall be certified by the treasurer of the board of education of the district of attendance, to the board of education of the district required to pay tuition for its approval and payment. If agreement as to the amount payable or the district required to pay the tuition cannot be reached, or the board of education of the district required to pay the tuition refuses to pay that amount, the board of education of the district of attendance shall notify the superintendent of public instruction. The superintendent shall determine the correct amount and the district required to pay the tuition and shall deduct that amount, if any, under division ~~(G)~~(D) of section 3317.023 of the Revised Code, from the district required to pay the tuition and add that amount to the amount allocated to the district attended under such division. The superintendent of public instruction shall send to the district required to pay the tuition an itemized statement showing such deductions at the time of such deduction.

When a political subdivision owns and operates an airport, welfare, or correctional institution or other project or facility outside its corporate limits, the territory within which the facility is located is exempt from taxation by the school district within which such territory is located, and there are school age children residing within such territory, the political subdivision owning such tax exempt territory shall pay tuition to the district in which such children attend school. The tuition for these children shall be computed as provided for in this section.

Sec. 3317.081. (A) Tuition shall be computed in accordance with this section if:

(1) The tuition is required by division (C)(3)(b) of section 3313.64 of the Revised Code; or

(2) Neither the child nor the child's parent resides in this state and tuition is required by section 3327.06 of the Revised Code.

(B) Tuition computed in accordance with this section shall equal the attendance district's tuition rate computed under section 3317.08 of the Revised Code plus the amount in state education aid that district would have received for the child ~~pursuant to Chapter 3306. and sections 3317.023 and 3317.025 to 3317.0211 of the Revised Code~~ during the school year had the attendance district been authorized to count the child in its formula ADM for that school year under section 3317.03 of the Revised Code.

Sec. 3317.082. As used in this section, "institution" means a residential facility that receives and cares for children maintained by the department of youth services and that operates a school chartered by the state board of education under section 3301.16 of the Revised Code.

(A) On or before the thirty-first day of each January and July, the superintendent of each institution that during the six-month period immediately preceding each January or July provided an elementary or secondary education for any child, other than a child receiving special education under section 3323.091 of the Revised Code, shall prepare and submit to the department of education, a statement for each such child indicating the child's name, any school district responsible to pay tuition for the child as determined by the superintendent in accordance with division (C)(2) or (3) of section 3313.64 of the Revised Code, and the period of time during that six-month period that the child received an elementary or secondary education. If any school district is responsible to pay tuition for any such child, the department of education, no later than the immediately succeeding last day of February or August, as applicable, shall calculate the amount of the tuition of the district under section 3317.08 of the Revised Code for the period of time indicated on the statement and do one of the following:

(1) If the tuition amount is equal to or less than the ~~amount of state basic aid funds payable to the district under Chapter 3306. and section 3317.023 of the Revised Code~~ district's state education aid, pay to the institution submitting the statement an amount equal to the tuition amount, as provided under division ~~(M)~~(G) of section 3317.024 of the Revised Code, and deduct the tuition amount from the state basic aid funds payable to the district, as provided under division ~~(F)~~(C)(2) of section 3317.023 of the Revised Code;

(2) If the tuition amount is greater than the ~~amount of state basic aid funds payable to the district under Chapter 3306. and section 3317.023 of~~

~~the Revised Code~~ district's state education aid, require the district to pay to the institution submitting the statement an amount equal to the tuition amount.

(B) In the case of any disagreement about the school district responsible to pay tuition for a child pursuant to this section, the superintendent of public instruction shall make the determination in any such case in accordance with division (C)(2) or (3) of section 3313.64 of the Revised Code.

Sec. 3317.09. All moneys distributed to a school district, including any cooperative education or joint vocational school district and all moneys distributed to any educational service center, by the state whether from a state or federal source, shall be accounted for by the division of school finance of the department of education. All moneys distributed shall be coded as to county, school district or educational service center, source, and other pertinent information, and at the end of each month, a report of such distribution shall be made by such division of school finance to each school district and educational service center. If any board of education fails to make the report required in section 3319.33 of the Revised Code, the superintendent of public instruction shall be without authority to distribute funds to that school district or educational service center ~~pursuant to sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, or 3317.19 of the Revised Code~~ under this chapter until such time as the required reports are filed with all specified officers, boards, or agencies.

Sec. 3317.11. (A) As used in this section:

(1) "Client school district" means a city or exempted village school district that has entered into an agreement under section 3313.843 of the Revised Code to receive any services from an educational service center.

(2) "Service center ADM" means the sum of the total student counts of all local school districts within an educational service center's territory and all of the service center's client school districts.

(3) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

(4) "Total student count" has the same meaning as in section 3301.011 of the Revised Code.

(B)(1) The governing board of each educational service center shall provide supervisory services to each local school district within the service center's territory. Each city or exempted village school district that enters into an agreement under section 3313.843 of the Revised Code for a governing board to provide any services also is considered to be provided supervisory services by the governing board. Except as provided in division

(B)(2) of this section, the supervisory services shall not exceed one supervisory teacher for the first fifty classroom teachers required to be employed in the districts, as calculated in the manner prescribed under former division (B) of section 3317.023 of the Revised Code, as that division existed prior to the effective date of this amendment, and one for each additional one hundred required classroom teachers, as so calculated.

The supervisory services shall be financed annually through supervisory units. Except as provided in division (B)(2) of this section, the number of supervisory units assigned to each district shall not exceed one unit for the first fifty classroom teachers required to be employed in the district, as calculated in the manner prescribed under former division (B) of section 3317.023 of the Revised Code, as that division existed prior to the effective date of this amendment, and one for each additional one hundred required classroom teachers, as so calculated. The cost of each supervisory unit shall be the sum of:

(a) The minimum salary prescribed by section 3317.13 of the Revised Code for the licensed supervisory employee of the governing board;

(b) An amount equal to fifteen per cent of ~~the~~ that salary ~~prescribed by section 3317.13 of the Revised Code~~;

(c) An allowance for necessary travel expenses, limited to the lesser of two hundred twenty-three dollars and sixteen cents per month or two thousand six hundred seventy-eight dollars per year.

(2) If a majority of the boards of education, or superintendents acting on behalf of the boards, of the local and client school districts receiving services from the educational service center agree to receive additional supervisory services and to pay the cost of a corresponding number of supervisory units in excess of the services and units specified in division (B)(1) of this section, the service center shall provide the additional services as agreed to by the majority of districts to, and the department of education shall apportion the cost of the corresponding number of additional supervisory units pursuant to division (B)(3) of this section among, all of the service center's local and client school districts.

(3) The department shall apportion the total cost for all supervisory units among the service center's local and client school districts based on each district's total student count. The department shall deduct each district's apportioned share pursuant to division ~~(E)~~(B) of section 3317.023 of the Revised Code and pay the apportioned share to the service center.

(C) The department annually shall deduct from each local and client school district of each educational service center, pursuant to division ~~(E)~~(B) of section 3317.023 of the Revised Code, and pay to the service center an

amount equal to six dollars and fifty cents times the school district's total student count. The board of education, or the superintendent acting on behalf of the board, of any local or client school district may agree to pay an amount in excess of six dollars and fifty cents per student in total student count. If a majority of the boards of education, or superintendents acting on behalf of the boards, of the local school districts within a service center's territory approve an amount in excess of six dollars and fifty cents per student in total student count, the department shall deduct the approved excess per student amount from all of the local school districts within the service center's territory and pay the excess amount to the service center.

(D) The department shall pay each educational service center the amounts due to it from school districts pursuant to contracts, compacts, or agreements under which the service center furnishes services to the districts or their students. In order to receive payment under this division, an educational service center shall furnish either a copy of the contract, compact, or agreement clearly indicating the amounts of the payments, or a written statement that clearly indicates the payments owed and is signed by the superintendent or treasurer of the responsible school district. The amounts paid to service centers under this division shall be deducted from payments to school districts pursuant to division ~~(K)~~(H)(3) of section 3317.023 of the Revised Code.

(E) Each school district's deduction under this section and divisions ~~(E)~~(B) and ~~(K)~~(H)(3) of section 3317.023 of the Revised Code shall be made from the total payment computed for the district under this chapter, after making any other adjustments in that payment required by law.

(F)(1) Except as provided in division (F)(2) of this section, the department annually shall pay the governing board of each educational service center state funds equal to thirty-seven dollars times its service center ADM.

(2) The department annually shall pay state funds equal to forty dollars and fifty-two cents times the service center ADM to each educational service center comprising territory that was included in the territory of at least three former service centers or county school districts, which former centers or districts engaged in one or more mergers under section 3311.053 of the Revised Code to form the present center.

(G) Each city, exempted village, local, joint vocational, or cooperative education school district shall pay to the governing board of an educational service center any amounts agreed to for each child enrolled in the district who receives special education and related services or career-technical education from the educational service center, unless these educational

services are provided pursuant to a contract, compact, or agreement for which the department deducts and transfers payments under division (D) of this section and division ~~(K)~~(H)(3) of section 3317.023 of the Revised Code.

(H) The department annually shall pay the governing board of each educational service center that has entered into a contract with a STEM school for the provision of services described in division (B) of section 3326.45 of the Revised Code state funds equal to the per-pupil amount specified in the contract for the provision of those services times the number of students enrolled in the STEM school.

(I) An educational service center:

(1) May provide special education and career-technical education to students in its local or client school districts;

(2) Is eligible for transportation funding under division ~~(G)~~(C) of section 3317.024 of the Revised Code ~~and for state subsidies for the purchase of school buses under section 3317.07 of the Revised Code~~;

(3) May apply for and receive gifted education units and provide gifted education services to students in its local or client school districts;

(4) May conduct driver education for high school students in accordance with Chapter 4508. of the Revised Code.

Sec. 3317.12. Any board of education participating in funds distributed under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code shall annually adopt a salary schedule for nonteaching school employees based upon training, experience, and qualifications with initial salaries no less than the salaries in effect on October 13, 1967. Each board of education shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching school employees are to be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all employees working for a particular school board shall be uniform for like positions except as compensation would be affected by salary increments based upon length of service.

On the fifteenth day of October each year the salary schedule and the list of job classifications and salaries in effect on that date shall be filed by each board of education with the superintendent of public instruction. If such salary schedule and classification plan is not filed the superintendent of public instruction shall order the board to file such schedules forthwith. If this condition is not corrected within ten days after receipt of the order from the superintendent of public instruction, no money shall be distributed to the district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code until

the superintendent has satisfactory evidence of the board of education's full compliance with such order.

Sec. 3317.14. Any school district board of education or educational service center governing board participating in funds distributed under Chapter 3317. of the Revised Code shall annually adopt a teachers' salary schedule with provision for increments based upon training and years of service. Notwithstanding sections 3317.13 and 3319.088 of the Revised Code, the board may establish its own service requirements and may grant service credit for such activities as teaching in public or nonpublic schools in this state or in another state, for service as an educational assistant other than as a classroom aide employed in accordance with section 5107.541 of the Revised Code, and for service in the military or in an appropriate state or federal governmental agency, provided no teacher receives less than the amount required to be paid pursuant to section 3317.13 of the Revised Code and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of section 3317.13 of the Revised Code is given to each teacher.

On the fifteenth day of October of each year ~~the salary schedule in effect on that date in each school district and each educational service center shall be filed with the superintendent of public instruction. A~~, a copy of ~~such~~ the salary schedule in effect on that date shall ~~also annually~~ be filed by the board of education of each local school district with the educational service center superintendent, who thereupon shall certify to the treasurer of such local district the correct salary to be paid to each teacher in accordance with the adopted schedule.

Each teacher who has completed training which would qualify such teacher for a higher salary bracket pursuant to this section shall file by the fifteenth day of September with the treasurer of the board of education or educational service center satisfactory evidence of the completion of such additional training. The treasurer shall then immediately place the teacher, pursuant to this section and section 3317.13 of the Revised Code, in the proper salary bracket in accordance with training and years of service before certifying such salary, training, and years of service to the superintendent of public instruction. No teacher shall be paid less than the salary to which such teacher is entitled pursuant to section 3317.13 of the Revised Code.

Sec. 3317.141. The board of education of any city, exempted village, local, or joint vocational school district that is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, shall comply

with this section in accordance with the timeline contained in the board's scope of work, as approved by the superintendent of public instruction, and shall not be subject to sections 3317.13 and 3317.14 of the Revised Code. The board of education of any other school district, and the governing board of each educational service center, shall comply with either this section or sections 3317.13 and 3317.14 of the Revised Code.

(A) The board annually shall adopt a salary schedule for teachers based upon performance as described in division (B) of this section.

(B) For purposes of the schedule, a board shall measure a teacher's performance by considering all of the following:

(1) The level of license issued under section 3319.22 of the Revised Code that the teacher holds;

(2) Whether the teacher is a highly qualified teacher, as defined in section 3319.074 of the Revised Code;

(3) Ratings received by the teacher on performance evaluations conducted under section 3319.111 of the Revised Code.

(C) The schedule shall provide for annual adjustments based on performance on the evaluations conducted under section 3319.111 of the Revised Code. The annual performance-based adjustment for a teacher rated as accomplished shall be greater than the annual performance-based adjustment for a teacher rated as proficient.

(D) The salary schedule adopted under this section may provide for additional compensation for teachers who agree to perform duties, not contracted for under a supplemental contract, that the employing board determines warrant additional compensation. Those duties may include, but are not limited to, assignment to a school building eligible for funding under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301 et seq.; assignment to a building in "school improvement" status under the "No Child Left Behind Act of 2001," as defined in section 3302.01 of the Revised Code; teaching in a grade level or subject area in which the board has determined there is a shortage within the district or service center; or assignment to a hard-to-staff school, as determined by the board.

Sec. 3317.16. (A) As used in this section:

(1) The "total special education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in section 3317.022 of the Revised Code.

(2) The "total vocational education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in section 3317.022 of the Revised Code.

(3) The "total recognized valuation" of a joint vocational school district

shall be determined by adding the recognized valuations of all its constituent school districts that were subject to the joint vocational school district's tax levies for both the current and preceding tax years.

(4) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(5) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with the following formula:

(formula amount X formula ADM) -
(.0005 X total recognized valuation)

If the difference obtained under this division is a negative number, the district's computation shall be zero.

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula:

state share percentage X formula amount X
total vocational education weight

In each fiscal year, a joint vocational school district receiving funds under division (C)(1) of this section shall spend those funds only for the purposes the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the joint vocational school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (C)(1) of this section may be spent.

(2) The department shall compute for each joint vocational school district state funds for vocational education associated services costs in accordance with the following formula:

state share percentage X .05 X
the formula amount X the sum of
categories one and two vocational
education ADM

In any fiscal year, a joint vocational school district receiving funds under division (C)(2) of this section, or through a transfer of funds pursuant to division ~~(L)~~(I) of section 3317.023 of the Revised Code, shall spend those

funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division (C)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division (C)(2) of this section, or through a transfer of funds pursuant to division ~~(L)~~(I) of section 3317.023 of the Revised Code, for other purposes.

(D)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each joint vocational school district in accordance with the following formula:

state share percentage X formula amount X
total special education weight

(2)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2008 and 2009.

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department shall pay each joint vocational school district an amount calculated under the following formula:

(formula ADM divided by 2000) X the personnel
allowance X state share percentage

(3) In any fiscal year, a joint vocational school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(formula amount X
the sum of categories one through
six special education ADM) +
(total special education weight X
formula amount)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, compliance with state rules governing the education of children with disabilities, providing services identified in a student's individualized education program as defined in section 3323.01 of the Revised Code, provision of speech language pathology services, and the portion of the district's overall administrative and overhead costs that are attributable to the district's special education student population.

The department shall require joint vocational school districts to report

data annually to allow for monitoring compliance with division (D)(3) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each joint vocational school district for special education and related services.

(4) In any fiscal year, a joint vocational school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (D)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (D)(2) of this section.

(E)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.

(G)(1) A joint vocational school district's local share of special education and related services additional weighted costs equals:

(1 - state share percentage) X
Total special education weight X
~~the formula amount~~ $5,732

(2) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the

resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

(a) The formula amount;

(b) The product of ~~the formula amount~~ $5,732 times the applicable multiple specified in section ~~3306.11~~ 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment;

(c) Any funds paid under division (E) of this section for the student;

(d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section.

(3) The board of education of the joint vocational school district may report the excess costs calculated under division (G)(2) of this section to the department of education.

(4) If the board of education of the joint vocational school district reports excess costs under division (G)(3) of this section, the department shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (G)(4)(a) or (b) of this section, as applicable:

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division ~~(M)~~(J) of section 3317.023 of the Revised Code.

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

Sec. 3317.18. (A) As used in this section, the terms "Chapter 133. securities," "credit enhancement facilities," "debt charges," "general obligation," "legislation," "public obligations," and "securities" have the same meanings as in section 133.01 of the Revised Code.

(B) The board of education of any school district authorizing the issuance of securities under section 133.10, 133.301, or 3313.372 of the Revised Code or general obligation Chapter 133. securities may adopt legislation requesting the state department of education to approve, and enter into an agreement with the school district and the primary paying

agent or fiscal agent for such securities providing for, the withholding and deposit of funds, otherwise due the district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code, for the payment of debt service charges on such securities.

The board of education shall deliver to the state department a copy of such resolution and any additional pertinent information the state department may require.

The department of education and the office of budget and management shall evaluate each request received from a school district under this section and the department, with the advice and consent of the director of budget and management, shall approve or deny each request based on all of the following:

(1) Whether approval of the request will enhance the marketability of the securities for which the request is made;

(2) Any other pertinent factors or limitations established in rules made under division (I) of this section, including:

(a) Current and projected obligations of funds due to the requesting school district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code including obligations of those funds to public obligations or relevant credit enhancement facilities under this section, Chapter 133. and section 3313.483 of the Revised Code, and under any other similar provisions of law;

(b) Whether the department of education or the office of budget and management has any reason to believe the requesting school district will be unable to pay when due the debt charges on the securities for which the request is made.

The department may require a school district to establish schedules for the payment of all debt charges that take into account the amount and timing of anticipated distributions of funds to the district under Chapter 3317. of the Revised Code.

(C) If the department approves the request of a school district to withhold and deposit funds pursuant to this section, the department shall enter into a written agreement with the district and the primary paying agent or fiscal agent for the securities which shall provide for the withholding of funds pursuant to this section for the payment of debt charges on those securities, and may include both of the following:

(1) Provisions for certification by the district to the department, at a time prior to any date for the payment of applicable debt charges, whether the district is able to pay those debt charges when due;

(2) Requirements that the district deposit amounts for the payment of debt charges on the securities with the primary paying agent or fiscal agent

for the securities prior to the date on which those debt charge payments are due to the owners or holders of the securities.

(D) Whenever a district notifies the department of education that it will be unable to pay debt charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the department that it has not timely received from a school district the full amount needed for the payment when due of those debt charges to the holders or owners of such securities, the department shall immediately contact the school district and the paying agent or fiscal agent to confirm or determine whether the district is unable to make the required payment by the date on which it is due.

Upon demand of the treasurer of state while holding a school district obligation purchased under division (G)(1) of section 135.143 of the Revised Code, the state department of education, without a request of the school district, shall withhold and deposit funds pursuant to this section for payment of debt service charges on that obligation.

If the department confirms or determines that the district will be unable to make such payment and payment will not be made pursuant to a credit enhancement facility, the department shall promptly pay to the applicable primary paying agent or fiscal agent the lesser of the amount due for debt charges or the amount due the district for the remainder of the fiscal year under Chapter 3317. of the Revised Code. If this amount is insufficient to pay the total amount then due the agent for the payment of debt charges, the department shall pay to the agent each fiscal year thereafter, and until the full amount due the agent for unpaid debt charges is paid in full, the lesser of the remaining amount due the agent for debt charges or the amount due the district for the fiscal year under Chapter 3317. of the Revised Code.

(E) The state department may make any payments under this division by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under this section shall be applied only to the payment of debt charges on the securities of the school district subject to this section or to the reimbursement to the provider of a credit enhancement facility that has paid such debt charges.

(F) To the extent a school district whose securities are subject to this section is unable to pay applicable debt charges because of the failure to collect property taxes levied for the payment of those debt charges, the district may transfer to or deposit into any fund that would have received payments under ~~3306. or~~ Chapter 3317. of the Revised Code that were withheld under this section any such delinquent property taxes when later collected, provided that transfer or deposit shall be limited to the amounts

withheld from that fund under this section.

(G) The department may make payments under this section to paying agents or fiscal agents only from and to the extent that money is appropriated by the general assembly for Chapter 3317. of the Revised Code or for the purposes of this section. No securities of a school district to which this section is made applicable constitute an obligation or a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of such securities have no right to have taxes levied or appropriations made by the general assembly for the payment of debt charges on those securities, and those securities, if the department requires, shall contain a statement to that effect. The agreement for or the actual withholding and payment of moneys under this section does not constitute the assumption by the state of any debt of a school district.

(H) In the case of securities subject to the withholding provisions of this section, the issuing board of education shall appoint a paying agent or fiscal agent who is not an officer or employee of the school district.

(I) The department of education, with the advice of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section and division (B) of section 133.25 of the Revised Code as it relates to the withholding and depositing of payments under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code to secure payment of debt charges on school district securities. Those rules shall include criteria for the evaluation and approval or denial of school district requests for withholding under this section and limits on the obligation for the purpose of paying debt charges or reimbursing credit enhancement facilities of funds otherwise to be paid to school districts under Chapter 3317. of the Revised Code.

(J) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3317.19. (A) As used in this section, "total unit allowance" means an amount equal to the sum of the following:

(1) The total of the salary allowances for the teachers employed in the cooperative education school district for all units approved under division (B) or (C) of section 3317.05 of the Revised Code. The salary allowance for each unit shall equal the minimum salary for the teacher of the unit calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001.

(2) Fifteen per cent of the total computed under division (A)(1) of this

section;

(3) The total of the unit operating allowances for all approved units. The amount of each allowance shall equal one of the following:

(a) Eight thousand twenty-three dollars times the number of units for preschool children with disabilities or fraction thereof approved for the year under division (B) of section 3317.05 of the Revised Code;

(b) Two thousand one hundred thirty-two dollars times the number of units or fraction thereof approved for the year under division (C) of section 3317.05 of the Revised Code.

(B) The state board of education shall compute and distribute to each cooperative education school district for each fiscal year an amount equal to the sum of the following:

(1) An amount equal to the total of the amounts credited to the cooperative education school district pursuant to division ~~(K)~~(H) of section 3317.023 of the Revised Code;

(2) The total unit allowance;

(3) An amount for assisting in providing free lunches to needy children ~~and an amount for assisting needy school districts in purchasing necessary equipment for food preparation~~ pursuant to division ~~(H)~~(D) of section 3317.024 of the Revised Code.

(C) If a cooperative education school district has had additional special education units approved for the year under division (F)(2) of section 3317.03 of the Revised Code, the district shall receive an additional amount during the last half of the fiscal year. For each unit, the additional amount shall equal fifty per cent of the amount computed under division (A) of this section for a unit approved under division (B) of section 3317.05 of the Revised Code.

Sec. 3317.20. This section does not apply to preschool children with disabilities.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in section ~~3306.11~~ 3317.013 of the Revised Code for a disability described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" means the state share percentage of the child's school district.

(B) Except as provided in division (C) of this section, the department shall annually pay each county DD board for each child with a disability, other than a preschool child with a disability, for whom the county DD

board provides special education and related services an amount equal to the formula amount + (state share percentage X formula amount X the applicable weight).

(C) If any school district places with a county DD board more children with disabilities than it had placed with a county DD board in fiscal year 1998, the department shall not make a payment under division (B) of this section for the number of children exceeding the number placed in fiscal year 1998. The department instead shall deduct from the district's payments under this chapter ~~and Chapter 3306. of the Revised Code~~, and pay to the county DD board, an amount calculated in accordance with the formula prescribed in division (B) of this section for each child over the number of children placed in fiscal year 1998.

(D) The department shall calculate for each county DD board receiving payments under divisions (B) and (C) of this section the following amounts:

(1) The amount received by the county DD board for approved special education and related services units, other than units for preschool children with disabilities, in fiscal year 1998, divided by the total number of children served in the units that year;

(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section.

If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section.

(E) Each county DD board shall report to the department, in the manner specified by the department, the name of each child for whom the county DD board provides special education and related services and the child's school district.

(F)(1) For the purpose of verifying the accuracy of the payments under this section, the department may request from either of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any child who is placed with a county DD board:

(a) The child's school district;

(b) The independent contractor engaged to create and maintain data verification codes.

(2) Upon a request by the department under division (F)(1) of this section for the data verification code of a child, the child's school district

shall submit that code to the department in the manner specified by the department. If the child has not been assigned a code, the district shall assign a code to that child and submit the code to the department by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child.

The department annually shall submit to each school district the name and data verification code of each child residing in the district for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (F) of this section to any person except as provided by law.

(G) Any document relative to special education and related services provided by a county DD board that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

Sec. 3317.201. This section does not apply to preschool children with disabilities.

(A) As used in this section, the "total special education weight" for an institution means the sum of the following amounts:

(1) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(1)~~(A) of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(2) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(2)~~(B) of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(3) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(3)~~(C) of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(4) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (D)~~(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(5) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(6) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(6)~~(F) of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division.

(B) For each fiscal year, the department of education shall pay each state institution required to provide special education services under division (A) of section 3323.091 of the Revised Code an amount equal to the greater of:

(1) The formula amount times the institution's total special education weight;

(2) The aggregate amount of special education and related services unit funding the institution received for all children with disabilities other than preschool children with disabilities in fiscal year 2005 under sections 3317.052 and 3317.053 of the Revised Code, as those sections existed prior to June 30, 2005.

Sec. 3318.011. For purposes of providing assistance under sections 3318.01 to 3318.20 of the Revised Code, the department of education shall annually do all of the following:

(A) Calculate the adjusted valuation per pupil of each city, local, and exempted village school district according to the following formula:

The district's valuation per pupil -
[$30,000 X (1 - the district's income factor)].

For purposes of this calculation:

(1) Except for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, "valuation per pupil" for a district means its average taxable value, divided by its formula ADM for the previous fiscal year. "Valuation per pupil," for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, means its average taxable value, divided by the sum of its formula ADM for the previous fiscal year plus its open enrollment net gain for the previous fiscal year.

(2) ~~"Average~~ Except for a tangible personal property phase-out impacted district, "average taxable value" means the average of the sum of the amounts certified for a district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code in the second, third, and fourth preceding fiscal years. For a tangible personal property phase-out impacted district, "average taxable value" means the average of the sum of the amounts certified for the district under division (A)(1) and as public utility personal property under division (A)(2) of section 3317.021 of the Revised Code in the second, third, and fourth preceding fiscal years.

(3) "Entitled to attend school" means entitled to attend school in a city,

local, or exempted village school district under section 3313.64 or 3313.65 of the Revised Code.

(4) "Formula ADM" and "income factor" have the same meanings as in section 3317.02 of the Revised Code.

(5) "Native student" has the same meaning as in section 3313.98 of the Revised Code.

(6) "Open enrollment net gain" for a district means (a) the number of the students entitled to attend school in another district but who are enrolled in the schools of the district under its open enrollment policy minus (b) the number of the district's native students who are enrolled in the schools of another district under the other district's open enrollment policy, both numbers as certified to the department under section 3313.981 of the Revised Code. If the difference is a negative number, the district's "open enrollment net gain" is zero.

(7) "Open enrollment policy" means an interdistrict open enrollment policy adopted under section 3313.98 of the Revised Code.

(8) "Tangible personal property phase-out impacted district" means a school district for which the taxable value of its tangible personal property certified under division (A)(2) of section 3317.021 of the Revised Code for tax year 2005, excluding the taxable value of public utility personal property, made up eighteen per cent or more of its total taxable value for tax year 2005 as certified under that section.

(B) Calculate for each district the three-year average of the adjusted valuations per pupil calculated for the district for the current and two preceding fiscal years;

(C) Rank all such districts in order of adjusted valuation per pupil from the district with the lowest three-year average adjusted valuation per pupil to the district with the highest three-year average adjusted valuation per pupil;

(D) Divide such ranking into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average adjusted valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average adjusted valuations per pupil;

(E) Determine the school districts that have three-year average adjusted valuations per pupil that are greater than the median three-year average adjusted valuation per pupil for all school districts in the state;

(F) On or before the first day of September, certify the information described in divisions (A) to (E) of this section to the Ohio school facilities commission.

Sec. 3318.032. (A) Except as otherwise provided in divisions (C) and

(D) of this section, the portion of the basic project cost supplied by the school district shall be the greater of:

(1) The required percentage of the basic project costs;

(2)(a) For all districts except a district that opts to divide its entire classroom facilities needs into segments to be completed separately as authorized by section 3318.034 of the Revised Code, an amount necessary to raise the school district's net bonded indebtedness, as of the date the controlling board approved the project, to within five thousand dollars of the required level of indebtedness;

(b) For a district that opts to divide its entire classroom facilities needs into segments to be completed separately as authorized by section 3318.034 of the Revised Code, an amount necessary to raise the school district's net bonded indebtedness, as of the date the controlling board approved the project, to within five thousand dollars of the following:

The required level of indebtedness X (the basic project cost of the segment as approved by the controlling board / the estimated basic project cost of the district's entire classroom facilities needs as determined jointly by the staff of the Ohio school facilities commission and the district)

(B) The amount of the district's share determined under this section shall be calculated only as of the date the controlling board approved the project, and that amount applies throughout the ~~one-year~~ thirteen-month period permitted under section 3318.05 of the Revised Code for the district's electors to approve the propositions described in that section. If the amount reserved and encumbered for a project is released because the electors do not approve those propositions within that ~~year~~ period, and the school district later receives the controlling board's approval for the project, subject to a new project scope and estimated costs under section 3318.054 of the Revised Code, the district's portion shall be recalculated in accordance with this section as of the date of the controlling board's subsequent approval.

(C) At no time shall a school district's portion of the basic project cost be greater than ninety-five per cent of the total basic project cost.

(D) If the controlling board approves a project under sections 3318.01 to 3318.20 of the Revised Code for a school district that previously received assistance under those sections or section 3318.37 of the Revised Code within the twenty-year period prior to the date on which the controlling board approves the new project, the district's portion of the basic project cost for the new project shall be the lesser of the following:

(1) The portion calculated under division (A) of this section;

(2) The greater of the following:

(a) The required percentage of the basic project costs for the new project;

(b) The percentage of the basic project cost paid by the district for the previous project.

Sec. 3318.034. (A) This section applies to both of the following:

(1) Any school district that has not executed an agreement for a project under sections 3318.01 to 3318.20 of the Revised Code prior to ~~the effective date of this section~~ June 24, 2008;

(2) Any school district that is eligible for additional assistance under sections 3318.01 to 3318.20 of the Revised Code pursuant to division (B)(2) of section 3318.04 of the Revised Code.

Notwithstanding any provision of this chapter to the contrary, with the approval of the Ohio school facilities commission, any school district to which this section applies may opt to divide the district's entire classroom facilities needs, as those needs are jointly determined by the staff of the commission and the school district, into discrete segments and shall comply with all of the provisions of those sections unless otherwise provided in this section.

(B) ~~Each~~ Except as provided in division (C) of this section, each segment shall comply with all of the following:

(1) The segment shall consist of the new construction of one or more entire buildings or the complete renovation of one or more entire existing buildings, with any necessary additions to that building.

(2) The segment shall not include any construction of or renovation or repair to any building that does not complete the needs of the district with respect to that particular building at the time the segment is completed.

(3) The segment shall consist of new construction, renovations, additions, reconstruction, or repair of classroom facilities to the extent that the school district portion, as determined under section 3318.032 of the Revised Code, is an amount not less than the product of 0.040 times the district's valuation at the time the agreement for the segment is executed, unless the district previously has undertaken a segment under this section and the district's portion of the estimated basic project cost of the remainder of its entire classroom facilities needs, as determined jointly by the staff of the commission and the district, is less than the amount otherwise required by this division.

(C) A district described in division (A)(2) of this section that has not received the additional assistance authorized under division (B)(2) of section 3318.04 of the Revised Code may undertake a segment, with commission

approval, for the purpose of renovating or replacing work performed on a facility under the district's prior project. The commission may approve that segment if the commission determines that the renovation or replacement is necessary to protect the facility. The basic project cost of the segment shall be allocated between the state and the district in accordance with section 3318.032 of the Revised Code. However, the requirements of division (B) of this section shall not apply to a segment undertaken under this division.

(D) The commission shall conditionally approve and seek controlling board approval in accordance with division (A) of section 3318.04 of the Revised Code of each segment.

~~(D)~~(E) The school district's maintenance levy requirement, as defined in section 3318.18 of the Revised Code, shall run for twenty-three years from the date the first segment is undertaken; however, the maintenance levy requirement does not apply to a segment undertaken under division (C) of this section.

Sec. 3318.05. The conditional approval of the Ohio school facilities commission for a project shall lapse and the amount reserved and encumbered for such project shall be released unless the school district board accepts such conditional approval within one hundred twenty days following the date of certification of the conditional approval to the school district board and the electors of the school district vote favorably on both of the propositions described in divisions (A) and (B) of this section within ~~one year~~ thirteen months of the date of such certification, except that a school district described in division (C) of this section does not need to submit the proposition described in division (B) of this section. The propositions described in divisions (A) and (B) of this section shall be combined in a single proposal. If the district board or the district's electors fail to meet such requirements and the amount reserved and encumbered for the district's project is released, the district shall be given first priority for project funding as such funds become available, subject to section 3318.054 of the Revised Code.

(A) On the question of issuing bonds of the school district board, for the school district's portion of the basic project cost, in an amount equal to the school district's portion of the basic project cost less the amount of the proceeds of any securities authorized or to be authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost; and

(B) On the question of levying a tax the proceeds of which shall be used to pay the cost of maintaining the classroom facilities included in the project. Such tax shall be at the rate of not less than one-half mill for each

dollar of valuation for a period of twenty-three years, subject to any extension approved under section 3318.061 of the Revised Code.

(C) If a school district has in place a tax levied under section 5705.21 of the Revised Code for general permanent improvements for a continuing period of time and the proceeds of such tax can be used for maintenance, or if a district agrees to the transfers described in section 3318.051 of the Revised Code, the school district need not levy the additional tax required under division (B) of this section, provided the school district board includes in the agreement entered into under section 3318.08 of the Revised Code provisions either:

(1) Earmarking an amount from the proceeds of that permanent improvement tax for maintenance of classroom facilities equivalent to the amount of the additional tax and for the equivalent number of years otherwise required under this section;

(2) Requiring the transfer of money in accordance with section 3318.051 of the Revised Code.

The district board subsequently may rescind the agreement to make the transfers under section 3318.051 of the Revised Code only so long as the electors of the district have approved, in accordance with section 3318.063 of the Revised Code, the levy of a tax for the maintenance of the classroom facilities acquired under the district's project and that levy continues to be collected as approved by the electors.

(D) Proceeds of the tax to be used for maintenance of the classroom facilities under either division (B) or (C)(1) of this section, and transfers of money in accordance with section 3318.051 of the Revised Code shall be deposited into a separate fund established by the school district for such purpose.

Sec. 3318.051. (A) Any city, exempted village, or local school district that commences a project under sections 3318.01 to 3318.20, 3318.36, 3318.37, or 3318.38 of the Revised Code on or after September 5, 2006, need not levy the tax otherwise required under division (B) of section 3318.05 of the Revised Code, if the district board of education adopts a resolution petitioning the Ohio school facilities commission to approve the transfer of money in accordance with this section and the commission approves that transfer. If so approved, the commission and the district board shall enter into an agreement under which the board, in each of twenty-three consecutive years beginning in the year in which the board and the commission enter into the project agreement under section 3318.08 of the Revised Code, shall transfer into the maintenance fund required by division (D) of section 3318.05 of the Revised Code not less than an amount equal to

one-half mill for each dollar of the district's valuation unless and until the agreement to make those transfers is rescinded by the district board pursuant to division (F) of this section.

(B) On the first day of July each year, or on an alternative date prescribed by the commission, the district treasurer shall certify to the commission and the auditor of state that the amount required for the year has been transferred. The auditor of state shall include verification of the transfer as part of any audit of the district under section 117.11 of the Revised Code. If the auditor of state finds that less than the required amount has been deposited into a district's maintenance fund, the auditor of state shall notify the district board of education in writing of that fact and require the board to deposit into the fund, within ninety days after the date of the notice, the amount by which the fund is deficient for the year. If the district board fails to demonstrate to the auditor of state's satisfaction that the board has made the deposit required in the notice, the auditor of state shall notify the department of education. At that time, the department shall withhold an amount equal to ten per cent of the district's funds calculated for the current fiscal year under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code until the auditor of state notifies the department that the auditor of state is satisfied that the board has made the required transfer.

(C) Money transferred to the maintenance fund shall be used for the maintenance of the facilities acquired under the district's project.

(D) The transfers to the maintenance fund under this section does not affect a district's obligation to establish and maintain a capital and maintenance fund under section 3315.18 of the Revised Code.

(E) Any decision by the commission to approve or not approve the transfer of money under this section is final and not subject to appeal. The commission shall not be responsible for errors or miscalculations made in deciding whether to approve a petition to make transfers under this section.

(F) If the district board determines that it no longer can continue making the transfers agreed to under this section, the board may rescind the agreement only so long as the electors of the district have approved, in accordance with section 3318.063 of the Revised Code, the levy of a tax for the maintenance of the classroom facilities acquired under the district's project and that levy continues to be collected as approved by the electors. That levy shall be for a number of years that is equal to the difference between twenty-three years and the number of years that the district made transfers under this section and shall be at the rate of not less than one-half mill for each dollar of the district's valuation. The district board shall continue to make the transfers agreed to under this section until that levy has

been approved by the electors.

Sec. 3318.054. (A) If conditional approval of a city, exempted village, or local school district's project lapses as provided in section 3318.05 of the Revised Code, or if conditional approval of a joint vocational school district's project lapses as provided in division (D) of section 3318.41 of the Revised Code, because the district's electors have not approved the ballot measures necessary to generate the district's portion of the basic project cost, and if the district board desires to seek a new conditional approval of the project, the district board shall request that the Ohio school facilities commission set the scope, basic project cost, and school district portion of the basic project cost prior to resubmitting the ballot measures to the electors. To do so, the commission shall use the district's current assessed tax valuation and the district's percentile for the prior fiscal year. For a district that has entered into an agreement under section 3318.36 of the Revised Code and desires to proceed with a project under sections 3318.01 to 3318.20 of the Revised Code, the district's portion of the basic project cost shall be the percentage specified in that agreement. The project scope and basic costs established under this division shall be valid for one year from the date the commission approves them.

(B) Upon the commission's approval under division (A) of this section, the district board may submit the ballot measures to the district's electors for approval of the project based on the new project scope and estimated costs. Upon electoral approval of those measures, the district shall be given first priority for project funding as such funds become available.

(C) When the commission determines that funds are available for the district's project, the commission shall do all of the following:

(1) Determine the school district portion of the basic project cost under section 3318.032 of the Revised Code, in the case of a city, exempted village, or local school district, or under section 3318.42 of the Revised Code, in the case of a joint vocational school district;

(2) Conditionally approve the project and submit it to the controlling board for approval pursuant to section 3318.04 of the Revised Code;

(3) Encumber funds for the project under section 3318.11 of the Revised Code;

(4) Enter into an agreement with the district board under section 3318.08 of the Revised Code.

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the

proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the school district board shall authorize the issuance of a first installment of bond anticipation notes in an amount specified by the agreement, which amount shall not exceed an amount necessary to raise the net bonded indebtedness of the school district as of the date of the controlling board's approval to within five thousand dollars of the required level of indebtedness for the preceding year. In the event that a first installment of bond anticipation notes is issued, the school district board shall, as soon as practicable after the county treasurer of each county in which the school district is located has commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, authorize the issuance of a second and final installment of bond anticipation notes or a first and final issue of bonds.

The combined value of the first and second installment of bond anticipation notes or the value of the first and final issue of bonds shall be equal to the school district's portion of the basic project cost. The proceeds of any such bonds shall be used first to retire any bond anticipation notes. Otherwise, the proceeds of such bonds and of any bond anticipation notes,

except the premium and accrued interest thereon, shall be deposited in the school district's project construction fund. In determining the amount of net bonded indebtedness for the purpose of fixing the amount of an issue of either bonds or bond anticipation notes, gross indebtedness shall be reduced by moneys in the bond retirement fund only to the extent of the moneys therein on the first day of the year preceding the year in which the controlling board approved the project. Should there be a decrease in the tax valuation of the school district so that the amount of indebtedness that can be incurred on the tax duplicates for the year in which the controlling board approved the project is less than the amount of the first installment of bond anticipation notes, there shall be paid from the school district's project construction fund to the school district's bond retirement fund to be applied against such notes an amount sufficient to cause the net bonded indebtedness of the school district, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness for the year in which the controlling board approved the project. The maximum amount of indebtedness to be incurred by any school district board as its share of the cost of the project is either an amount that will cause its net bonded indebtedness, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness, or an amount equal to the required percentage of the basic project costs, whichever is greater. All bonds and bond anticipation notes shall be issued in accordance with Chapter 133. of the Revised Code, and notes may be renewed as provided in section 133.22 of the Revised Code.

(B) The transfer of such funds of the school district board available for the project, together with the proceeds of the sale of the bonds or notes, except premium, accrued interest, and interest included in the amount of the issue, to the school district's project construction fund;

(C) For all school districts except joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the following provisions as applicable:

(1) If section 3318.052 of the Revised Code applies, the earmarking of the proceeds of a tax levied under section 5705.21 of the Revised Code for general permanent improvements or under section 5705.218 of the Revised Code for the purpose of permanent improvements, or the proceeds of a school district income tax levied under Chapter 5748. of the Revised Code, or the proceeds from a combination of those two taxes, in an amount to pay all or part of the service charges on bonds issued to pay the school district

portion of the project and an amount equivalent to all or part of the tax required under division (B) of section 3318.05 of the Revised Code;

(2) If section 3318.052 of the Revised Code does not apply, one of the following:

(a) The levy of the tax authorized at the election for the payment of maintenance costs, as specified in division (B) of section 3318.05 of the Revised Code;

(b) If the school district electors have approved a continuing tax for general permanent improvements under section 5705.21 of the Revised Code and that tax can be used for maintenance, the earmarking of an amount of the proceeds from such tax for maintenance of classroom facilities as specified in division (B) of section 3318.05 of the Revised Code;

(c) If, in lieu of the tax otherwise required under division (B) of section 3318.05 of the Revised Code, the commission has approved the transfer of money to the maintenance fund in accordance with section 3318.051 of the Revised Code, a requirement that the district board comply with the provisions that section. The district board may rescind the provision prescribed under division (C)(2)(c) of this section only so long as the electors of the district have approved, in accordance with section 3318.063 of the Revised Code, the levy of a tax for the maintenance of the classroom facilities acquired under the district's project and that levy continues to be collected as approved by the electors.

(D) For joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, provision for deposit of school district moneys dedicated to maintenance of the classroom facilities acquired under those sections as prescribed in section 3318.43 of the Revised Code;

(E) Dedication of any local donated contribution as provided for under section 3318.084 of the Revised Code, including a schedule for depositing such moneys applied as an offset of the district's obligation to levy the tax described in division (B) of section 3318.05 of the Revised Code as required under division (D)(2) of section 3318.084 of the Revised Code;

(F) Ownership of or interest in the project during the period of construction, which shall be divided between the commission and the school district board in proportion to their respective contributions to the school district's project construction fund;

(G) Maintenance of the state's interest in the project until any obligations issued for the project under section 3318.26 of the Revised Code are no longer outstanding;

(H) The insurance of the project by the school district from the time

there is an insurable interest therein and so long as the state retains any ownership or interest in the project pursuant to division (F) of this section, in such amounts and against such risks as the commission shall require; provided, that the cost of any required insurance until the project is completed shall be a part of the basic project cost;

(I) The certification by the director of budget and management that funds are available and have been set aside to meet the state's share of the basic project cost as approved by the controlling board pursuant to either section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code;

(J) Authorization of the school district board to advertise for and receive construction bids for the project, for and on behalf of the commission, and to award contracts in the name of the state subject to approval by the commission;

(K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board;

(L) Disposal of any balance left in the school district's project construction fund upon completion of the project;

(M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(O) Provision for deposit of an executed copy of the agreement in the office of the commission;

(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission;

(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;

(R)~~(1) For all school districts except a district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision~~ Provision that all state funds reserved and encumbered to pay the state share of the cost of the project ~~pursuant to~~

~~section 3318.03 of the Revised Code be spent on the construction or acquisition of the project prior to the expenditure of any~~ and the funds provided by the school district to pay for its share of the project cost, ~~unless~~ including the respective shares of the cost of a segment if the project is divided into segments, be spent on the construction and acquisition of the project or segment simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code. However, if the school district certifies to the commission that expenditure by the school district is necessary to maintain the federal tax status or tax-exempt status of notes or bonds issued by the school district to pay for its share of the project cost or to comply with applicable temporary investment periods or spending exceptions to rebate as provided for under federal law in regard to those notes or bonds, ~~in which cases,~~ the school district may commit to spend, or spend, a greater portion of the funds it provides~~;~~

~~(2) For a school district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of any segment of the project, or of the entire project if it is not divided into segments, be spent on the construction and acquisition of the project simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code~~ during any specific period than would otherwise be required under this division.

(S) A provision stipulating that the commission may prohibit the district from proceeding with any project if the commission determines that the site is not suitable for construction purposes. The commission may perform soil tests in its determination of whether a site is appropriate for construction purposes.

(T) A provision stipulating that, unless otherwise authorized by the commission, any contingency reserve portion of the construction budget prescribed by the commission shall be used only to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project as provided under section 3318.086 of the Revised Code;

(U) Provision stipulating that for continued release of project funds the

school district board shall comply with section 3313.41 of the Revised Code throughout the project and shall notify the department of education and the Ohio community school association when the board plans to dispose of facilities by sale under that section;

(V) Provision that the commission shall not approve a contract for demolition of a facility until the school district board has complied with section 3313.41 of the Revised Code relative to that facility, unless demolition of that facility is to clear a site for construction of a replacement facility included in the district's project.

Sec. 3318.12. (A) The Ohio school facilities commission shall cause to be transferred to the school district's project construction fund the necessary amounts from amounts appropriated by the general assembly and set aside for such purpose, from time to time as may be necessary to pay obligations chargeable to such fund when due. All investment earnings of a school district's project construction fund shall be credited to the fund.

(B)(1) The treasurer of the school district board shall disburse funds from the school district's project construction fund, including investment earnings credited to the fund, only upon the approval of the commission or the commission's designated representative. The commission or the commission's designated representative shall issue vouchers against such fund, in such amounts, and at such times as required by the contracts for construction of the project.

(2) Notwithstanding anything to the contrary in division (B)(1) of this section, the school district board may, by a duly adopted resolution, choose to use all or part of the investment earnings of the district's project construction fund that are attributable to the district's contribution to the fund to pay the cost of classroom facilities or portions or components of classroom facilities that are not included in the district's basic project cost but that are related to the district's project. If the district board adopts a resolution in favor of using those investment earnings as authorized under division (B)(2) of this section, the treasurer shall disburse the amount as designated and directed by the board. However, if the district board chooses to use any part of the investment earnings for classroom facilities or portions or components of classroom facilities that are not included in the basic project cost, as authorized under division (B)(2) of this section, and, subsequently, the cost of the project exceeds the amount in the project construction fund, the district board shall restore to the project construction fund the full amount of the investment earnings used under division (B)(2) of this section before any additional state moneys shall be released for the project.

(C) After ~~the~~ a certificate of completion has been issued for a project ~~has been completed~~ under section 3318.48 of the Revised Code:

(1) At the discretion of the school district board, any investment earnings remaining in the project construction fund that are attributable to the school district's contribution to the fund shall be:

(a) Retained in the project construction fund for future projects;

(b) Transferred to the district's maintenance fund required by division (B) of section 3318.05 or section 3318.43 of the Revised Code, and the money so transferred shall be used solely for maintaining the classroom facilities included in the project;

(c) Transferred to the district's permanent improvement fund.

(2) Any investment earnings remaining in the project construction fund that are attributable to the state's contribution to the fund shall be transferred to the commission for expenditure pursuant to sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

(3) Any other surplus remaining in the school district's project construction fund ~~after the project has been completed~~ shall be transferred to the commission and the school district board in proportion to their respective contributions to the fund. The commission shall use the money transferred to it under this division for expenditure pursuant to sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

(D) Pursuant to appropriations of the general assembly, any moneys transferred to the commission under division (C)(2) or (3) of this section from a project construction fund for a project under sections 3318.40 to 3318.45 of the Revised Code may be used for future expenditures for projects under sections 3318.40 to 3318.45 of the Revised Code, notwithstanding the two per cent annual limit specified in division (B) of section 3318.40 of the Revised Code.

Sec. 3318.31. (A) The Ohio school facilities commission may perform any act and ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under, Chapter 3318. of the Revised Code, including any of the following:

(1) Adopt, amend, and rescind, pursuant to section 111.15 of the Revised Code, rules for the administration of programs authorized under Chapter 3318. of the Revised Code.

(2) Contract with, retain the services of, or designate, and fix the compensation of, such agents, accountants, consultants, advisers, and other independent contractors as may be necessary or desirable to carry out the programs authorized under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(3) Receive and accept any gifts, grants, donations, and pledges, and receipts therefrom, to be used for the programs authorized under Chapter 3318. of the Revised Code.

(4) Make and enter into all contracts, commitments, and agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(5) Request the director of administrative services to debar a contractor as provided in section 153.02 of the Revised Code.

(B) The commission shall appoint and fix the compensation of an executive director who shall serve at the pleasure of the commission. The executive director shall supervise the operations of the commission and perform such other duties as delegated by the commission. The executive director also shall employ and fix the compensation of such employees as will facilitate the activities and purposes of the commission, who shall serve at the pleasure of the executive director. The employees of the commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

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

Sec. 3318.36. (A)(1) As used in this section:

(a) "Ohio school facilities commission," "classroom facilities," "school district," "school district board," "net bonded indebtedness," "required percentage of the basic project costs," "basic project cost," "valuation," and "percentile" have the same meanings as in section 3318.01 of the Revised Code.

(b) "Required level of indebtedness" means five per cent of the school district's valuation for the year preceding the year in which the commission and school district enter into an agreement under division (B) of this section, plus [two one-hundredths of one per cent multiplied by (the percentile in which the district ranks minus one)].

(c) "Local resources" means any moneys generated in any manner permitted for a school district board to raise the school district portion of a project undertaken with assistance under sections 3318.01 to 3318.20 of the Revised Code.

(d) "Tangible personal property phase-out impacted district" has the same meaning as in section 3318.011 of the Revised Code.

(2) For purposes of determining the required level of indebtedness, the

required percentage of the basic project costs under division (C)(1) of this section, and priority for assistance under sections 3318.01 to 3318.20 of the Revised Code, the percentile ranking of a school district with which the commission has entered into an agreement under this section between the first day of July and the thirty-first day of August in each fiscal year is the percentile ranking calculated for that district for the immediately preceding fiscal year, and the percentile ranking of a school district with which the commission has entered into such agreement between the first day of September and the thirtieth day of June in each fiscal year is the percentile ranking calculated for that district for the current fiscal year. However, in the case of a tangible personal property phase-out impacted district, the district's priority for assistance under sections 3318.01 to 3318.20 of the Revised Code and its portion of the basic project cost under those sections shall be determined in the manner prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of this section.

(B)(1) There is hereby established the school building assistance expedited local partnership program. Under the program, the Ohio school facilities commission may enter into an agreement with the school district board of any school district under which the school district board may proceed with the new construction or major repairs of a part of the school district's classroom facilities needs, as determined under sections 3318.01 to 3318.20 of the Revised Code, through the expenditure of local resources prior to the school district's eligibility for state assistance under those sections and may apply that expenditure toward meeting the school district's portion of the basic project cost of the total of the school district's classroom facilities needs, as determined under sections 3318.01 to 3318.20 of the Revised Code and as recalculated under division (E) of this section, that are eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code when the school district becomes eligible for that assistance. Any school district that is reasonably expected to receive assistance under sections 3318.01 to 3318.20 of the Revised Code within two fiscal years from the date the school district adopts its resolution under division (B) of this section shall not be eligible to participate in the program established under this section.

(2) To participate in the program, a school district board shall first adopt a resolution certifying to the commission the board's intent to participate in the program.

The resolution shall specify the approximate date that the board intends to seek elector approval of any bond or tax measures or to apply other local resources to use to pay the cost of classroom facilities to be constructed

under this section. The resolution may specify the application of local resources or elector-approved bond or tax measures after the resolution is adopted by the board, and in such case the board may proceed with a discrete portion of its project under this section as soon as the commission and the controlling board have approved the basic project cost of the district's classroom facilities needs as specified in division (D) of this section. The board shall submit its resolution to the commission not later than ten days after the date the resolution is adopted by the board.

The commission shall not consider any resolution that is submitted pursuant to division (B)(2) of this section, as amended by this amendment, sooner than September 14, 2000.

(3) For purposes of determining when a district that enters into an agreement under this section becomes eligible for assistance under sections 3318.01 to 3318.20 of the Revised Code, the commission shall use one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the district's percentile ranking determined at the time the district entered into the agreement under this section, as prescribed by division (A)(2) of this section;

(b) For a tangible personal property phase-out impacted district, the least of (i) the district's percentile ranking determined at the time the district entered into the agreement under this section, as prescribed by division (A)(2) of this section, (ii) the district's current percentile ranking under section 3318.011 of the Revised Code, or (iii) for a project approved for fiscal year 2012, the district's percentile ranking under the alternate equity list prescribed by Section 387.70 of H.B. 153 of the 129th general assembly.

(4) Any project under this section shall comply with section 3318.03 of the Revised Code and with any specifications for plans and materials for classroom facilities adopted by the commission under section 3318.04 of the Revised Code.

(5) If a school district that enters into an agreement under this section has not begun a project applying local resources as provided for under that agreement at the time the district is notified by the commission that it is eligible to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code, all assessment and agreement documents entered into under this section are void.

(6) Only construction of or repairs to classroom facilities that have been approved by the commission and have been therefore included as part of a district's basic project cost qualify for application of local resources under this section.

(C) Based on the results of on-site visits and assessment, the commission shall determine the basic project cost of the school district's classroom facilities needs. The commission shall determine the school district's portion of such basic project cost, which shall be the greater of:

(1) The required percentage of the basic project costs, determined based on the school district's percentile ranking;

(2) An amount necessary to raise the school district's net bonded indebtedness, as of the fiscal year the commission and the school district enter into the agreement under division (B) of this section, to within five thousand dollars of the required level of indebtedness.

(D)(1) When the commission determines the basic project cost of the classroom facilities needs of a school district and the school district's portion of that basic project cost under division (C) of this section, the project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval thereof. The controlling board shall forthwith approve or reject the commission's determination, conditional approval, and the amount of the state's portion of the basic project cost; however, no state funds shall be encumbered under this section. Upon approval by the controlling board, the school district board may identify a discrete part of its classroom facilities needs, which shall include only new construction of or additions or major repairs to a particular building, to address with local resources. Upon identifying a part of the school district's basic project cost to address with local resources, the school district board may allocate any available school district moneys to pay the cost of that identified part, including the proceeds of an issuance of bonds if approved by the electors of the school district.

All local resources utilized under this division shall first be deposited in the project construction account required under section 3318.08 of the Revised Code.

(2) Unless the school district board exercises its option under division (D)(3) of this section, for a school district to qualify for participation in the program authorized under this section, one of the following conditions shall be satisfied:

(a) The electors of the school district by a majority vote shall approve the levy of taxes outside the ten-mill limitation for a period of twenty-three years at the rate of not less than one-half mill for each dollar of valuation to be used to pay the cost of maintaining the classroom facilities included in the basic project cost as determined by the commission. The form of the ballot to be used to submit the question whether to approve the tax required under this division to the electors of the school district shall be the form for

an additional levy of taxes prescribed in section 3318.361 of the Revised Code, which may be combined in a single ballot question with the questions prescribed under section 5705.218 of the Revised Code.

(b) As authorized under division (C) of section 3318.05 of the Revised Code, the school district board shall earmark from the proceeds of a permanent improvement tax levied under section 5705.21 of the Revised Code, an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(c) As authorized under section 3318.051 of the Revised Code, the school district board shall, if approved by the commission, annually transfer into the maintenance fund required under section 3318.05 of the Revised Code the amount prescribed in section 3318.051 of the Revised Code in lieu of the tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(d) If the school district board has rescinded the agreement to make transfers under section 3318.051 of the Revised Code, as provided under division (F) of that section, the electors of the school district, in accordance with section 3318.063 of the Revised Code, first shall approve the levy of taxes outside the ten-mill limitation for the period specified in that section at a rate of not less than one-half mill for each dollar of valuation.

(e) The school district board shall apply the proceeds of a tax to leverage bonds as authorized under section 3318.052 of the Revised Code or dedicate a local donated contribution in the manner described in division (B) of section 3318.084 of the Revised Code in an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(3) A school district board may opt to delay taking any of the actions described in division (D)(2) of this section until the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code. In order to exercise this option, the board shall certify to the commission a resolution indicating the board's intent to do so prior to entering into an agreement under division (B) of this section.

(4) If pursuant to division (D)(3) of this section a district board opts to delay levying an additional tax until the district becomes eligible for state assistance, it shall submit the question of levying that tax to the district electors as follows:

(a) In accordance with section 3318.06 of the Revised Code if it will

also be necessary pursuant to division (E) of this section to submit a proposal for approval of a bond issue;

(b) In accordance with section 3318.361 of the Revised Code if it is not necessary to also submit a proposal for approval of a bond issue pursuant to division (E) of this section.

(5) No state assistance under sections 3318.01 to 3318.20 of the Revised Code shall be released until a school district board that adopts and certifies a resolution under division (D) of this section also demonstrates to the satisfaction of the commission compliance with the provisions of division (D)(2) of this section.

Any amount required for maintenance under division (D)(2) of this section shall be deposited into a separate fund as specified in division (B) of section 3318.05 of the Revised Code.

(E)(1) If the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code based on its percentile ranking under division (B)(3) of this section, the commission shall conduct a new assessment of the school district's classroom facilities needs and shall recalculate the basic project cost based on this new assessment. The basic project cost recalculated under this division shall include the amount of expenditures made by the school district board under division (D)(1) of this section. The commission shall then recalculate the school district's portion of the new basic project cost, which shall be one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section;

(b) For a tangible personal property phase-out impacted district, the least of (i) the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section, (ii) the percentage of the new basic project cost determined under section 3318.032 of the Revised Code using the district's current percentile ranking under section 3318.011 of the Revised Code, or (iii) for a project approved for fiscal year 2012, the percentage of the new basic project cost determined under section 3318.032 of the Revised Code using the district's percentile ranking under the alternate equity list prescribed by Section 387.70 of H.B. 153 of the 129th general assembly. ~~The~~

The commission shall deduct the expenditure of school district moneys made under division (D)(1) of this section from the school district's portion of the basic project cost as recalculated under this division. If the amount of school district resources applied by the school district board to the school

district's portion of the basic project cost under this section is less than the total amount of such portion as recalculated under this division, the school district board by a majority vote of all of its members shall, if it desires to seek state assistance under sections 3318.01 to 3318.20 of the Revised Code, adopt a resolution as specified in section 3318.06 of the Revised Code to submit to the electors of the school district the question of approval of a bond issue in order to pay any additional amount of school district portion required for state assistance. Any tax levy approved under division (D) of this section satisfies the requirements to levy the additional tax under section 3318.06 of the Revised Code.

(2) If the amount of school district resources applied by the school district board to the school district's portion of the basic project cost under this section is more than the total amount of such portion as recalculated under ~~this~~ division (E)(1) of this section, within one year after the school district's portion is so recalculated ~~under division (E)(1) of this section~~ the commission may grant to the school district the difference between the two calculated portions, but at no time shall the commission expend any state funds on a project in an amount greater than the state's portion of the basic project cost as recalculated under ~~this~~ division (E)(1) of this section.

Any reimbursement under this division shall be only for local resources the school district has applied toward construction cost expenditures for the classroom facilities approved by the commission, which shall not include any financing costs associated with that construction.

The school district board shall use any moneys reimbursed to the district under this division to pay off any debt service the district owes for classroom facilities constructed under its project under this section before such moneys are applied to any other purpose. However, the district board first may deposit moneys reimbursed under this division into the district's general fund or a permanent improvement fund to replace local resources the district withdrew from those funds, as long as, and to the extent that, those local resources were used by the district for constructing classroom facilities included in the district's basic project cost.

(3) A tangible personal property phase-out impacted district shall receive credit under division (E) of this section for the expenditure of local resources pursuant to any prior agreement authorized by this section, notwithstanding any recalculation of its average taxable value.

Sec. 3318.37. (A)(1) As used in this section:

(a) "Large land area school district" means a school district with a territory of greater than three hundred square miles in any percentile as determined under section 3318.011 of the Revised Code.

(b) "Low wealth school district" means a school district in the first through seventy-fifth percentiles as determined under section 3318.011 of the Revised Code.

(c) A "school district with an exceptional need for immediate classroom facilities assistance" means a low wealth or large land area school district with an exceptional need for new facilities in order to protect the health and safety of all or a portion of its students.

(2) ~~No school district reasonably expected to be eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code within three fiscal years after the year of the application for assistance under this section shall be eligible for assistance under this section, unless the district's entire classroom facilities plan consists of only a single building designed to house grades kindergarten through twelve and the district satisfies the conditions prescribed in divisions (A)(3)(a) and (b) of this section.~~

~~(3)~~ No school district that participates in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code shall receive assistance under the program established under this section unless the following conditions are satisfied:

(a) The district board adopted a resolution certifying its intent to participate in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code prior to September 14, 2000.

(b) The district was selected by the Ohio school facilities commission for participation in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code in the manner prescribed by the commission under that section as it existed prior to September 14, 2000.

(B)(1) There is hereby established the exceptional needs school facilities assistance program. Under the program, the Ohio school facilities commission may set aside from the moneys annually appropriated to it for classroom facilities assistance projects up to twenty-five per cent for assistance to school districts with exceptional needs for immediate classroom facilities assistance.

(2)(a) After consulting with education and construction experts, the commission shall adopt guidelines for identifying school districts with an exceptional need for immediate classroom facilities assistance.

(b) The guidelines shall include application forms and instructions for school districts to use in applying for assistance under this section.

(3) The commission shall evaluate the classroom facilities, and the need for replacement classroom facilities from the applications received under

this section. The commission, utilizing the guidelines adopted under division (B)(2)(a) of this section, shall prioritize the school districts to be assessed.

Notwithstanding section 3318.02 of the Revised Code, the commission may conduct on-site evaluation of the school districts prioritized under this section and approve and award funds until such time as all funds set aside under division (B)(1) of this section have been encumbered. However, the commission need not conduct the evaluation of facilities if the commission determines that a district's assessment conducted under section 3318.36 of the Revised Code is sufficient for purposes of this section.

(4) Notwithstanding division (A) of section 3318.05 of the Revised Code, the school district's portion of the basic project cost under this section shall be the "required percentage of the basic project costs," as defined in division (K) of section 3318.01 of the Revised Code.

(5) Except as otherwise specified in this section, any project undertaken with assistance under this section shall comply with all provisions of sections 3318.01 to 3318.20 of the Revised Code. A school district may receive assistance under sections 3318.01 to 3318.20 of the Revised Code for the remainder of the district's classroom facilities needs as assessed under this section when the district is eligible for such assistance pursuant to section 3318.02 of the Revised Code, but any classroom facility constructed with assistance under this section shall not be included in a district's project at that time unless the commission determines the district has experienced the increased enrollment specified in division (B)(1) of section 3318.04 of the Revised Code.

(C) No school district shall receive assistance under this section for a classroom facility that has been included in the discrete part of the district's classroom facilities needs identified and addressed in the district's project pursuant to an agreement entered into under section 3318.36 of the Revised Code, unless the district's entire classroom facilities plan consists of only a single building designed to house grades kindergarten through twelve.

Sec. 3318.371. The Ohio school facilities commission may provide assistance under the exceptional needs school facilities program established by section 3318.37 of the Revised Code to any school district for the purpose of the relocation or replacement of classroom facilities required as a result of any contamination of air, soil, or water that impacts the occupants of the facility. Assistance under this section is not limited to school districts in the first through seventy-fifth percentiles as determined under section 3318.011 of the Revised Code.

The commission shall make a determination in accordance with guidelines adopted by the commission regarding eligibility and funding for

projects under this section. The commission may contract with an independent environmental consultant to conduct a study to assist the commission in making the determination.

If the federal government or other public or private entity provides funds for restitution of costs incurred by the state or school district in the relocation or replacement of the classroom facilities, the school district shall use such funds in excess of the school district's share to refund the state for the state's contribution to the environmental contamination portion of the project. The school district may apply an amount of such restitution funds up to an amount equal to the school district's portion of the project, as defined by the commission, toward paying its portion of that project to reduce the amount of bonds the school district otherwise must issue to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code.

Sec. 3318.38. (A) As used in this section, "big-eight school district" has the same meaning as in section 3314.02 of the Revised Code.

(B) There is hereby established the accelerated urban school building assistance program. Under the program, notwithstanding section 3318.02 of the Revised Code, any big-eight school district that has not been approved to receive assistance under sections 3318.01 to 3318.20 of the Revised Code by July 1, 2002, may beginning on that date apply for approval of and be approved for such assistance. Except as otherwise provided in this section, any project approved and undertaken pursuant to this section shall comply with all provisions of sections 3318.01 to 3318.20 of the Revised Code.

The Ohio school facilities commission shall provide assistance to any big-eight school district eligible for assistance under this section in the following manner:

(1) Notwithstanding section 3318.02 of the Revised Code:

(a) Not later than June 30, 2002, the commission shall conduct an on-site visit and shall assess the classroom facilities needs of each big-eight school district eligible for assistance under this section;

(b) Beginning July 1, 2002, any big-eight school district eligible for assistance under this section may apply to the commission for conditional approval of its project as determined by the assessment conducted under division (B)(1)(a) of this section. The commission may conditionally approve that project and submit it to the controlling board for approval pursuant to section 3318.04 of the Revised Code.

(2) If the controlling board approves the project of a big-eight school district eligible for assistance under this section, the commission and the school district shall enter into an agreement as prescribed in section 3318.08

of the Revised Code. Any agreement executed pursuant to this division shall include any applicable segmentation provisions as approved by the commission under division (B)(3) of this section.

(3) Notwithstanding any provision to the contrary in sections 3318.05, 3318.06, and 3318.08 of the Revised Code, a big-eight school district eligible for assistance under this section may with the approval of the commission opt to divide the project as approved under division (B)(1)(b) of this section into discrete segments to be completed sequentially. Any project divided into segments shall comply with all other provisions of sections 3318.05, 3318.06, and 3318.08 of the Revised Code except as otherwise specified in this division.

If a project is divided into segments under this division:

(a) The school district need raise only the amount equal to its proportionate share, as determined under section 3318.032 of the Revised Code, of each segment at any one time and may seek voter approval of each segment separately;

(b) The state's proportionate share, as determined under section 3318.032 of the Revised Code, of only the segment which has been approved by the school district electors or for which the district has applied a local donated contribution under section 3318.084 of the Revised Code shall be encumbered in accordance with section 3318.11 of the Revised Code. Encumbrance of additional amounts to cover the state's proportionate share of later segments shall be approved separately as they are approved by the school district electors or as the district applies a local donated contribution to the segments under section 3318.084 of the Revised Code.

(c) The school district's maintenance levy requirement, as defined in section 3318.18 of the Revised Code, shall run for twenty-three years from the date the first segment is undertaken.

~~(4) For any project under this section~~ (C) In accordance with division (R) of section 3318.08 of the Revised Code, the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of any segment of the project under this section, or of the entire project if it is not divided into segments, shall be spent on the construction and acquisition of the project simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code.

Sec. 3318.41. (A)(1) The Ohio school facilities commission annually shall assess the classroom facilities needs of the number of joint vocational school districts that the commission reasonably expects to be able to provide assistance to in a fiscal year, based on the amount set aside for that fiscal

year under division (B) of section 3318.40 of the Revised Code and the order of priority prescribed in division (B) of section 3318.42 of the Revised Code, except that in fiscal year 2004 the commission shall conduct at least the five assessments prescribed in division (E) of section 3318.40 of the Revised Code.

Upon conducting an assessment of the classroom facilities needs of a school district, the commission shall make a determination of all of the following:

(a) The number of classroom facilities to be included in a project and the basic project cost of acquiring the classroom facilities included in the project. The number of facilities and basic project cost shall be determined in accordance with the specifications adopted under section 3318.311 of the Revised Code except to the extent that compliance with such specifications is waived by the commission pursuant to the rule of the commission adopted under division (F) of section 3318.40 of the Revised Code.

(b) The school district's portion of the basic project cost as determined under division (C) of section 3318.42 of the Revised Code;

(c) The remaining portion of the basic project cost that shall be supplied by the state;

(d) The amount of the state's portion of the basic project cost to be encumbered in accordance with section 3318.11 of the Revised Code in the current and subsequent fiscal years from funds set aside under division (B) of section 3318.40 of the Revised Code.

(2) Divisions (A), (C), and (D) of section 3318.03 of the Revised Code apply to any project under sections 3318.40 to 3318.45 of the Revised Code.

(B)(1) If the commission makes a determination under division (A) of this section in favor of the acquisition of classroom facilities for a project under sections 3318.40 to 3318.45 of the Revised Code, such project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval. The controlling board shall immediately approve or reject the commission's determination, conditional approval, the amount of the state's portion of the basic project cost, and the amount of the state's portion of the basic project cost to be encumbered in the current fiscal year. In the event of approval by the controlling board, the commission shall certify the conditional approval to the joint vocational school district board of education and shall encumber the approved funds for the current fiscal year.

(2) No school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code shall have another such project conditionally approved until the expiration of twenty years after the school district's prior

project was conditionally approved, unless the school district board demonstrates to the satisfaction of the commission that the school district has experienced since conditional approval of its prior project an exceptional increase in enrollment or program requirements significantly above the school district's design capacity under that prior project as determined by rule of the commission. Any rule adopted by the commission to implement this division shall be tailored to address the classroom facilities needs of joint vocational school districts.

(C) In addition to generating the amount of the school district's portion of the basic project cost as determined under division (C) of section 3318.42 of the Revised Code, in order for a school district to receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the school district board shall set aside school district moneys for the maintenance of the classroom facilities included in the school district's project in the amount and manner prescribed in section 3318.43 of the Revised Code.

(D)(1) The conditional approval for a project certified under division (B)(1) of this section shall lapse and the amount reserved and encumbered for such project shall be released unless both of the following conditions are satisfied:

(a) Within one hundred twenty days following the date of certification of the conditional approval to the joint vocational school district board, the school district board accepts the conditional approval and certifies to the commission the school district board's plan to generate the school district's portion of the basic project cost, as determined under division (C) of section 3318.42 of the Revised Code, and to set aside moneys for maintenance of the classroom facilities acquired under the project, as prescribed in section 3318.43 of the Revised Code.

(b) Within ~~one year~~ thirteen months following the date of certification of the conditional approval to the school district board, the electors of the school district vote favorably on any ballot measures proposed by the school district board to generate the school district's portion of the basic project cost.

(2) If the school district board or electors fail to satisfy the conditions prescribed in division (D)(1) of this section and the amount reserved and encumbered for the school district's project is released, the school district shall be given first priority over other joint vocational school districts for project funding under sections 3318.40 to 3318.45 of the Revised Code as such funds become available, subject to section 3318.054 of the Revised Code.

(E) If the conditions prescribed in division (D)(1) of this section are

satisfied, the commission and the school district board shall enter into an agreement as prescribed in section 3318.08 of the Revised Code and shall proceed with the development of plans, cost estimates, designs, drawings, and specifications as prescribed in section 3318.091 of the Revised Code.

(F) Costs in excess of those approved by the commission under section 3318.091 of the Revised Code shall be payable only as provided in sections 3318.042 and 3318.083 of the Revised Code.

(G) Advertisement for bids and the award of contracts for construction of any project under sections 3318.40 to 3318.45 of the Revised Code shall be conducted in accordance with section 3318.10 of the Revised Code.

(H) ~~The~~ In accordance with division (R) of section 3318.08 of the Revised Code, the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of a project under sections 3318.40 to 3318.45 of the Revised Code shall be spent simultaneously in proportion to the state's and the school district's respective portions of that basic project cost.

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised Code apply to projects under sections 3318.40 to 3318.45 of the Revised Code.

Sec. 3318.44. (A) A joint vocational school district board of education may generate the school district's portion of the basic project cost of its project under sections 3318.40 to 3318.45 of the Revised Code using any combination of the following means if lawfully employed for the acquisition of classroom facilities:

(1) The issuance of securities in accordance with Chapter 133. and section 3311.20 of the Revised Code;

(2) Local donated contributions as authorized under section 3318.084 of the Revised Code;

(3) A levy for permanent improvements under section 3311.21 or 5705.21 of the Revised Code;

(4) Bonds issued pursuant to division (B) of this section.

(B) By resolution adopted by a majority of all its members, a school district board, in order to pay all or part of the school district's portion of its basic project cost, or portions or components of classroom facilities that are not included in the school district's basic project cost but that are related to the school district's project, may apply the proceeds of a tax levied under either section 3311.21 of the Revised Code for ten years or section 5705.21 of the Revised Code for ~~general permanent improvements~~ a continuing period of time, if the proceeds of that levy lawfully may be used for general construction, renovation, repair, or maintenance of classroom facilities to pay debt charges on and financing costs related to bonds issued to pay all or

part of the school district portion of the basic project cost of the school district's project under sections 3318.40 to 3318.45 of the Revised Code, or portions or components of classroom facilities that are not included in the school district's basic project cost but that are related to the school district's project, or to generate an amount equivalent to all or part of the amount required under section 3318.43 of the Revised Code to be used for maintenance of classroom facilities acquired under the project. Bonds issued under this division shall be Chapter 133. securities, and may be issued as general obligation securities, but the issuance of the bonds shall not be subject to a vote of the electors of the school district as long as the tax proceeds earmarked for payment of the debt charges on the bonds may lawfully be used for that purpose. Such bonds shall not be included in the calculation of net indebtedness under section 133.06 of the Revised Code if the resolution authorizing their issuance includes covenants to appropriate annually, from lawfully available proceeds of a property tax levied under either section 3311.21 or 5705.21 of the Revised Code, and to continue to levy that tax in amounts necessary to pay the debt charges on and financing costs related to the bonds as they become due. No property tax levied under section 5705.21 of the Revised Code that is pledged, or that the school district has covenanted to levy, collect, and appropriate annually to pay the debt charges on and financing costs related to the bonds under this section may be repealed while those bonds are outstanding. If such a tax is reduced by electors of the district or by the board of education while the bonds are outstanding, the board of education shall continue to levy and collect the tax under the authority of the original election authorizing the tax at a rate in each year that the board reasonably estimates will produce an amount in that year equal to the debt charges on the bonds in that year.

No state moneys shall be released for a project to which this division applies until the proceeds of any bonds issued under this division that are dedicated for payment of the school district's portion of the basic project cost are first deposited into the school district's project construction fund.

(C) A school district board of education may adopt a resolution proposing that any of the following questions be combined with a question specified in section 3318.45 of the Revised Code:

(1) A bond issue question under section 133.18 of the Revised Code;

(2) A tax levy question under section 3311.21 of the Revised Code;

(3) A tax levy question under either section 3311.21 or 5705.21 of the Revised Code.

Any question described in divisions (C)(1) to (3) of this section that is combined with a question proposed under section 3318.45 of the Revised

Code shall be for the purpose of either paying for any permanent improvement, as defined in section 133.01 of the Revised Code, or generating operating revenue specifically for the facilities acquired under the school district's project under Chapter 3318. of the Revised Code or for both to the extent such purposes are permitted by the sections of law under which each is proposed.

(D) The board of education of a joint vocational school district that receives assistance under this section may enter into an agreement for joint issuance of bonds as provided for in section 3318.085 of the Revised Code.

Sec. 3318.48. (A) When all of the following have occurred, a project undertaken by a school district pursuant to this chapter shall be considered complete and the Ohio school facilities commission shall issue a certificate of completion to the district board of education:

(1) All facilities to be constructed under the project, as specified in the project agreement entered into under section 3318.08 of the Revised Code, have been completed and the board has received a permanent certificate of occupancy for each of those facilities.

(2) The commission has issued certificates of contract completion on all prime construction contracts entered into by the board under section 3318.10 of the Revised Code.

(3) The commission has completed a final accounting of the district's project construction fund and has determined that all payments from the fund were made in compliance with all policies of the commission.

(4) Any litigation concerning the project has been finally resolved with no chance of appeal.

(5) All construction management services typically provided by the commission to school districts have been delivered and the commission has canceled any remaining encumbrance of funds for those services.

(B) The commission may issue a certificate of completion to a district board prior to all of the conditions described in division (A) of this section being satisfied, if the commission determines that the circumstances preventing the conditions from being satisfied are so minor in nature that the project should be considered complete. When issuing a certificate of completion under this division, the commission may specify any of the following:

(1) Any construction or work that has yet to be completed and the manner in which the board shall oversee its completion, which may include procedures for reporting progress to the commission and for accounting of expenditures;

(2) Terms and conditions for the resolution of any pending litigation;

(3) Any remaining responsibilities of the construction manager regarding the project.

(C) The commission may issue a certificate of completion to a district board that does not voluntarily participate in the process of closing out the district's project, if the construction manager for the project verifies that all facilities to be constructed under the project, as specified in the project agreement entered into under section 3318.08 of the Revised Code, have been completed and the commission determines that those facilities have been occupied for at least one year. In that case, all funds due to the commission under division (C) of section 3318.12 of the Revised Code shall be returned to the commission not later than thirty days after receipt of the certificate of completion. If the funds due to the commission have not been returned within sixty days after receipt of the certificate of completion, the auditor of state shall issue a finding for recovery against the school district and shall request legal action under section 117.42 of the Revised Code.

(D) Upon issuance of a certificate of completion under this section, the commission's ownership of and interest in the project, as specified in division (F) of section 3318.08 of the Revised Code, shall cease. This cessation shall not alter or otherwise affect the state's or commission's interest in the project or any limitations on the use of the project as specified in the project agreement pursuant to divisions (G), (M), and (N) of that section or as specified in section 3318.16 of the Revised Code.

Sec. 3318.49. (A) The corrective action program is hereby established to provide funding for the correction of work, in connection with a project funded under sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code, that is found after occupancy of the facility to be defective or to have been omitted.

(B) The Ohio school facilities commission may provide funding under this section only if the school district notifies the executive director of the commission of the defective or omitted work within five years after occupancy of the facility for which the district seeks the funding.

(C) The commission shall establish procedures and deadlines for school districts to follow in applying for assistance under this section. The procedures shall include definitions of "defective" and "omitted," and shall require that remediation efforts focus first on engaging the respective contractors that designed and constructed the areas that have design or construction-related issues. The commission shall consider applications on a case-by-case basis, taking into account the amount of money appropriated and available for purposes of this section.

(D) The commission may provide funding assistance necessary to take

corrective measures after evaluating the defective or omitted work.

(1) If the work to be corrected or remediated is part of a project not yet completed, the commission may amend the project agreement to increase the project budget and use corrective action funding to provide the state portion of the amendment. If the work to be corrected or remediated is part of a completed project and funds were retained or transferred pursuant to division (C) of section 3318.12 of the Revised Code, the commission may enter into a new agreement to address the corrective action.

(2) Whether or not the project is completed, the district shall contribute a portion of the cost of the corrective action, to be determined in accordance with section 3318.032 of the Revised Code or, if the district is a joint vocational school district, section 3318.42 of the Revised Code. A district that is unable to provide its portion so that remediation can proceed may apply to the commission for additional assistance under section 3318.042 of the Revised Code.

(E) The commission shall assess responsibility for the defective or omitted work and seek cost recovery from responsible parties, if applicable. Any recovery of the expense of remediation shall be applied first to the district portion of the cost of the corrective action. Any remaining funds shall be applied to the state portion and deposited into the school building program assistance fund established under section 3318.25 of the Revised Code.

Sec. 3318.60. (A) As used in this section:

(1) "Acquisition of classroom facilities" means constructing, reconstructing, repairing, or making additions to classroom facilities.

(2) "Ohio school facilities commission" and "classroom facilities" have the same meanings as in section 3318.01 of the Revised Code.

(B) There is hereby established the college-preparatory boarding school facilities program. Under the program, the Ohio school facilities commission shall provide assistance to the boards of trustees of college-preparatory boarding schools established under Chapter 3328. of the Revised Code for the acquisition of classroom facilities.

(C) To be eligible for assistance under this program, a board of trustees shall secure at least twenty million dollars of private money to satisfy its share of facilities acquisition. A board of trustees that receives assistance under the program shall fund the acquisition of residential facilities and any other facilities other than classroom facilities through private means.

(D) The lease payments made by the boards of trustees of college-preparatory boarding schools receiving assistance under the program shall be deposited into the state treasury and credited to the common schools

capital facilities bond service fund created in section 151.03 of the Revised Code.

(E) The acquisition of classroom facilities with assistance provided under the program shall not be subject to sections 3318.01 to 3318.20 of the Revised Code.

(F) Within the ninety-day period immediately following the effective date of this section, the commission shall adopt rules necessary for the implementation and administration of the program.

Sec. 3318.70. (A) As used in this section:

(1) "Acquisition of classroom facilities" has the same meaning as in section 3318.40 of the Revised Code.

(2) "Classroom facilities" has the same meaning as in section 3318.01 of the Revised Code.

(3) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code that is not governed by a single school district board of education, as prescribed by section 3326.51 of the Revised Code.

(B) Upon receipt of a written proposal by the governing body of a STEM school, the Ohio school facilities commission, subject to approval of the controlling board, may provide funding to assist that STEM school in the acquisition of classroom facilities. The proposal of the governing body shall be submitted in a form and in the manner prescribed by the commission and shall indicate both the total amount of state funding requested and the amount of nonstate funding pledged for the acquisition of the classroom facilities, which shall not be less than the total amount of state funding requested. If the commission decides in favor of providing funding for the classroom facilities and if the controlling board approves that funding, the commission shall enter into an agreement with the governing body for the acquisition of the classroom facilities and shall encumber, in accordance with section 3318.11 of the Revised Code, the approved funding from the amounts appropriated to the commission for classroom facilities assistance projects. The agreement shall include a stipulation of the ownership of the classroom facilities in the event the STEM school permanently closes at any time.

Sec. 3319.02. (A)(1) As used in this section, "other administrator" means any of the following:

(a) Except as provided in division (A)(2) of this section, any employee in a position for which a board of education requires a license designated by rule of the department of education for being an administrator issued under section 3319.22 of the Revised Code, including a professional pupil services

employee or administrative specialist or an equivalent of either one who is not employed as a school counselor and spends less than fifty per cent of the time employed teaching or working with students;

(b) Any nonlicensed employee whose job duties enable such employee to be considered as either a "supervisor" or a "management level employee," as defined in section 4117.01 of the Revised Code;

(c) A business manager appointed under section 3319.03 of the Revised Code.

(2) As used in this section, "other administrator" does not include a superintendent, assistant superintendent, principal, or assistant principal.

(B) The board of education of each school district and the governing board of an educational service center may appoint one or more assistant superintendents and such other administrators as are necessary. An assistant educational service center superintendent or service center supervisor employed on a part-time basis may also be employed by a local board as a teacher. The board of each city, exempted village, and local school district shall employ principals for all high schools and for such other schools as the board designates, and those boards may appoint assistant principals for any school that they designate.

(C) In educational service centers and in city, exempted village, and local school districts, assistant superintendents, principals, assistant principals, and other administrators shall only be employed or reemployed in accordance with nominations of the superintendent, except that a board of education of a school district or the governing board of a service center, by a three-fourths vote of its full membership, may reemploy any assistant superintendent, principal, assistant principal, or other administrator whom the superintendent refuses to nominate.

The board of education or governing board shall execute a written contract of employment with each assistant superintendent, principal, assistant principal, and other administrator it employs or reemploys. The term of such contract shall not exceed three years except that in the case of a person who has been employed as an assistant superintendent, principal, assistant principal, or other administrator in the district or center for three years or more, the term of the contract shall be for not more than five years and, unless the superintendent of the district recommends otherwise, not less than two years. If the superintendent so recommends, the term of the contract of a person who has been employed by the district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more may be one year, but all subsequent contracts granted such person shall be for a term of not less than two years

and not more than five years. When a teacher with continuing service status becomes an assistant superintendent, principal, assistant principal, or other administrator with the district or service center with which the teacher holds continuing service status, the teacher retains such status in the teacher's nonadministrative position as provided in sections 3319.08 and 3319.09 of the Revised Code.

A board of education or governing board may reemploy an assistant superintendent, principal, assistant principal, or other administrator at any regular or special meeting held during the period beginning on the first day of January of the calendar year immediately preceding the year of expiration of the employment contract and ending on the last day of March of the year the employment contract expires.

Except by mutual agreement of the parties thereto, no assistant superintendent, principal, assistant principal, or other administrator shall be transferred during the life of a contract to a position of lesser responsibility. No contract may be terminated by a board except pursuant to section 3319.16 of the Revised Code. No contract may be suspended except pursuant to section 3319.17 or 3319.171 of the Revised Code. The salaries and compensation prescribed by such contracts shall not be reduced by a board unless such reduction is a part of a uniform plan affecting the entire district or center. The contract shall specify the employee's administrative position and duties as included in the job description adopted under division (D) of this section, the salary and other compensation to be paid for performance of duties, the number of days to be worked, the number of days of vacation leave, if any, and any paid holidays in the contractual year.

An assistant superintendent, principal, assistant principal, or other administrator is, at the expiration of the current term of employment, deemed reemployed at the same salary plus any increments that may be authorized by the board, unless such employee notifies the board in writing to the contrary on or before the first day of June, or unless such board, on or before the last day of March of the year in which the contract of employment expires, either reemploys such employee for a succeeding term or gives written notice of its intention not to reemploy the employee. The term of reemployment of a person reemployed under this paragraph shall be one year, except that if such person has been employed by the school district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more, the term of reemployment shall be two years.

(D)(1) Each board shall adopt procedures for the evaluation of all assistant superintendents, principals, assistant principals, and other

administrators and shall evaluate such employees in accordance with those procedures. The procedures for the evaluation of principals shall be based on principles comparable to the teacher evaluation policy adopted by the board under section 3319.111 of the Revised Code, but shall be tailored to the duties and responsibilities of principals and the environment in which principals work. An evaluation based upon ~~such~~ procedures adopted under this division shall be considered by the board in deciding whether to renew the contract of employment of an assistant superintendent, principal, assistant principal, or other administrator.

(2) The evaluation shall measure each assistant superintendent's, principal's, assistant principal's, and other administrator's effectiveness in performing the duties included in the job description and the evaluation procedures shall provide for, but not be limited to, the following:

(a) Each assistant superintendent, principal, assistant principal, and other administrator shall be evaluated annually through a written evaluation process.

(b) The evaluation shall be conducted by the superintendent or designee.

(c) In order to provide time to show progress in correcting the deficiencies identified in the evaluation process, the evaluation process shall be completed as follows:

(i) In any school year that the employee's contract of employment is not due to expire, at least one evaluation shall be completed in that year. A written copy of the evaluation shall be provided to the employee no later than the end of the employee's contract year as defined by the employee's annual salary notice.

(ii) In any school year that the employee's contract of employment is due to expire, at least a preliminary evaluation and at least a final evaluation shall be completed in that year. A written copy of the preliminary evaluation shall be provided to the employee at least sixty days prior to any action by the board on the employee's contract of employment. The final evaluation shall indicate the superintendent's intended recommendation to the board regarding a contract of employment for the employee. A written copy of the evaluation shall be provided to the employee at least five days prior to the board's acting to renew or not renew the contract.

(3) Termination of an assistant superintendent, principal, assistant principal, or other administrator's contract shall be pursuant to section 3319.16 of the Revised Code. Suspension of any such employee shall be pursuant to section 3319.17 or 3319.171 of the Revised Code.

(4) Before taking action to renew or nonrenew the contract of an assistant superintendent, principal, assistant principal, or other administrator

under this section and prior to the last day of March of the year in which such employee's contract expires, the board shall notify each such employee of the date that the contract expires and that the employee may request a meeting with the board. Upon request by such an employee, the board shall grant the employee a meeting in executive session. In that meeting, the board shall discuss its reasons for considering renewal or nonrenewal of the contract. The employee shall be permitted to have a representative, chosen by the employee, present at the meeting.

(5) The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in division (D) of this section shall prevent a board from making the final determination regarding the renewal or nonrenewal of the contract of any assistant superintendent, principal, assistant principal, or other administrator. However, if a board fails to provide evaluations pursuant to division (D)(2)(c)(i) or (ii) of this section, or if the board fails to provide at the request of the employee a meeting as prescribed in division (D)(4) of this section, the employee automatically shall be reemployed at the same salary plus any increments that may be authorized by the board for a period of one year, except that if the employee has been employed by the district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more, the period of reemployment shall be for two years.

(E) On nomination of the superintendent of a service center a governing board may employ supervisors who shall be employed under written contracts of employment for terms not to exceed five years each. Such contracts may be terminated by a governing board pursuant to section 3319.16 of the Revised Code. Any supervisor employed pursuant to this division may terminate the contract of employment at the end of any school year after giving the board at least thirty days' written notice prior to such termination. On the recommendation of the superintendent the contract or contracts of any supervisor employed pursuant to this division may be suspended for the remainder of the term of any such contract pursuant to section 3319.17 or 3319.171 of the Revised Code.

(F) A board may establish vacation leave for any individuals employed under this section. Upon such an individual's separation from employment, a board that has such leave may compensate such an individual at the individual's current rate of pay for all lawfully accrued and unused vacation leave credited at the time of separation, not to exceed the amount accrued within three years before the date of separation. In case of the death of an individual employed under this section, such unused vacation leave as the board would have paid to the individual upon separation under this section

shall be paid in accordance with section 2113.04 of the Revised Code, or to the estate.

(G) The board of education of any school district may contract with the governing board of the educational service center from which it otherwise receives services to conduct searches and recruitment of candidates for assistant superintendent, principal, assistant principal, and other administrator positions authorized under this section.

Sec. 3319.08. (A) The board of education of each city, exempted village, local, and joint vocational school district and the governing board of each educational service center shall enter into written contracts for the employment and reemployment of all teachers. Contracts for the employment of teachers shall be of two types, limited contracts and continuing contracts. The board of each school district or service center that authorizes compensation in addition to the ~~base~~ salary ~~stated in the teachers' salary schedule~~ paid under section 3317.14 or 3317.141 of the Revised Code for the performance of duties by a teacher that are in addition to the teacher's regular teaching duties, shall enter into a supplemental written contract with each teacher who is to perform additional duties. Such supplemental written contracts shall be limited contracts. Such written contracts and supplemental written contracts shall set forth the teacher's duties and shall specify the salaries and compensation to be paid for regular teaching duties and additional teaching duties, respectively, either or both of which may be increased but not diminished during the term for which the contract is made, except as provided in section 3319.12 of the Revised Code.

If a board adopts a motion or resolution to employ a teacher under a limited or continuing contract and the teacher accepts such employment, the failure of such parties to execute a written contract shall not void such employment contract.

(B) Teachers must be paid for all time lost when the schools in which they are employed are closed due to an epidemic or other public calamity, and for time lost due to illness or otherwise for not less than five days annually as authorized by regulations which each board shall adopt.

(C) A limited contract is:

(1) For a superintendent, a contract for such term as authorized by section 3319.01 of the Revised Code;

(2) For an assistant superintendent, principal, assistant principal, or other administrator, a contract for such term as authorized by section 3319.02 of the Revised Code;

(3) For all other teachers, a contract for a term not to exceed five years.

(D) A continuing contract is a contract that remains in effect until the

teacher resigns, elects to retire, or is retired pursuant to former section 3307.37 of the Revised Code, or until it is terminated or suspended and shall be granted only to the following:

(1) Any teacher holding a professional, permanent, or life teacher's certificate;

(2) Any teacher who meets the following conditions:

(a) The teacher was initially issued a teacher's certificate or educator license prior to January 1, 2011.

(b) The teacher holds a professional educator license issued under section 3319.22 or 3319.222 or former section 3319.22 of the Revised Code or a senior professional educator license or lead professional educator license issued under section 3319.22 of the Revised Code.

(c) The teacher has completed the applicable one of the following:

(i) If the teacher did not hold a master's degree at the time of initially receiving a teacher's certificate under former law or an educator license, thirty semester hours of coursework in the area of licensure or in an area related to the teaching field since the initial issuance of such certificate or license, as specified in rules which the state board of education shall adopt;

(ii) If the teacher held a master's degree at the time of initially receiving a teacher's certificate under former law or an educator license, six semester hours of graduate coursework in the area of licensure or in an area related to the teaching field since the initial issuance of such certificate or license, as specified in rules which the state board shall adopt.

(3) Any teacher who meets the following conditions:

(a) The teacher never held a teacher's certificate and was initially issued an educator license on or after January 1, 2011.

(b) The teacher holds a professional educator license, senior professional educator license, or lead professional educator license issued under section 3319.22 of the Revised Code.

(c) The teacher has held an educator license for at least seven years.

(d) The teacher has completed the applicable one of the following:

(i) If the teacher did not hold a master's degree at the time of initially receiving an educator license, thirty semester hours of coursework in the area of licensure or in an area related to the teaching field since the initial issuance of that license, as specified in rules which the state board shall adopt;

(ii) If the teacher held a master's degree at the time of initially receiving an educator license, six semester hours of graduate coursework in the area of licensure or in an area related to the teaching field since the initial issuance of that license, as specified in rules which the state board shall adopt.

(E) Division (D) of this section applies only to continuing contracts entered into on or after ~~the effective date of this amendment~~ October 16, 2009. Nothing in that division shall be construed to void or otherwise affect a continuing contract entered into prior to that date.

Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of division (D)(3) of this section prevail over any conflicting provisions of a collective bargaining agreement entered into on or after ~~the effective date of this amendment~~ October 16, 2009.

(F) Wherever the term "educator license" is used in this section without reference to a specific type of educator license, the term does not include an educator license for substitute teaching issued under section 3319.226 of the Revised Code.

Sec. 3319.081. Except as otherwise provided in division (G) of this section, in all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law:

(A) Newly hired regular nonteaching school employees, including regular hourly rate and per diem employees, shall enter into written contracts for their employment which shall be for a period of not more than one year. If such employees are rehired, their subsequent contract shall be for a period of two years.

(B) After the termination of the two-year contract provided in division (A) of this section, if the contract of a nonteaching employee is renewed, the employee shall be continued in employment, and the salary provided in the contract may be increased but not reduced unless such reduction is a part of a uniform plan affecting the nonteaching employees of the entire district.

(C) The contracts as provided for in this section may be terminated by a majority vote of the board of education. Except as provided in ~~section~~ sections 3319.0810 and 3319.172 of the Revised Code, the contracts may be terminated only for violation of written rules and regulations as set forth by the board of education or for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or any other acts of misfeasance, malfeasance, or nonfeasance. In addition to the right of the board of education to terminate the contract of an employee, the board may suspend an employee for a definite period of time or demote the employee for the reasons set forth in this division. The action of the board of education terminating the contract of an employee or suspending or demoting the employee shall be served upon the employee by certified mail. Within ten days following the receipt

of such notice by the employee, the employee may file an appeal, in writing, with the court of common pleas of the county in which such school board is situated. After hearing the appeal the common pleas court may affirm, disaffirm, or modify the action of the school board.

A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this division.

(D) All employees who have been employed by a school district where the provisions of Chapter 124. of the Revised Code do not apply, for a period of at least three years on November 24, 1967, shall hold continuing contracts of employment pursuant to this section.

(E) Any nonteaching school employee may terminate the nonteaching school employee's contract of employment thirty days subsequent to the filing of a written notice of such termination with the treasurer of the board.

(F) A person hired exclusively for the purpose of replacing a nonteaching school employee while such employee is on leave of absence granted under section 3319.13 of the Revised Code is not a regular nonteaching school employee under this section.

(G) All nonteaching employees employed pursuant to this section and Chapter 124. of the Revised Code shall be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity. Nothing in this division shall be construed as requiring payment in excess of an employee's regular wage rate or salary for any time worked while the school in which the employee is employed is officially closed for the reasons set forth in this division.

Sec. 3319.0810. (A) The board of education of any school district wherein the provisions of Chapter 124. of the Revised Code do not apply may terminate any of its transportation staff positions for reasons of economy and efficiency if the board instead of employing its own staff to transport some or all of the students enrolled in the district schools enters into a contract with an independent agent for the provision of transportation services for such students. Such a contract may be entered into only if all of the following conditions are satisfied:

(1) Any collective bargaining agreement between the employee organization representing the employees whose positions are terminated under this section and the board has expired or will expire within sixty days and has not been renewed in conformance with provisions of that agreement and with Chapter 4117. of the Revised Code, or the agreement contains provisions permitting the termination of positions for reasons of economy and efficiency while the agreement is in force and the board is in

conformance with those provisions.

(2) The board permits any employee whose position is terminated under this section to fill any vacancy within the district's organization for which the employee is qualified. The board shall select from among similarly qualified employees to fill such vacancies pursuant to procedures established under any collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination, or in absence of such provisions on the basis of seniority of employment by the board with the employee with the greatest seniority having highest priority.

(3) Unless a collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination provides otherwise, the board permits any employee whose position is terminated under this section to fill the employee's former position in the event that the board reinstates that position within one year after the date the position is terminated under this section.

(4) The board permits any employee whose position is terminated under this section to appeal in accordance with section 119.12 of the Revised Code the board's decision to terminate the employee's position, not to hire that employee for another position pursuant to division (A)(2) of this section, or not to rehire that employee for the position if it is reinstated within one year after the position is terminated pursuant to division (A)(3) of this section.

(5) The contract entered into by the board and an independent agent for the provision of transportation services contains a stipulation requiring the agent to consider hiring any employees of the school district whose positions are terminated under this section for similar positions within the agent's organization.

(6) The contract entered into by the board and an independent agent for the provision of transportation services contains a stipulation requiring the agent to recognize for purposes of employee representation in collective bargaining any employee organization that represented the employees whose positions are terminated under this section in collective bargaining with the board at the time of the termination provided:

(a) A majority of all employees in the bargaining unit agree to such representation;

(b) Such representation is not prohibited by federal law, including any ruling of the national labor relations board;

(c) The employee organization is not prohibited from representing nonpublic employees by other provisions of law or its own governing

instruments.

However, any employee whose position is terminated under this section shall not be compelled to be included in such bargaining unit if there is another bargaining unit within the agent's organization that is applicable to the employee.

(B) If after terminating any positions of employment under this section the board fails to comply with any condition prescribed in division (A) of this section or fails to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section, the terminations shall be void and the board shall reinstate the positions and fill them with the employees who filled those positions just prior to the terminations. Such employees shall be compensated at a rate equal to their rate of compensation in those positions just prior to the terminations plus any increases paid since the terminations to other nonteaching employees. The employees shall also be entitled to back pay at such rate for the period from the date of the terminations to the date of the reinstatements minus any pay received by the employees during any time the board was in compliance with such conditions or during any time the board enforced those obligations.

Any employee aggrieved by the failure of the board to comply with any condition prescribed in division (A) of this section or to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section shall have the right to sue the board for reinstatement of the employee's former position as provided for in this division in the court of common pleas for the county in which the school district is located or, if the school district is located in more than one county, in the court of common pleas for the county in which the majority of the territory of the school district is located.

Sec. 3319.11. (A) As used in this section:

(1) "Evaluation procedures" means the procedures required by the policy adopted pursuant to division ~~(B)~~(A) of section 3319.111 of the Revised Code.

(2) "Limited contract" means a limited contract, as described in section 3319.08 of the Revised Code, that a school district board of education or governing board of an educational service center enters into with a teacher who is not eligible for continuing service status.

(3) "Extended limited contract" means a limited contract, as described in section 3319.08 of the Revised Code, that a board of education or governing board enters into with a teacher who is eligible for continuing service status.

(B) Teachers eligible for continuing service status in any city, exempted village, local, or joint vocational school district or educational service center

shall be those teachers qualified as described in division (D) of section 3319.08 of the Revised Code, who within the last five years have taught for at least three years in the district or center, and those teachers who, having attained continuing contract status elsewhere, have served two years in the district or center, but the board, upon the recommendation of the superintendent, may at the time of employment or at any time within such two-year period, declare any of the latter teachers eligible.

(1) Upon the recommendation of the superintendent that a teacher eligible for continuing service status be reemployed, a continuing contract shall be entered into between the board and the teacher unless the board by a three-fourths vote of its full membership rejects the recommendation of the superintendent. If the board rejects by a three-fourths vote of its full membership the recommendation of the superintendent that a teacher eligible for continuing service status be reemployed and the superintendent makes no recommendation to the board pursuant to division (C) of this section, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code or the board does not give the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of the teacher only a continuing contract may be entered into.

(2) If the superintendent recommends that a teacher eligible for continuing service status not be reemployed, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code or the board does not give the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited

contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of a teacher only a continuing contract may be entered into.

(3) Any teacher receiving written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(C)(1) If a board rejects the recommendation of the superintendent for reemployment of a teacher pursuant to division (B)(1) of this section, the superintendent may recommend reemployment of the teacher, if continuing service status has not previously been attained elsewhere, under an extended limited contract for a term not to exceed two years, provided that written notice of the superintendent's intention to make such recommendation has been given to the teacher with reasons directed at the professional improvement of the teacher on or before the thirtieth day of April. Upon subsequent reemployment of the teacher only a continuing contract may be entered into.

(2) If a board of education takes affirmative action on a superintendent's recommendation, made pursuant to division (C)(1) of this section, of an extended limited contract for a term not to exceed two years but the board does not give the teacher written notice of its affirmative action on the superintendent's recommendation of an extended limited contract on or before the thirtieth day of April, the teacher is deemed reemployed under a continuing contract at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under such continuing contract unless such teacher notifies the board in writing to the contrary on or before the first day of June, and a continuing contract shall be executed accordingly.

(3) A board shall not reject a superintendent's recommendation, made pursuant to division (C)(1) of this section, of an extended limited contract for a term not to exceed two years except by a three-fourths vote of its full membership. If a board rejects by a three-fourths vote of its full membership the recommendation of the superintendent of an extended limited contract for a term not to exceed two years, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code or if the board does not give the teacher written notice on or before the thirtieth day of April of its intention

not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of the teacher only a continuing contract may be entered into.

Any teacher receiving written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(D) A teacher eligible for continuing contract status employed under an extended limited contract pursuant to division (B) or (C) of this section, is, at the expiration of such extended limited contract, deemed reemployed under a continuing contract at the same salary plus any increment granted by the salary schedule, unless evaluation procedures have been complied with pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code and the employing board, acting on the superintendent's recommendation that the teacher not be reemployed, gives the teacher written notice on or before the thirtieth day of April of its intention not to reemploy such teacher. A teacher who does not have evaluation procedures applied in compliance with ~~division (A) of~~ section 3319.111 of the Revised Code or who does not receive notice on or before the thirtieth day of April of the intention of the board not to reemploy such teacher is presumed to have accepted employment under a continuing contract unless such teacher notifies the board in writing to the contrary on or before the first day of June, and a continuing contract shall be executed accordingly.

Any teacher receiving a written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(E) ~~A~~ The board shall enter into a limited contract ~~may be entered into by each board with each teacher who has not been in the employ of the board for at least three years and shall be entered into, regardless of length of previous employment,~~ with each teacher employed by the board who is not eligible to be considered for a continuing contract.

Any teacher employed under a limited contract, and not eligible to be considered for a continuing contract, is, at the expiration of such limited contract, considered reemployed under the provisions of this division at the same salary plus any increment provided by the salary schedule unless

evaluation procedures have been complied with pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code and the employing board, acting upon the superintendent's written recommendation that the teacher not be reemployed, gives such teacher written notice of its intention not to reemploy such teacher on or before the thirtieth day of April. A teacher who does not have evaluation procedures applied in compliance with ~~division (A) of~~ section 3319.111 of the Revised Code or who does not receive notice of the intention of the board not to reemploy such teacher on or before the thirtieth day of April is presumed to have accepted such employment unless such teacher notifies the board in writing to the contrary on or before the first day of June, and a written contract for the succeeding school year shall be executed accordingly.

Any teacher receiving a written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(F) The failure of a superintendent to make a recommendation to the board under any of the conditions set forth in divisions (B) to (E) of this section, or the failure of the board to give such teacher a written notice pursuant to divisions (C) to (E) of this section shall not prejudice or prevent a teacher from being deemed reemployed under either a limited or continuing contract as the case may be under the provisions of this section. A failure of the parties to execute a written contract shall not void any automatic reemployment provisions of this section.

(G)(1) Any teacher receiving written notice of the intention of a board of education not to reemploy such teacher pursuant to division (B), (C)(3), (D), or (E) of this section may, within ten days of the date of receipt of the notice, file with the treasurer of the board a written demand for a written statement describing the circumstances that led to the board's intention not to reemploy the teacher.

(2) The treasurer of a board, on behalf of the board, shall, within ten days of the date of receipt of a written demand for a written statement pursuant to division (G)(1) of this section, provide to the teacher a written statement describing the circumstances that led to the board's intention not to reemploy the teacher.

(3) Any teacher receiving a written statement describing the circumstances that led to the board's intention not to reemploy the teacher pursuant to division (G)(2) of this section may, within five days of the date of receipt of the statement, file with the treasurer of the board a written demand for a hearing before the board pursuant to divisions (G)(4) to (6) of this section.

(4) The treasurer of a board, on behalf of the board, shall, within ten days of the date of receipt of a written demand for a hearing pursuant to division (G)(3) of this section, provide to the teacher a written notice setting forth the time, date, and place of the hearing. The board shall schedule and conclude the hearing within forty days of the date on which the treasurer of the board receives a written demand for a hearing pursuant to division (G)(3) of this section.

(5) Any hearing conducted pursuant to this division shall be conducted by a majority of the members of the board. The hearing shall be held in executive session of the board unless the board and the teacher agree to hold the hearing in public. The superintendent, assistant superintendent, the teacher, and any person designated by either party to take a record of the hearing may be present at the hearing. The board may be represented by counsel and the teacher may be represented by counsel or a designee. A record of the hearing may be taken by either party at the expense of the party taking the record.

(6) Within ten days of the conclusion of a hearing conducted pursuant to this division, the board shall issue to the teacher a written decision containing an order affirming the intention of the board not to reemploy the teacher reported in the notice given to the teacher pursuant to division (B), (C)(3), (D), or (E) of this section or an order vacating the intention not to reemploy and expunging any record of the intention, notice of the intention, and the hearing conducted pursuant to this division.

(7) A teacher may appeal an order affirming the intention of the board not to reemploy the teacher to the court of common pleas of the county in which the largest portion of the territory of the school district or service center is located, within thirty days of the date on which the teacher receives the written decision, on the grounds that the board has not complied with this section or section 3319.111 of the Revised Code.

Notwithstanding section 2506.04 of the Revised Code, the court in an appeal under this division is limited to the determination of procedural errors and to ordering the correction of procedural errors and shall have no jurisdiction to order a board to reemploy a teacher, except that the court may order a board to reemploy a teacher in compliance with the requirements of division (B), (C)(3), (D), or (E) of this section when the court determines that evaluation procedures have not been complied with pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code or the board has not given the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher pursuant to division (B), (C)(3), (D), or (E) of this section. Otherwise, the determination whether to reemploy or not

reemploy a teacher is solely a board's determination and not a proper subject of judicial review and, except as provided in this division, no decision of a board whether to reemploy or not reemploy a teacher shall be invalidated by the court on any basis, including that the decision was not warranted by the results of any evaluation or was not warranted by any statement given pursuant to division (G)(2) of this section.

No appeal of an order of a board may be made except as specified in this division.

(H)(1) In giving a teacher any notice required by division (B), (C), (D), or (E) of this section, the board or the superintendent shall do either of the following:

(a) Deliver the notice by personal service upon the teacher;

(b) Deliver the notice by certified mail, return receipt requested, addressed to the teacher at the teacher's place of employment and deliver a copy of the notice by certified mail, return receipt requested, addressed to the teacher at the teacher's place of residence.

(2) In giving a board any notice required by division (B), (C), (D), or (E) of this section, the teacher shall do either of the following:

(a) Deliver the notice by personal delivery to the office of the superintendent during regular business hours;

(b) Deliver the notice by certified mail, return receipt requested, addressed to the office of the superintendent and deliver a copy of the notice by certified mail, return receipt requested, addressed to the president of the board at the president's place of residence.

(3) When any notice and copy of the notice are mailed pursuant to division (H)(1)(b) or (2)(b) of this section, the notice or copy of the notice with the earlier date of receipt shall constitute the notice for the purposes of division (B), (C), (D), or (E) of this section.

(I) The provisions of this section shall not apply to any supplemental written contracts entered into pursuant to section 3319.08 of the Revised Code.

Sec. 3319.111. (A) ~~Any~~ Not later than July 1, 2013, the board of education ~~that~~ of each school district, in consultation with teachers employed by the board, shall adopt a standards-based teacher evaluation policy that conforms with the framework for evaluation of teachers developed under section 3319.112 of the Revised Code. The policy shall become operative at the expiration of any collective bargaining agreement covering teachers employed by the board that is in effect on the effective date of this section and shall be included in any renewal or extension of such an agreement.

(B) When using measures of student academic growth as a component of a teacher's evaluation, those measures shall include the value-added progress dimension prescribed by section 3302.021 of the Revised Code. For teachers of grade levels and subjects for which the value-added progress dimension is not applicable, the board shall administer assessments on the list developed under division (B)(2) of section 3319.112 of the Revised Code.

(C)(1) The board shall conduct an evaluation of each teacher employed by the board at least once each school year, except as provided in divisions (C)(2) and (3) of this section. The evaluation shall be completed by the first day of April and the teacher shall receive a written report of the results of the evaluation by the tenth day of April.

(2) If the board has entered into ~~any~~ a limited contract or extended limited contract with ~~a~~ the teacher pursuant to section 3319.11 of the Revised Code, the board shall evaluate ~~such a~~ the teacher ~~in compliance with the requirements of this section~~ at least twice in any school year in which the board may wish to declare its intention not to re-employ the teacher pursuant to division (B), (C)(3), (D), or (E) of that section ~~3319.11 of the Revised Code.~~

~~This evaluation shall be conducted at least twice in the school year in which the board may wish to declare its intention not to re-employ the teacher~~. One evaluation shall be conducted and completed not later than the fifteenth day of January and the teacher being evaluated shall receive a written report of the results of this evaluation not later than the twenty-fifth day of January. One evaluation shall be conducted and completed between the tenth day of February and the first day of April and the teacher being evaluated shall receive a written report of the results of this evaluation not later than the tenth day of April.

(3) The board may elect, by adoption of a resolution, to evaluate each teacher who received a rating of accomplished on the teacher's most recent evaluation conducted under this section once every two school years. In that case, the biennial evaluation shall be completed by the first day of April of the applicable school year, and the teacher shall receive a written report of the results of the evaluation by the tenth day of April of that school year.

~~Any~~ (D) Each evaluation conducted pursuant to this section shall be conducted by one or more of the following:

(1) A person who is under contract with ~~a~~ the board ~~of education~~ pursuant to section 3319.01 or 3319.02 of the Revised Code and holds a license designated for being a superintendent, assistant superintendent, or principal issued under section 3319.22 of the Revised Code;

(2) A person who is under contract with ~~a~~ the board ~~of education~~ pursuant to section 3319.02 of the Revised Code and holds a license designated for being a vocational director or a supervisor in any educational area issued under section 3319.22 of the Revised Code;

(3) A person designated to conduct evaluations under an agreement providing for peer review entered into by ~~a~~ the board ~~of education~~ and representatives of teachers employed by ~~that~~ the board.

~~(B) Any board of education evaluating a teacher pursuant to this section shall adopt evaluation procedures that shall be applied each time a teacher is evaluated pursuant to this section. These evaluation procedures shall include, but not be limited to:~~

~~(1) Criteria of expected job performance in the areas of responsibility assigned to the teacher being evaluated;~~

~~(2) Observation of the teacher being evaluated by the person conducting the evaluation on at least two occasions for not less than thirty minutes on each occasion;~~

~~(3) A written report of the results of the evaluation that includes specific recommendations regarding any improvements needed in the performance of the teacher being evaluated and regarding the means by which the teacher may obtain assistance in making such improvements.~~

~~(C)~~(E) The board shall include in its evaluation policy procedures for using the evaluation results for retention and promotion decisions and for removal of poorly performing teachers. Seniority shall not be the basis for a decision to retain a teacher, except when making a decision between teachers who have comparable evaluations.

(F) This section does not apply to ~~teachers~~ superintendents and administrators subject to evaluation procedures under sections 3319.01 and 3319.02 of the Revised Code or to any teacher employed as a substitute for less than one hundred twenty days during a school year pursuant to section 3319.10 of the Revised Code.

Sec. 3319.112. (A) Not later than December 31, 2011, the state board of education shall develop a standards-based state framework for the evaluation of teachers. The framework shall establish an evaluation system that does the following:

(1) Provides for multiple evaluation factors, including student academic growth which shall account for fifty per cent of each evaluation;

(2) Is aligned with the standards for teachers adopted under section 3319.61 of the Revised Code;

(3) Requires observation of the teacher being evaluated, including at least two formal observations by the evaluator of at least thirty minutes each

and classroom walkthroughs;

(4) Assigns a rating on each evaluation in accordance with division (B) of this section;

(5) Requires each teacher to be provided with a written report of the results of the teacher's evaluation;

(6) Identifies measures of student academic growth for grade levels and subjects for which the value-added progress dimension prescribed by section 3302.021 of the Revised Code does not apply;

(7) Implements a classroom-level, value-added program developed by a nonprofit organization described in division (B) of section 3302.021 of the Revised Code;

(8) Provides for professional development to accelerate and continue teacher growth and provide support to poorly performing teachers;

(9) Provides for the allocation of financial resources to support professional development.

(B) For purposes of the framework developed under this section, the state board also shall do the following:

(1) Develop specific standards and criteria that distinguish between the following levels of performance for teachers and principals for the purpose of assigning ratings on the evaluations conducted under sections 3319.02 and 3319.111 of the Revised Code:

(a) Accomplished;

(b) Proficient;

(c) Developing;

(d) Ineffective.

(2) For grade levels and subjects for which the assessments prescribed under sections 3301.0710 and 3301.0712 of the Revised Code and the value-added progress dimension prescribed by section 3302.021 of the Revised Code do not apply, develop a list of student assessments that measure mastery of the course content for the appropriate grade level, which may include nationally normed standardized assessments, industry certification examinations, or end-of-course examinations.

(C) The state board shall consult with experts, teachers and principals employed in public schools, and representatives of stakeholder groups in developing the standards and criteria required by division (B)(1) of this section.

(D) To assist school districts in developing evaluation policies under sections 3319.02 and 3319.111 of the Revised Code, the department shall do both of the following:

(1) Serve as a clearinghouse of promising evaluation procedures and

evaluation models that districts may use;

(2) Provide technical assistance to districts in creating evaluation policies.

Sec. 3319.141. Each person who is employed by any board of education in this state, except for substitutes, adult education instructors who are scheduled to work the full-time equivalent of less than one hundred twenty days per school year, or persons who are employed on an as-needed, seasonal, or intermittent basis, shall be entitled to fifteen days sick leave with pay, for each year under contract, which shall be credited at the rate of one and one-fourth days per month. Teachers and regular nonteaching school employees, upon approval of the responsible administrative officer of the school district, may use sick leave for absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to others, and for absence due to illness, injury, or death in the employee's immediate family. Unused sick leave shall be cumulative up to one hundred twenty work days, unless more than one hundred twenty days are approved by the employing board of education. The previously accumulated sick leave of a person who has been separated from public service, whether accumulated pursuant to section 124.38 of the Revised Code or pursuant to this section, shall be placed to ~~his~~ the person's credit upon ~~his~~ re-employment in the public service, provided that such re-employment takes place within ten years of the date of the last termination from public service. A teacher or nonteaching school employee who transfers from one public agency to another shall be credited with the unused balance of ~~his~~ the teacher's or nonteaching employee's accumulated sick leave up to the maximum of the sick leave accumulation permitted in the public agency to which the employee transfers. Teachers and nonteaching school employees who render regular part-time, ~~seasonal, intermittent,~~ per diem, or hourly service shall be entitled to sick leave for the time actually worked at the same rate as that granted like full-time employees, calculated in the same manner as the ratio of sick leave granted to hours of service established by section 124.38 of the Revised Code. Each board of education may establish regulations for the entitlement, crediting and use of sick leave by those substitute teachers employed by such board pursuant to section 3319.10 of the Revised Code who are not otherwise entitled to sick leave pursuant to such section. A board of education shall require a teacher or nonteaching school employee to furnish a written, signed statement on forms prescribed by such board to justify the use of sick leave. If medical attention is required, the employee's statement shall list the name and address of the attending physician and the dates when ~~he~~ the

physician was consulted. Nothing in this section shall be construed to waive the physician-patient privilege provided by section 2317.02 of the Revised Code. Falsification of a statement is grounds for suspension or termination of employment under sections 3319.081 and 3319.16 of the Revised Code. No sick leave shall be granted or credited to a teacher after ~~his~~ the teacher's retirement or termination of employment.

Except to the extent used as sick leave, leave granted under regulations adopted by a board of education pursuant to section 3319.08 of the Revised Code shall not be charged against sick leave earned or earnable under this section. Nothing in this section shall be construed to affect in any other way the granting of leave pursuant to section 3319.08 of the Revised Code and any granting of sick leave pursuant to such section shall be charged against sick leave accumulated pursuant to this section.

This section shall not be construed to interfere with any unused sick leave credit in any agency of government where attendance records are maintained and credit has been given for unused sick leave. Unused sick leave accumulated by teachers and nonteaching school employees under section 124.38 of the Revised Code shall continue to be credited toward the maximum accumulation permitted in accordance with this section. Each newly hired regular nonteaching and each regular nonteaching employee of any board of education who has exhausted ~~his~~ the employee's accumulated sick leave shall be entitled to an advancement of not less than five days of sick leave each year, as authorized by rules which each board shall adopt, to be charged against the sick leave ~~he~~ the employee subsequently accumulates under this section.

This section shall be uniformly administered.

Sec. 3319.17. (A) As used in this section, "interdistrict contract" means any contract or agreement entered into by an educational service center governing board and another board or other public entity pursuant to section 3313.17, 3313.841, 3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the Revised Code, including any such contract or agreement for the provision of services funded under division ~~(I)~~(E) of section 3317.024 of the Revised Code or provided in any unit approved under section 3317.05 of the Revised Code.

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including ~~leaves provided pursuant to~~

~~division (B) of section 3314.10 of the Revised Code,~~ suspension of schools, territorial changes affecting the district or center, or financial reasons;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts.

(C) In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference ~~first~~ to teachers on continuing contracts ~~and then to teachers who have greater seniority. In making any such reduction, any governing board of a service center shall proceed to suspend contracts in accordance with the recommendation of the superintendent who shall, within each teaching field or service area affected, give preference first to teachers on continuing contracts and then to teachers who have greater seniority~~. The board shall not give preference to any teacher based on seniority, except when making a decision between teachers who have comparable evaluations.

On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract.

The teachers whose continuing contracts are suspended by any board pursuant to this section shall have the right of restoration to continuing service status by that board ~~in the order of seniority of service in the district or service center~~ if and when teaching positions become vacant or are created for which any of such teachers are or become qualified. No teacher whose continuing contract has been suspended pursuant to this section shall lose that right of restoration to continuing service status by reason of having

declined recall to a position that is less than full-time or, if the teacher was not employed full-time just prior to suspension of the teacher's continuing contract, to a position requiring a lesser percentage of full-time employment than the position the teacher last held while employed in the district or service center. Seniority shall not be the basis for rehiring a teacher, except when making a decision between teachers who have comparable evaluations.

(D) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code~~, the~~:

(1) The requirements of this section, as it existed prior to the effective date of this amendment, prevail over any conflicting provisions of agreements between employee organizations and public employers entered into ~~after~~ between September 29, 2005, and that effective date;

(2) The requirements of this section, as it exists on and after the effective date of this amendment, prevail over any conflicting provisions of agreements between employee organizations and public employers entered into on or after that effective date.

Sec. 3319.18. If an entire school district or that part of a school district which comprises the territory in which a school is situated is transferred to any other district, or if a new school district is created, the teachers in such districts or schools employed on continuing contracts immediately prior to such transfer, or creation shall, subject to section 3319.17 or 3319.171 of the Revised Code, have continuing service status in the newly created district, or in the district to which the territory is transferred.

The limited contracts of the teachers employed in such districts or schools immediately prior to such transfer, or creation, shall become the legal obligations of the board of education in the newly created district, or in the district to which the territory is transferred, subject to section 3319.17 or 3319.171 of the Revised Code. The teaching experience of such teachers in such prior districts or schools shall be included in the three years of service required under section 3319.11 of the Revised Code for a teacher to become eligible for continuing service status.

Teachers employed on limited or continuing contracts in an entire school district or that part of a school district which comprises the territory in which a school is situated which is transferred to any other district or which is merged with other school territory to create a new school district, shall be placed, on the effective date of such transfer or merger, on the salary schedule of the district to which the territory is transferred or the newly created district, according to their training and experience. Such experience shall be the total sum of the years taught in the district whose

territory was transferred or merged to create a new district, plus the total number of years of teaching experience recognized by such previous district upon its first employment of such teachers.

The placement of the teachers on the salary schedule, pursuant to this section, shall not result, however, in the salary of any teacher being less than the teacher's current annual salary for regular duties, in existence immediately prior to the merger or transfer.

~~In making any reduction in the number of teachers under section 3319.17 of the Revised Code by reason of the transfer or consolidation of school territory, the years of teaching service of the teachers employed in the district or schools transferred to any other district or merged with any school territory to create a new district, shall be included as a part of the seniority on which the recommendation of the superintendent of schools shall be based, under section 3319.17 of the Revised Code. Such service shall have been continuous and shall include years of service in the previous district as well as the years of continuous service in any district which had been previously transferred to or consolidated to form such district.~~ When suspending contracts in accordance with an administrative personnel suspension policy adopted under section 3319.171 of the Revised Code, a board may consider years of teaching service in the previous district in its decision if it is a part of the suspension policy.

Sec. 3319.19. (A) Except as provided in division (D) of this section or division (A)(2) of section 3313.37 of the Revised Code, upon request, the board of county commissioners shall provide and equip offices in the county for the use of the superintendent of an educational service center, and shall provide heat, light, water, and janitorial services for such offices. Such offices shall be the permanent headquarters of the superintendent and shall be used by the governing board of the service center when it is in session. Except as provided in division (B) of this section, such offices shall be located in the county seat or, upon the approval of the governing board, may be located outside of the county seat.

(B) In the case of a service center formed under section 3311.053 ~~or 3311.059~~ of the Revised Code, the governing board shall designate the site of its offices. Except as provided in division (D) of this section or division (A)(2) of section 3313.37 of the Revised Code, the board of county commissioners of the county in which the designated site is located shall provide and equip the offices as under division (A) of this section, but the costs of such offices and equipment shall be apportioned among the boards of county commissioners of all counties having any territory in the area under the control of the governing board, according to the proportion of

local school district pupils under the supervision of such board residing in the respective counties. Where there is a dispute as to the amount any board of county commissioners is required to pay, the probate judge of the county in which the greatest number of pupils under the supervision of the governing board reside shall apportion such costs among the boards of county commissioners and notify each such board of its share of the costs.

(C) As used in division (C) of this section, in the case of a building, facility, or office space that a board of county commissioners leases or rents, "actual cost per square foot" means all cost on a per square foot basis incurred by the board under the lease or rental agreement. In the case of a building, facility, or office space that the board owns in fee simple, "actual cost per square foot" means the fair rental value on a per square foot basis of the building, facility, or office space either as compared to a similarly situated building, facility, or office space in the general vicinity or as calculated under a formula that accounts for depreciation, amortization of improvements, and other reasonable factors, including, but not limited to, parking space and other amenities.

Not later than the thirty-first day of March of 2002, 2003, 2004, and 2005 a board of county commissioners required to provide or equip offices pursuant to division (A) or (B) of this section shall make a written estimate of the total cost it will incur for the ensuing fiscal year to provide and equip the offices and to provide heat, light, water, and janitorial services for such offices. The total estimate of cost shall include:

(1) The total square feet of space to be utilized by the educational service center;

(2) The total square feet of any common areas that should be reasonably allocated to the center and the methodology for making this allocation;

(3) The actual cost per square foot for both the space utilized by and the common area allocated to the center;

(4) An explanation of the methodology used to determine the actual cost per square foot;

(5) The estimated cost of providing heat, light, and water, including an explanation of how these costs were determined;

(6) The estimated cost of providing janitorial services including an explanation of the methodology used to determine this cost;

(7) Any other estimated costs that the board anticipates it will ~~occur~~ incur and a detailed explanation of the costs and the rationale used to determine such costs.

A copy of the total estimate of costs under this division shall be sent to the superintendent of the educational service center not later than the fifth

day of April. The superintendent shall review the total estimate and shall notify the board of county commissioners not later than twenty days after receipt of the estimate of either agreement with the estimate or any specific objections to the estimates and the reasons for the objections. If the superintendent agrees with the estimate, it shall become the final total estimate of cost. Failure of the superintendent to make objections to the estimate by the twentieth day after receipt of it shall be deemed to mean that the superintendent is in agreement with the estimate.

If the superintendent provides specific objections to the board of county commissioners, the board shall review the objections and may modify the original estimate and shall send a revised total estimate to the superintendent within ten days after the receipt of the superintendent's objections. The superintendent shall respond to the revised estimate within ten days after its receipt. If the superintendent agrees with it, it shall become the final total estimated cost. If the superintendent fails to respond within the required time, the superintendent shall be deemed to have agreed with the revised estimate. If the superintendent disagrees with the revised estimate, the superintendent shall send specific objections to the county commissioners.

If a superintendent has sent specific objections to the revised estimate within the required time, the probate judge of the county which has the greatest number of resident local school district pupils under the supervision of the educational service center shall determine the final estimated cost and certify this amount to the superintendent and the board of county commissioners prior to the first day of July.

(D)(1) A board of county commissioners shall be responsible for the following percentages of the final total estimated cost established by division (C) of this section:

(a) Eighty per cent for fiscal year 2003;

(b) Sixty per cent for fiscal year 2004;

(c) Forty per cent for fiscal year 2005;

(d) Twenty per cent for fiscal year 2006.

In fiscal years 2003, 2004, 2005, and 2006 the educational service center shall be responsible for the remainder of any costs in excess of the amounts specified in division (D)(1)(a),(b), (c), or (d) of this section, as applicable, associated with the provision and equipment of offices for the educational service center and for provision of heat, light, water, and janitorial services for such offices, including any unanticipated or unexpected increases in the costs beyond the final estimated cost amount.

Beginning in fiscal year 2007, no board of county commissioners shall have any obligation to provide and equip offices for an educational service

center or to provide heat, light, water, or janitorial services for such offices.

(2) Nothing in this section shall prohibit the board of county commissioners and the governing board of an educational service center from entering into a contract for providing and equipping offices for the use of an educational service center and for providing heat, light, water, and janitorial services for such offices. The term of any such contract shall not exceed a period of four years and may be renewed for additional periods not to exceed four years. Any such contract shall supersede the provisions of division (D)(1) of this section and no educational service center may be charged, at any time, any additional amount for the county's provision of an office and equipment, heat, light, water, and janitorial services beyond the amount specified in such contract.

(3) No contract entered into under division (D)(2) of this section in any year prior to fiscal year 2007 between an educational service center formed under section 3311.053 ~~or 3311.059~~ of the Revised Code and the board of county commissioners required to provide and equip its office pursuant to division (B) of this section shall take effect unless the boards of county commissioners of all other counties required to participate in the funding for such offices pursuant to division (B) of this section adopt resolutions approving the contract.

Sec. 3319.227. (A) Notwithstanding any other provision of the Revised Code or any rule adopted by the state board of education to the contrary, the state board shall issue a resident educator license under section 3319.22 of the Revised Code to each person who is assigned to teach in this state as a participant in the teach for America program and who meets the following conditions:

(1) Holds a bachelor's degree from an accredited institution of higher education;

(2) Maintained a cumulative undergraduate grade point average of at least 2.5 out of 4.0, or its equivalent;

(3) Has passed an examination prescribed by the state board in the subject area to be taught;

(4) Has successfully completed the summer training institute operated by teach for America.

(B) The state board shall issue a resident educator license under this section for teaching in any grade level or subject area for which a person may obtain a resident educator license under section 3319.22 of the Revised Code. <u>The state board shall not adopt rules establishing any additional qualifications for the license beyond those specified in this section.</u>

(C) Notwithstanding any other provision of the Revised Code or any

rule adopted by the state board to the contrary, the state board shall issue a resident educator license under section 3319.22 of the Revised Code to any applicant who has completed at least two years of teaching in another state as a participant in the teach for America program and meets all of the conditions of divisions (A)(1) to (4) of this section. The state board shall credit an applicant under this division as having completed two years of the teacher residency program under section 3319.223 of the Revised Code.

(D) In order to place teachers in this state, the ~~Teach~~ teach for America program shall enter into an agreement with one or more accredited four-year public or private institutions of higher education in the state to provide optional training of ~~Teach~~ teach for America participants for the purpose of enabling those participants to complete an optional master's degree or an equivalent amount of coursework. Nothing in this division shall require any ~~Teach~~ teach for America participant to complete a master's degree as a condition of holding a license issued under this section.

Sec. 3319.228. (A) This section applies only to a person who meets the following conditions:

(1) Holds a minimum of a baccalaureate degree;

(2) Has been licensed and employed as a teacher in another state for each of the preceding five years;

(3) Was initially licensed as a teacher in any state within the preceding fifteen years;

(4) Has not had a teacher's license suspended or revoked in any state.

(B)(1) Not later than July 1, 2012, the superintendent of public instruction shall develop a list of states that the superintendent considers to have standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code.

(2) Following development of the list, the superintendent shall establish a panel of experts to evaluate the adequacy of the teacher licensure standards of each state on the list. Each person selected by the superintendent to be a member of the panel shall be approved by the state board of education. In evaluating the superintendent's list, the panel shall provide an opportunity for representatives of the department of education, or similar state-level agency, of each state on the list to provide evidence to refute the state's placement on the list.

Not later than April 1, 2013, the panel shall recommend to the state board that the list be approved without changes or that specified states be removed from the list prior to approval. Not later than July 1, 2013, the state

board shall approve a final list of states with standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code.

(C) Except as otherwise provided in division (E)(1) of this section, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a one-year provisional educator license to any applicant to whom this section applies. On and after that date, neither the state board nor the department of education shall be party to any reciprocity agreement with a state on that list that requires the state board to issue a person to whom this section applies any type of professional educator license on the basis of the person's licensure and teaching experience in that state.

(D) Upon the expiration of a provisional license issued to a person under division (C) of this section, the state board shall issue the person a professional educator license, if the person satisfies either of the following conditions:

(1) The person was issued the provisional license prior to the development of the list by the state superintendent under division (B)(1) of this section and, prior to issuance of the provisional license, the person was most recently licensed to teach by a state not on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state not on that list.

(2) All of the following apply to the person:

(a) Prior to obtaining the provisional license, the person was most recently licensed to teach by a state on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state on that list.

(b) The person was employed under the provisional license by a school district; community school established under Chapter 3314. of the Revised Code; science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code; or an entity contracted by such a district or school to provide internet- or computer-based instruction or distance learning programs to students.

(c) The district or school certifies to the state board that the person's teaching was satisfactory while employed or contracted by the district or

school.

(E)(1) From July 1, 2012, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on the list developed by the state superintendent under division (B)(1) of this section.

(2) Beginning on the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on that list.

Sec. 3319.229. The rules adopted under section 3319.22 of the Revised Code shall include requirements for the issuance and renewal of professional career-technical teaching licenses, including, but not limited to, requirements relating to life experience, professional certification, and practical ability. Nothing in sections 3319.22 to 3319.31 of the Revised Code requires, and the state board of education shall not adopt a rule requiring, an applicant for the issuance or renewal of a professional career-technical teaching license who meets the requirements relating to life experience, professional certification, and practical ability to complete a degree applicable to the career field, classroom teaching, or an area of licensure.

Sec. 3319.26. (A) The state board of education shall adopt rules establishing the standards and requirements for obtaining an alternative resident educator license for teaching in grades ~~four~~ kindergarten to twelve, or the equivalent, in a designated subject area~~. However, an alternative resident educator license~~ or in the area of intervention specialist, as defined by rule of the state board~~, shall be valid for teaching in grades kindergarten to twelve~~.

(B) The superintendent of public instruction and the chancellor of the Ohio board of regents jointly shall develop an intensive pedagogical training institute to provide instruction in the principles and practices of teaching for individuals seeking an alternative resident educator license. The instruction shall cover such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology.

(C) The rules adopted under this section shall require applicants for the alternative resident educator license to satisfy the following conditions prior to issuance of the license, but they shall not require applicants to have

completed a major in the subject area for which application is being made:

(1) Hold a minimum of a baccalaureate degree;

(2) Successfully complete the pedagogical training institute described in division (B) of this section~~;~~ or a summer training institute provided to participants of a teacher preparation program that is operated by a nonprofit organization and has been approved by the chancellor. The chancellor shall approve any such program that requires participants to hold a bachelor's degree; have a cumulative undergraduate grade point average of at least 2.5 out of 4.0, or its equivalent; and successfully complete the program's summer training institute.

(3) Pass an examination in the subject area for which application is being made.

(D) An alternative resident educator license shall be valid for four years, except that the state board, on a case-by-case basis, may extend the license's duration as necessary to enable the license holder to complete the Ohio teacher residency program established under section 3319.223 of the Revised Code.

(E) The rules shall require the holder of an alternative resident educator license, as a condition of continuing to hold the license, to do all of the following:

(1) Participate in the Ohio teacher residency program;

(2) Show satisfactory progress in taking and successfully completing ~~at~~ one of the following:

(a) At least twelve additional semester hours, or the equivalent, of college coursework in the principles and practices of teaching in such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology;

(b) Professional development provided by a teacher preparation program that has been approved by the chancellor under division (C)(2) of this section.

(3) Take an assessment of professional knowledge in the second year of teaching under the license.

(F) The rules shall provide for the granting of a professional educator license to a holder of an alternative resident educator license upon successfully completing all of the following:

(1) Four years of teaching under the alternative license;

(2) The ~~twelve semester hours, or the equivalent, of the~~ additional college coursework or professional development described in division (E)(2) of this section;

(3) The assessment of professional knowledge described in division (E)(3) of this section. The standards for successfully completing this assessment and the manner of conducting the assessment shall be the same as for any other individual who is required to take the assessment pursuant to rules adopted by the state board under section 3319.22 of the Revised Code.

(4) The Ohio teacher residency program;

(5) All other requirements for a professional educator license adopted by the state board under section 3319.22 of the Revised Code.

(G) A person who is assigned to teach in this state as a participant in the teach for America program or who has completed two years of teaching in another state as a participant in that program shall be eligible for a license only under section 3319.227 of the Revised Code and shall not be eligible for a license under this section.

Sec. 3319.31. (A) As used in this section and sections 3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" means a certificate, license, or permit described in this chapter or in division (B) of section 3301.071 or in section 3301.074 of the Revised Code.

(B) For any of the following reasons, the state board of education, in accordance with Chapter 119. and section 3319.311 of the Revised Code, may refuse to issue a license to an applicant; may limit a license it issues to an applicant; may suspend, revoke, or limit a license that has been issued to any person; or may revoke a license that has been issued to any person and has expired:

(1) Engaging in an immoral act, incompetence, negligence, or conduct that is unbecoming to the applicant's or person's position;

(2) A plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the following:

(a) A felony other than a felony listed in division (C) of this section;

(b) An offense of violence other than an offense of violence listed in division (C) of this section;

(c) A theft offense, as defined in section 2913.01 of the Revised Code, other than a theft offense listed in division (C) of this section;

(d) A drug abuse offense, as defined in section 2925.01 of the Revised Code, that is not a minor misdemeanor, other than a drug abuse offense listed in division (C) of this section;

(e) A violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in divisions (B)(2)(a) to (d) of this section.

(3) A judicial finding of eligibility for intervention in lieu of conviction

under section 2951.041 of the Revised Code, or agreeing to participate in a pre-trial diversion program under section 2935.36 of the Revised Code, or a similar diversion program under rules of a court, for any offense listed in division (B)(2) or (C) of this section;

(4) Failure to comply with section 3314.40, 3319.313, 3326.24, 3328.19, or 5126.253 of the Revised Code.

(C) Upon learning of a plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the offenses listed in this division by a person who holds a current or expired license or is an applicant for a license or renewal of a license, the state board or the superintendent of public instruction, if the state board has delegated the duty pursuant to division (D) of this section, shall by a written order revoke the person's license or deny issuance or renewal of the license to the person. The state board or the superintendent shall revoke a license that has been issued to a person to whom this division applies and has expired in the same manner as a license that has not expired.

Revocation of a license or denial of issuance or renewal of a license under this division is effective immediately at the time and date that the board or superintendent issues the written order and is not subject to appeal in accordance with Chapter 119. of the Revised Code. Revocation of a license or denial of issuance or renewal of license under this division remains in force during the pendency of an appeal by the person of the plea of guilty, finding of guilt, or conviction that is the basis of the action taken under this division.

The state board or superintendent shall take the action required by this division for a violation of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code; a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.15, 2905.01, 2905.02, 2905.05, 2905.11, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.21, 2907.22, 2907.23, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 2917.01, 2917.02, 2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 2919.13, 2921.02, 2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 2921.41, 2923.122, 2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 2925.23, 2925.24, 2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 of the Revised Code; a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996; a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the

violation been committed prior to that date; felonious sexual penetration in violation of former section 2907.12 of the Revised Code; or a violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in this paragraph.

(D) The state board may delegate to the superintendent of public instruction the authority to revoke a person's license or to deny issuance or renewal of a license to a person under division (C) or (F) of this section.

(E)(1) If the plea of guilty, finding of guilt, or conviction that is the basis of the action taken under division (B)(2) or (C) of this section, or under the version of division (F) of section 3319.311 of the Revised Code in effect prior to ~~the effective date of this amendment~~ September 12, 2008, is overturned on appeal, upon exhaustion of the criminal appeal, the clerk of the court that overturned the plea, finding, or conviction or, if applicable, the clerk of the court that accepted an appeal from the court that overturned the plea, finding, or conviction, shall notify the state board that the plea, finding, or conviction has been overturned. Within thirty days after receiving the notification, the state board shall initiate proceedings to reconsider the revocation or denial of the person's license in accordance with division (E)(2) of this section. In addition, the person whose license was revoked or denied may file with the state board a petition for reconsideration of the revocation or denial along with appropriate court documents.

(2) Upon receipt of a court notification or a petition and supporting court documents under division (E)(1) of this section, the state board, after offering the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code, shall determine whether the person committed the act in question in the prior criminal action against the person that is the basis of the revocation or denial and may continue the revocation or denial, may reinstate the person's license, with or without limits, or may grant the person a new license, with or without limits. The decision of the board shall be based on grounds for revoking, denying, suspending, or limiting a license adopted by rule under division (G) of this section and in accordance with the evidentiary standards the board employs for all other licensure hearings. The decision of the board under this division is subject to appeal under Chapter 119. of the Revised Code.

(3) A person whose license is revoked or denied under division (C) of this section shall not apply for any license if the plea of guilty, finding of guilt, or conviction that is the basis of the revocation or denial, upon completion of the criminal appeal, either is upheld or is overturned but the state board continues the revocation or denial under division (E)(2) of this section and that continuation is upheld on final appeal.

(F) The state board may take action under division (B) of this section, and the state board or the superintendent shall take the action required under division (C) of this section, on the basis of substantially comparable conduct occurring in a jurisdiction outside this state or occurring before a person applies for or receives any license.

(G) The state board may adopt rules in accordance with Chapter 119. of the Revised Code to carry out this section and section 3319.311 of the Revised Code.

Sec. 3319.311. (A)(1) The state board of education, or the superintendent of public instruction on behalf of the board, may investigate any information received about a person that reasonably appears to be a basis for action under section 3319.31 of the Revised Code, including information received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of the Revised Code. Except as provided in division (A)(2) of this section, the board shall contract with the office of the Ohio attorney general to conduct any investigation of that nature. The board shall pay for the costs of the contract only from moneys in the state board of education licensure fund established under section 3319.51 of the Revised Code. Except as provided in division (A)(2) of this section, all information received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of the Revised Code, and all information obtained during an investigation is confidential and is not a public record under section 149.43 of the Revised Code. If an investigation is conducted under this division regarding information received about a person and no action is taken against the person under this section or section 3319.31 of the Revised Code within two years of the completion of the investigation, all records of the investigation shall be expunged.

(2) In the case of a person about whom the board has learned of a plea of guilty to, finding of guilt by a jury or court of, or a conviction of an offense listed in division (C) of section 3319.31 of the Revised Code, or substantially comparable conduct occurring in a jurisdiction outside this state, the board or the superintendent of public instruction need not conduct any further investigation and shall take the action required by division (C) or (F) of that section. Except as provided in division (G) of this section, all information obtained by the board or the superintendent of public instruction pertaining to the action is a public record under section 149.43 of the Revised Code.

(B) The superintendent of public instruction shall review the results of each investigation of a person conducted under division (A)(1) of this

section and shall determine, on behalf of the state board, whether the results warrant initiating action under division (B) of section 3319.31 of the Revised Code. The superintendent shall advise the board of such determination at a meeting of the board. Within fourteen days of the next meeting of the board, any member of the board may ask that the question of initiating action under section 3319.31 of the Revised Code be placed on the board's agenda for that next meeting. Prior to initiating that action against any person, the person's name and any other personally identifiable information shall remain confidential.

(C) The board shall take no action against a person under division (B) of section 3319.31 of the Revised Code without providing the person with written notice of the charges and with an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(D) For purposes of an investigation under division (A)(1) of this section or a hearing under division (C) of this section or under division (E)(2) of section 3319.31 of the Revised Code, the board, or the superintendent on behalf of the board, may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. The issuance of subpoenas under this division may be by certified mail or personal delivery to the person.

(E) The superintendent, on behalf of the board, may enter into a consent agreement with a person against whom action is being taken under division (B) of section 3319.31 of the Revised Code. The board may adopt rules governing the superintendent's action under this division.

(F) No surrender of a license shall be effective until the board takes action to accept the surrender unless the surrender is pursuant to a consent agreement entered into under division (E) of this section.

(G) The name of any person who is not required to report information under section 3314.40, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of the Revised Code, but who in good faith provides information to the state board or superintendent of public instruction about alleged misconduct committed by a person who holds a license or has applied for issuance or renewal of a license, shall be confidential and shall not be released. Any such person shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the provision of that information.

(H)(1) No person shall knowingly make a false report to the superintendent of public instruction or the state board of education alleging misconduct by an employee of a public or chartered nonpublic school or an

employee of the operator of a community school established under Chapter 3314. or a college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(2)(a) In any civil action brought against a person in which it is alleged and proved that the person violated division (H)(1) of this section, the court shall award the prevailing party reasonable attorney's fees and costs that the prevailing party incurred in the civil action or as a result of the false report that was the basis of the violation.

(b) If a person is convicted of or pleads guilty to a violation of division (H)(1) of this section, if the subject of the false report that was the basis of the violation was charged with any violation of a law or ordinance as a result of the false report, and if the subject of the false report is found not to be guilty of the charges brought against the subject as a result of the false report or those charges are dismissed, the court that sentences the person for the violation of division (H)(1) of this section, as part of the sentence, shall order the person to pay restitution to the subject of the false report, in an amount equal to reasonable attorney's fees and costs that the subject of the false report incurred as a result of or in relation to the charges.

Sec. 3319.39. (A)(1) Except as provided in division (F)(2)(b) of section 109.57 of the Revised Code, the appointing or hiring officer of the board of education of a school district, the governing board of an educational service center, or of a chartered nonpublic school shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the school district, educational service center, or school for employment in any position. The appointing or hiring officer shall request that the superintendent include information from the federal bureau of investigation in the criminal records check, unless all of the following apply to the applicant:

(a) The applicant is applying to be an instructor of adult education.

(b) The duties of the position for which the applicant is applying do not involve routine interaction with a child or regular responsibility for the care, custody, or control of a child or, if the duties do involve such interaction or responsibility, during any period of time in which the applicant, if hired, has such interaction or responsibility, another employee of the school district, educational service center, or chartered nonpublic school will be present in the same room with the child or, if outdoors, will be within a thirty-yard radius of the child or have visual contact with the child.

(c) The applicant presents proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which

the criminal records check is requested or provides evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check.

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the board of education of a school district, governing board of an educational service center, or governing authority of a chartered nonpublic school shall not employ that applicant for any position.

(4) Notwithstanding any provision of this section to the contrary, an applicant who meets the conditions prescribed in divisions (A)(1)(a) and (b) of this section and who, within the two-year period prior to the date of application, was the subject of a criminal records check under this section prior to being hired for short-term employment with the school district, educational service center, or chartered nonpublic school to which application is being made shall not be required to undergo a criminal records check prior to the applicant's rehiring by that district, service center, or school.

(B)(1) Except as provided in rules adopted by the department of education in accordance with division (E) of this section and as provided in division (B)(3) of this section, no board of education of a school district, no governing board of an educational service center, and no governing authority of a chartered nonpublic school shall employ a person if the person

previously has been convicted of or pleaded guilty to any of the following:

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

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

(2) A board, governing board of an educational service center, or a governing authority of a chartered nonpublic school may employ an applicant conditionally until the criminal records check required by this section is completed and the board or governing authority receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the board or governing authority shall release the applicant from employment.

(3) No board and no governing authority of a chartered nonpublic school shall employ a teacher who previously has been convicted of or pleaded guilty to any of the offenses listed in section 3319.31 of the Revised Code.

(C)(1) Each board and each governing authority of a chartered nonpublic school shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the appointing or hiring officer of the board or governing authority.

(2) A board and the governing authority of a chartered nonpublic school may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not

exceed the amount of fees the board or governing authority pays under division (C)(1) of this section. If a fee is charged under this division, the board or governing authority shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the board or governing authority will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the board or governing authority requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The department of education shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which the board or governing authority may hire a person who has been convicted of an offense listed in division (B)(1) or (3) of this section but who meets standards in regard to rehabilitation set by the department.

The department shall amend rule 3301-83-23 of the Ohio Administrative Code that took effect August 27, 2009, and that specifies the offenses that disqualify a person for employment as a school bus or school van driver and establishes rehabilitation standards for school bus and school van drivers.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, of the requirement to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for the school district, educational service center, or school for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with a board of education, governing board of an educational service center, or a chartered nonpublic school, except that "applicant" does not include a person already employed

by a board or chartered nonpublic school who is under consideration for a different position with such board or school.

(2) "Teacher" means a person holding an educator license or permit issued under section 3319.22 or 3319.301 of the Revised Code and teachers in a chartered nonpublic school.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

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

(H) If the board of education of a local school district adopts a resolution requesting the assistance of the educational service center in which the local district has territory in conducting criminal records checks of substitute teachers and substitutes for other district employees under this section, the appointing or hiring officer of such educational service center shall serve for purposes of this section as the appointing or hiring officer of the local board in the case of hiring substitute teachers and other substitute employees for the local district.

Sec. 3319.57. (A) A grant program is hereby established under which the department of education shall award grants to assist certain schools in a city, exempted village, local, or joint vocational school district in implementing one of the following innovations:

(1) The use of instructional specialists to mentor and support classroom teachers;

(2) The use of building managers to supervise the administrative functions of school operation so that a school principal can focus on supporting instruction, providing instructional leadership, and engaging teachers as part of the instructional leadership team;

(3) The reconfiguration of school leadership structure in a manner that allows teachers to serve in leadership roles so that teachers may share the responsibility for making and implementing school decisions;

(4) The adoption of new models for restructuring the school day or school year, such as including teacher planning and collaboration time as part of the school day;

(5) The creation of smaller schools or smaller units within larger schools for the purpose of facilitating teacher collaboration to improve and advance the professional practice of teaching;

(6) The implementation of "grow your own" recruitment strategies that are designed to assist individuals who show a commitment to education become licensed teachers, to assist experienced teachers obtain licensure in subject areas for which there is need, and to assist teachers in becoming

principals;

(7) The provision of better conditions for new teachers, such as reduced teaching load and reduced class size;

(8) The provision of incentives to attract qualified mathematics, science, or special education teachers;

(9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;

(10) The implementation of a program to increase the cultural competency of both new and veteran teachers;

(11) The implementation of a program to increase the subject matter competency of veteran teachers.

(B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria:

(1) Be hard to staff, as defined by the department.

(2) Use existing school district funds for the implementation of the innovation in an amount equal to the grant amount multiplied by (1 - the district's state share percentage for the fiscal year in which the grant is awarded).

For purposes of division (B)(2) of this section, "state share percentage" has the same meaning as in section ~~3306.02~~ 3317.02 of the Revised Code.

(C) The amount and number of grants awarded under this section shall be determined by the department based on any appropriations made by the general assembly for grants under this section.

(D) The state board of education shall adopt rules for the administration of this grant program.

Sec. 3319.58. (A) As used in this section, "core subject area" has the same meaning as in section 3319.074 of the Revised Code.

(B) Each year, the board of education of each city, exempted village, and local school district, governing authority of each community school established under Chapter 3314. of the Revised Code, and governing body of each STEM school established under Chapter 3326. of the Revised Code with a building ranked in the lowest ten per cent of all public school buildings according to performance index score, under section 3302.21 of the Revised Code, shall require each classroom teacher teaching in a core subject area in such a building to register for and take all written examinations prescribed by the state board of education for licensure to teach that core subject area and the grade level to which the teacher is assigned under section 3319.22 of the Revised Code. However, if a teacher

who takes a prescribed examination under this division passes that examination and provides proof of that passage to the teacher's employer, the teacher shall not be required to take the examination again for three years, regardless of the performance index score ranking of the building in which the teacher teaches. No teacher shall be responsible for the cost of taking an examination under this division.

(C) Each district board of education, each community school governing authority, and each STEM school governing body may use the results of a teacher's examinations required under division (B) of this section in developing and revising professional development plans and in deciding whether or not to continue employing the teacher in accordance with the provisions of this chapter or Chapter 3314. or 3326. of the Revised Code. However, no decision to terminate or not to renew a teacher's employment contract shall be made solely on the basis of the results of a teacher's examination under this section until and unless the teacher has not attained a passing score on the same required examination for at least three consecutive administrations of that examination.

Sec. 3319.71. (A) The school health services advisory council shall make recommendations on the following topics:

(1) The content of the course of instruction required to obtain a school nurse license under section 3319.221 of the Revised Code;

(2) The content of the course of instruction required to obtain a school nurse wellness coordinator license under section 3319.221 of the Revised Code;

(3) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code.

(B) The council shall issue its initial recommendations not later than March 31, 2010, and may issue subsequent recommendations as it considers necessary. Copies of all recommendations shall be provided to the state board of education, the chancellor of the Ohio board of regents, and the board of nursing~~, and the health care coverage and quality council~~.

Sec. 3323.052. Not later than sixty days after the effective date of this section, the department of education shall develop a document that compares a parent's and child's rights under this chapter and 20 U.S.C. 1400 et seq. with the parent's and child's rights under the Jon Peterson special needs scholarship program, established in sections 3310.51 to 3310.64 of the Revised Code, including the deadline for application for a scholarship or

renewal of a scholarship and notice of that application to the child's school district, prescribed in division (C) of section 3310.52 of the Revised Code, and the provisions of divisions (A) and (B) of section 3310.53 of the Revised Code. The department shall revise that document as necessary to reflect any pertinent changes in state or federal statutory law, rule, or regulation enacted or adopted after the initial document is developed. The department and each school district shall ensure that the document prescribed in this section is included in, appended to, or otherwise distributed in conjunction with the notice required under 20 U.S.C. 1415(d), and any provision of the Code of Federal Regulations implementing that requirement, in the manner and at all the times specified for such notice in federal law or regulation. As used in this section, a "child's school district" means the school district in which the child is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

Sec. 3323.09. (A) As used in this section:

(1) "Home" has the meaning given in section 3313.64 of the Revised Code.

(2) "Preschool child" means a child who is at least age three but under age six on the thirtieth day of September of an academic year.

(B) Each county DD board shall establish special education programs for all children with disabilities who in accordance with section 3323.04 of the Revised Code have been placed in special education programs operated by the county board and for preschool children who are developmentally delayed or at risk of being developmentally delayed. The board annually shall submit to the department of education a plan for the provision of these programs and, if applicable, a request for approval of units under section 3317.05 of the Revised Code. The superintendent of public instruction shall review the plan and approve or modify it in accordance with rules adopted by the state board of education under section 3301.07 of the Revised Code. The superintendent of public instruction shall compile the plans submitted by county boards and shall submit a comprehensive plan to the state board.

A county DD board may combine transportation for children enrolled in classes funded under section 3317.20 or units approved under section 3317.05 with transportation for children and adults enrolled in programs and services offered by the board under ~~section 5126.12~~ Chapter 5126. of the Revised Code.

(C) A county DD board that during the school year provided special education pursuant to this section for any child with mental disabilities under twenty-two years of age shall prepare and submit the following reports and statements:

(1) The board shall prepare a statement for each child who at the time of receiving such special education was a resident of a home and was not in the legal or permanent custody of an Ohio resident or a government agency in this state, and whose natural or adoptive parents are not known to have been residents of this state subsequent to the child's birth. The statement shall contain the child's name, the name of the child's school district of residence, the name of the county board providing the special education, and the number of months, including any fraction of a month, it was provided. Not later than the thirtieth day of June, the board shall forward a certified copy of such statement to both the director of developmental disabilities and to the home.

Within thirty days after its receipt of a statement, the home shall pay tuition to the county board computed in the manner prescribed by section 3323.141 of the Revised Code.

(2) The board shall prepare a report for each school district that is the school district of residence of one or more of such children for whom statements are not required by division (C)(1) of this section. The report shall contain the name of the county board providing special education, the name of each child receiving special education, the number of months, including fractions of a month, that the child received it, and the name of the child's school district of residence. Not later than the thirtieth day of June, the board shall forward certified copies of each report to the school district named in the report, the superintendent of public instruction, and the director of developmental disabilities.

Sec. 3323.091. (A) The department of mental health, the department of developmental disabilities, the department of youth services, and the department of rehabilitation and correction shall establish and maintain special education programs for children with disabilities in institutions under their jurisdiction according to standards adopted by the state board of education.

(B) The superintendent of each state institution required to provide services under division (A) of this section, and each county DD board, providing special education for preschool children with disabilities under this chapter may apply to the state department of education for unit funding, which shall be paid in accordance with sections 3317.052 and 3317.053 of the Revised Code.

The superintendent of each state institution required to provide services under division (A) of this section may apply to the department of education for special education and related services weighted funding for children with disabilities other than preschool children with disabilities, calculated in

accordance with section 3317.201 of the Revised Code.

Each county DD board providing special education for children with disabilities other than preschool children with disabilities may apply to the department of education for base cost and special education and related services weighted funding calculated in accordance with section 3317.20 of the Revised Code.

(C) In addition to the authorization to apply for state funding described in division (B) of this section, each state institution required to provide services under division (A) of this section is entitled to tuition payments calculated in the manner described in division (C) of this section.

On or before the thirtieth day of June of each year, the superintendent of each institution that during the school year provided special education pursuant to this section shall prepare a statement for each child with a disability under twenty-two years of age who has received special education. The statement shall contain the child's data verification code assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code and the name of the child's school district of residence. Within sixty days after receipt of such statement, the department of education shall perform one of the following:

(1) For any child except a preschool child with a disability described in division (C)(2) of this section, pay to the institution submitting the statement an amount equal to the tuition calculated under division (A) of section 3317.08 of the Revised Code for the period covered by the statement, and deduct the same from the amount of state funds, if any, payable under ~~sections 3306.13 and 3317.023~~ Chapter 3317. of the Revised Code, to the child's school district of residence or, if the amount of such state funds is insufficient, require the child's school district of residence to pay the institution submitting the statement an amount equal to the amount determined under this division.

(2) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, perform the following:

(a) Pay to the institution submitting the statement an amount equal to the tuition calculated under division (B) of section 3317.08 of the Revised Code for the period covered by the statement, except that in calculating the tuition under that section the operating expenses of the institution submitting the statement under this section shall be used instead of the operating expenses of the school district of residence;

(b) Deduct from the amount of state funds, if any, payable under ~~sections 3317.022 or 3306.13 and 3317.023~~ Chapter 3317. of the Revised

Code to the child's school district of residence an amount equal to the amount paid under division (C)(2)(a) of this section.

Sec. 3323.14. This section does not apply to any preschool child with a disability except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

(A) Where a child who is a school resident of one school district receives special education from another district and the per capita cost to the educating district for that child exceeds the sum of the amount received by the educating district for that child under division (A) of section 3317.08 of the Revised Code and the amount received by the district from the state board of education for that child, then the board of education of the district of residence shall pay to the board of the school district that is providing the special education such excess cost as is determined by using a formula approved by the department of education and agreed upon in contracts entered into by the boards of the districts concerned at the time the district providing such special education accepts the child for enrollment. The department shall certify the amount of the payments under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code for such pupils with disabilities for each school year ending on the thirtieth day of July.

(B) In the case of a child described in division (A) of this section who has been placed in a home, as defined in section 3313.64 of the Revised Code, pursuant to the order of a court and who is not subject to section 3323.141 of the Revised Code, the district providing the child with special education and related services may charge to the child's district of residence the excess cost determined by formula approved by the department, regardless of whether the district of residence has entered into a contract with the district providing the services. If the district providing the services chooses to charge excess costs, the district may report the amount calculated under this division to the department.

(C) If a district providing special education for a child reports an amount for the excess cost of those services, as authorized and calculated under division (A) or (B) of this section, the department shall pay that amount of excess cost to the district providing the services and shall deduct that amount from the child's district of residence in accordance with division ~~(N)~~(K) of section 3317.023 of the Revised Code.

Sec. 3323.142. This section does not apply to any preschool child with a disability except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

As used in this section, "per pupil amount" for a preschool child with a disability included in such an approved unit means the amount determined

by dividing the amount received for the classroom unit in which the child has been placed by the number of children in the unit. For any other child, "per pupil amount" means the amount paid for the child under section 3317.20 of the Revised Code.

When a school district places or has placed a child with a county DD board for special education, but another district is responsible for tuition under section 3313.64 or 3313.65 of the Revised Code and the child is not a resident of the territory served by the county DD board, the board may charge the district responsible for tuition with the educational costs in excess of the per pupil amount received by the board under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code. The amount of the excess cost shall be determined by the formula established by rule of the department of education under section 3323.14 of the Revised Code, and the payment for such excess cost shall be made by the school district directly to the county DD board.

A school district board of education and the county DD board that serves the school district may negotiate and contract, at or after the time of placement, for payments by the board of education to the county DD board for additional services provided to a child placed with the county DD board and whose individualized education program established pursuant to section 3323.08 of the Revised Code requires additional services that are not routinely provided children in the county DD board's program but are necessary to maintain the child's enrollment and participation in the program. Additional services may include, but are not limited to, specialized supplies and equipment for the benefit of the child and instruction, training, or assistance provided by staff members other than staff members for which funding is received under Chapter ~~3306. or~~ 3317. of the Revised Code.

Sec. 3323.31. The Franklin county educational service center shall establish the Ohio ~~Center~~ center for ~~Autism~~ autism and ~~Low-Incidence~~ low incidence. The ~~Center~~ center shall administer programs and coordinate services for infants, preschool and school-age children, and adults with autism and low incidence disabilities. The ~~Center's~~ center's principal focus shall be programs and services for persons with autism. The ~~Center~~ center shall be under the direction of an executive director, appointed by the superintendent of the service center in consultation with the advisory board established under section 3323.33 of the Revised Code.

In addition to its other duties, the Ohio ~~Center~~ center for ~~Autism~~ autism and ~~Low-Incidence~~ low incidence shall participate as a member of ~~an~~ the interagency workgroup on autism, as it is established by the ~~department~~ director of developmental disabilities ~~and~~ under section 5123.0419 of the

Revised Code. The center shall provide technical assistance and support to the department of developmental disabilities in the department's leadership role to develop and implement the ~~initiatives identified by~~ projects and activities of the workgroup.

Sec. 3324.05. (A) Each school district shall submit an annual report to the department of education specifying the number of students in each of grades kindergarten through ~~twelfth~~ twelve screened, the number assessed, and the number identified as gifted in each category specified in section 3324.03 of the Revised Code.

(B) The department of education shall audit each school district's identification numbers at least once every three years and may select any district at random or upon complaint or suspicion of noncompliance for a further audit to determine compliance with sections 3324.03 to 3324.06 of the Revised Code.

(C) The department shall provide technical assistance to any district found in noncompliance under division (B) of this section. The department may reduce funds received by the district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code by any amount if the district continues to be noncompliant.

Sec. 3324.08. Any person employed by a school district and assigned to a school as a principal or any other position may also serve as the district's gifted education coordinator, if qualified to do so pursuant to the rules adopted by the state board of education under this chapter.

Sec. 3325.08. (A) A diploma shall be granted by the superintendent of the state school for the blind and the superintendent of the state school for the deaf to any student enrolled in one of these state schools to whom all of the following apply:

(1) The student has successfully completed the individualized education program developed for the student for the student's high school education pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, the student has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable.

(a) If the student entered the ninth grade prior to the date prescribed by rule of the state board of education under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed by that division unless division (L) of section 3313.61 of the Revised Code applies to the student;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the student entered the ninth grade on or after the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code~~, except to the extent that division (L) of section 3313.61 of the Revised Code applies to the student.

(3) The student is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

No diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, the superintendent of the state school for the blind and the superintendent of the state school for the deaf shall grant an honors diploma, in the same manner that the boards of education of school districts grant such diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in one of these state schools who accomplishes all of the following:

(1) Successfully completes the individualized education program developed for the student for the student's high school education pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable.

(a) If the student entered the ninth grade prior to the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed under that division;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the student entered the ninth grade on or after the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised~~

~~Code~~.

(3) Has met additional criteria for granting an honors diploma.

These additional criteria shall be the same as those prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of such diplomas by school districts. No honors diploma shall be granted to anyone failing to comply with this division and not more than one honors diploma shall be granted to any student under this division.

(C) A diploma or honors diploma awarded under this section shall be signed by the superintendent of public instruction and the superintendent of the state school for the blind or the superintendent of the state school for the deaf, as applicable. Each diploma shall bear the date of its issue and be in such form as the school superintendent prescribes.

(D) Upon granting a diploma to a student under this section, the superintendent of the state school in which the student is enrolled shall provide notice of receipt of the diploma to the board of education of the school district where the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code when not residing at the state school for the blind or the state school for the deaf. The notice shall indicate the type of diploma granted.

Sec. 3326.11. Each science, technology, engineering, and mathematics school established under this chapter and its governing body shall comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, ~~3313.674,~~ 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 3313.86, 3313.88, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district.

Sec. 3326.111. If a science, technology, engineering, and mathematics school is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the governing body of the school shall pay teachers based upon performance in accordance with section 3317.141 and shall

comply with section 3319.111 of the Revised Code as if it were a school district board of education.

Sec. 3326.33. Payments and deductions under this section for fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance with section 3326.39 of the Revised Code.

For each student enrolled in a science, technology, engineering, and mathematics school established under this chapter, the department of education annually shall deduct from the state education aid of a student's resident school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code and pay to the school the sum of the following:

(A) The sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(B) If the student is receiving special education and related services pursuant to an IEP, the product of the applicable special education weight times the formula amount;

(C) If the student is enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, the product of the applicable vocational education weight times the formula amount times the percentage of time the student spends in the vocational education programs or classes;

(D) If the student is included in the poverty student count of the student's resident district, the per pupil amount of the district's payment under division (C) of section 3317.029 of the Revised Code;

(E) If the student is identified as limited English proficient and the student's resident district receives a payment for services to limited English proficient students under division (F) of section 3317.029 of the Revised Code, the per pupil amount of the district's payment under that division, calculated in the same manner as per pupil payments are calculated under division (C)(6) of section 3314.08 of the Revised Code;

(F) If the student's resident district receives a payment under division (G), (H), or (I) of section 3317.029 of the Revised Code, the per pupil amount of the district's payments under each division, calculated in the same manner as per pupil payments are calculated under divisions (C)(7) and (8) of section 3314.08 of the Revised Code;

(G) If the student's resident district receives a parity aid payment under

section 3317.0217 of the Revised Code, the per pupil amount calculated for the district under division (C) or (D) of that section.

Sec. 3326.39. For purposes of applying sections 3326.31 to 3326.37 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 2013:

(A) The formula amount for STEM schools for each of fiscal ~~year 2010 is $5,718, and for fiscal year 2011 is $5,703. These respective amounts~~ years 2012 and 2013 is $5,653. That amount shall be applied wherein sections 3326.31 to 3326.37 of the Revised Code the formula amount is specified, except for deducting and paying amounts for special education weighted funding and vocational education weighted funding.

(B) The base funding supplements under section 3317.012 of the Revised Code shall be deemed in each year to be the amounts specified in that section for fiscal year 2009. Accordingly, when computing the per-pupil base funding supplements for a STEM school under that section for fiscal years 2012 and 2013, the department of education shall substitute $5,732 for the "formula amount" as used in divisions (C)(2), (3), and (4) of that section.

(C) Special education additional weighted funding shall be calculated by first grouping children with disabilities into the appropriate disability categories prescribed by section 3317.013 of the Revised Code as that section existed for fiscal year 2009, and then by multiplying the ~~applicable weight~~ respective multiple specified for that same fiscal year in that same version of that section ~~3317.013 of the Revised Code for fiscal year 2009,~~ times $5,732.

(D) Vocational education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.014 of the Revised Code for fiscal year 2009 times $5,732.

(E) The per pupil amounts paid to a school district under sections 3317.029 and 3317.0217 of the Revised Code shall be deemed to be the respective per pupil amounts paid under those sections to that district for fiscal year 2009.

Sec. 3327.02. (A) After considering each of the following factors, the board of education of a city, exempted village, or local school district may determine that it is impractical to transport a pupil who is eligible for transportation to and from a school under section 3327.01 of the Revised Code:

(1) The time and distance required to provide the transportation;

(2) The number of pupils to be transported;

(3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;

(4) Whether similar or equivalent service is provided to other pupils

eligible for transportation;

(5) Whether and to what extent the additional service unavoidably disrupts current transportation schedules;

(6) Whether other reimbursable types of transportation are available.

(B)(1) Based on its consideration of the factors established in division (A) of this section, the board may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality.

(2) The board shall report its determination to the state board of education in a manner determined by the state board.

(3) The board of education of a local school district additionally shall submit the resolution for concurrence to the educational service center that contains the local district's territory. If the educational service center governing board considers transportation by school conveyance practicable, it shall so inform the local board and transportation shall be provided by such local board. If the educational service center board agrees with the view of the local board, the local board may offer payment in lieu of transportation as provided in this section.

(C) After passing the resolution declaring the impracticality of transportation, the district board shall offer to provide payment in lieu of transportation by doing the following:

(1) In accordance with guidelines established by the department of education, informing the pupil's parent, guardian, or other person in charge of the pupil of both of the following:

(a) The board's resolution;

(b) The right of the pupil's parent, guardian, or other person in charge of the pupil to accept the offer of payment in lieu of transportation or to reject the offer and instead request the department to initiate mediation procedures.

(2) Issuing the pupil's parent, guardian, or other person in charge of the pupil a contract or other form on which the parent, guardian, or other person in charge of the pupil is given the option to accept or reject the board's offer of payment in lieu of transportation.

(D) If the parent, guardian, or other person in charge of the pupil accepts the offer of payment in lieu of providing transportation, the board shall pay the parent, guardian, or other person in charge of the ~~child~~ pupil an amount that shall be not less than the amount determined by the department of education as the minimum for payment in lieu of transportation, and not more than the amount determined by the department as the average cost of pupil transportation for the previous school year. Payment may be prorated if the time period involved is only a part of the school year.

(E)(1)(a) Upon the request of a parent, guardian, or other person in charge of the pupil who rejected the payment in lieu of transportation, the department shall conduct mediation procedures.

(b) If the mediation does not resolve the dispute, the state board of education shall conduct a hearing in accordance with Chapter 119. of the Revised Code. The state board may approve the payment in lieu of transportation or may order the board of education to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

(2) The school district shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.

(F)(1) If the department determines that a school district board has failed or is failing to provide transportation as required by division (E)(2) of this section or as ordered by the state board under division (E)(1)(b) of this section, the department shall order the school district board to pay to the pupil's parent, guardian, or other person in charge of the pupil, an amount equal to the state average daily cost of transportation as determined by the state board of education for the previous year. The school district board shall make payments on a schedule ordered by the department.

(2) If the department subsequently finds that a school district board is not in compliance with an order issued under division (F)(1) of this section and the affected pupils are enrolled in a nonpublic or community school, the department shall deduct the amount that the board is required to pay under that order from any pupil transportation payments the department makes to the school district board under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law. The department shall use the moneys so deducted to make payments to the nonpublic or community school attended by the pupil. The department shall continue to make the deductions and payments required under this division until the school district board either complies with the department's order issued under division (F)(1) of this section or begins providing transportation.

(G) A nonpublic or community school that receives payments from the department under division (F)(2) of this section shall do either of the following:

(1) Disburse the entire amount of the payments to the parent, guardian, or other person in ~~control~~ charge of the pupil affected by the failure of the school district of residence to provide transportation;

(2) Use the entire amount of the payments to provide acceptable transportation for the affected pupil.

Sec. 3327.04. (A) The board of education of any city, exempted village, or local school district may contract with the board of another district for the admission or transportation, or both, of pupils into any school in such other district, on terms agreed upon by such boards.

(B) The boards of two school districts may enter into a contract under this section to share the provision of transportation to a child who resides in one school district and attends school in the other district. Under such an agreement, one district may claim the total transportation subsidy available for such child under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law and may agree to pay any portion of such subsidy to the other district sharing the provision of transportation to that child. The contract shall delineate the transportation responsibilities of each district.

A school district that enters into a contract under this section is not liable for any injury, death, or loss to the person or property of a student that may occur while the student is being furnished transportation by the other school district that is a party to the contract.

(C) Whenever a board not maintaining a high school enters into an agreement with one or more boards maintaining such school for the schooling of all its high school pupils, the board making such agreement is exempt from the payment of tuition at other high schools of pupils living within three miles of the school designated in the agreement. In case no such agreement is entered into, the high school to be attended can be selected by the pupil holding an eighth grade diploma, and the tuition shall be paid by the board of the district of school residence.

Sec. 3327.05. (A) Except as provided in division (B) of this section, no board of education of any school district shall provide transportation for any pupil who is a school resident of another school district unless the pupil is enrolled pursuant to section 3313.98 of the Revised Code or the board of the other district has given its written consent thereto. If the board of any school district files with the state board of education a written complaint that transportation for resident pupils is being provided by the board of another school district contrary to this division, the state board of education shall make an investigation of such complaint. If the state board of education finds that transportation is being provided contrary to this section, it may withdraw from state funds due the offending district any part of the amount that has been approved for transportation pursuant to section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law.

(B) Notwithstanding division (D) of section 3311.19 and division (D) of

section 3311.52 of the Revised Code, this division does not apply to any joint vocational or cooperative education school district.

A board of education may provide transportation to and from the nonpublic school of attendance if both of the following apply:

(1) The parent, guardian, or other person in charge of the pupil agrees to pay the board for all costs incurred in providing the transportation that are not reimbursed pursuant to Chapter ~~3306. or~~ 3317. of the Revised Code;

(2) The pupil's school district of residence does not provide transportation for public school pupils of the same grade as the pupil being transported under this division, or that district is not required under section 3327.01 of the Revised Code to transport the pupil to and from the nonpublic school because the direct travel time to the nonpublic school is more than thirty minutes.

Upon receipt of the request to provide transportation, the board shall review the request and determine whether the board will accommodate the request. If the board agrees to transport the pupil, the board may transport the pupil to and from the nonpublic school and a collection point in the district, as determined by the board. If the board transports the pupil, the board may include the pupil in the district's transportation ADM reported to the department of education under section 3317.03 of the Revised Code and, accordingly, may receive a state payment under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law for transporting the pupil.

If the board declines to transport the pupil, the board, in a written communication to the parent, guardian, or other person in charge of the pupil, shall state the reasons for declining the request.

Sec. 3328.01. As used in this chapter:

(A) "Child with a disability," "IEP," and "school district of residence" have the same meanings as in section 3323.01 of the Revised Code.

(B) "Eligible student" means a student who is entitled to attend school in a participating school district; is at risk of academic failure; is from a family whose income is below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code; meets any additional criteria prescribed by agreement between the state board of education and the operator of the college-preparatory boarding school in which the student seeks enrollment; and meets at least two of the following additional conditions:

(1) The student has a record of in-school disciplinary actions, suspensions, expulsions, or truancy.

(2) The student has not attained at least a proficient score on the state achievement assessments in English language arts, reading, or mathematics

prescribed under section 3301.0710 of the Revised Code, after those assessments have been administered to the student at least once, or the student has not attained at least a score designated by the board of trustees of the college-preparatory boarding school in which the student seeks enrollment under this chapter on an end-of-course examination in English language arts or mathematics prescribed under section 3301.0712 of the Revised Code.

(3) The student is a child with a disability.

(4) The student has been referred for academic intervention services.

(5) The student's head of household is a single parent. As used in this division and in division (B)(6) of this section, "head of household" means a person who occupies the same household as the student and who is financially responsible for the student.

(6) The student's head of household is not the student's custodial parent.

(7) A member of the student's family has been imprisoned, as defined in section 1.05 of the Revised Code.

(C) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(D) "Formula ADM" and "category one through six special education ADM" have the same meanings as in section 3306.02 of the Revised Code.

(E) "Operator" means the operator of a college-preparatory boarding school selected under section 3328.11 of the Revised Code.

(F) "Participating school district" means either of the following:

(1) The school district in which a college-preparatory boarding school established under this chapter is located;

(2) A school district other than one described in division (F)(1) of this section that, pursuant to procedures adopted by the state board of education under section 3328.04 of the Revised Code, agrees to be a participating school district so that eligible students entitled to attend school in that district may enroll in a college-preparatory boarding school established under this chapter.

(G) "State education aid" has the same meaning as in section 3317.02 of the Revised Code.

Sec. 3328.02. Each college-preparatory boarding school established under this chapter is a public school and is part of the state's program of education, subject to a charter granted by the state board of education under section 3301.16 of the Revised Code.

Sec. 3328.03. In accordance with Section 22 of Article II, Ohio Constitution, no agreement or contract entered into under this chapter shall create an obligation of state funds for a period longer than two years;

however, the general assembly, every two years, may authorize renewal of any such obligation.

Sec. 3328.04. The city, exempted village, or local school district in which a college-preparatory boarding school established under this chapter is located is a participating school district under this chapter. Any other city, exempted village, or local school district may agree to be a participating school district. The state board of education shall adopt procedures for districts to agree to be participating school districts.

Sec. 3328.11. (A) In accordance with the procedures prescribed in division (B) of this section, the state board of education shall select a private nonprofit corporation that meets the following qualifications to operate each college-preparatory boarding school established under this chapter:

(1) The corporation has experience operating a school or program similar to the schools authorized under this chapter.

(2) The school or program described in division (A)(1) of this section has demonstrated to the satisfaction of the state board success in improving the academic performance of students.

(3) The corporation has demonstrated to the satisfaction of the state board that the corporation has the capacity to secure private funds for the development of the school authorized under this chapter.

(B)(1) Not later than sixty days after the effective date of this section, the state board shall issue a request for proposals from private nonprofit corporations qualified to operate a college-preparatory boarding school established under this chapter. If the state board subsequently determines that the establishment of one or more additional college-preparatory boarding schools is advisable, the state board shall issue requests for proposals from private nonprofit corporations qualified to operate those additional schools.

In all cases, the state board shall select the school's operator from among the qualified responders within one hundred eighty days after the issuance of the request for proposals. If no qualified responder submits a proposal, the state board may issue another request for proposals.

(2) Each proposal submitted to the state board shall contain the following information:

(a) The proposed location of the college-preparatory boarding school, which may differ from any location recommended by the state board in the request for proposals;

(b) A plan for offering grade six in the school's initial year of operation and a plan for increasing the grade levels offered by the school in subsequent years;

(c) Any other information about the proposed educational program, facilities, or operations of the school considered necessary by the state board.

(C) No college-preparatory boarding school established under this chapter shall open for operation prior to the 2013-2014 school year.

Sec. 3328.12. The state board of education shall enter into a contract with the operator of each college-preparatory boarding school established under this chapter. The contract shall stipulate the following:

(A) The school may operate only if and to the extent the school holds a valid charter granted by the state board under section 3301.16 of the Revised Code.

(B) The operator shall oversee the acquisition of a facility for the school.

(C) The operator shall operate the school in accordance with the terms of the proposal accepted by the state board under section 3328.11 of the Revised Code, including the plan for increasing the grade levels offered by the school.

(D) The school shall comply with the provisions of this chapter.

(E) The school shall comply with any other provisions of law specified in the contract, the charter granted by the state board, and the rules adopted by the state board under section 3328.50 of the Revised Code.

(F) The school shall comply with the bylaws adopted by the operator under section 3328.13 of the Revised Code.

(G) The school shall meet the academic goals and other performance standards specified in the contract.

(H) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall include at least a requirement that the party seeking termination give prior notice of the intent to terminate the contract and a requirement that the party receiving such notice be granted an opportunity to redress any grievances cited in the notice prior to the termination.

(I) If the school closes for any reason, the school's board of trustees shall execute the closing in the manner specified in the contract.

Sec. 3328.13. Each operator of a college-preparatory boarding school established under this chapter shall adopt bylaws for the oversight and operation of the school that are consistent with the provisions of this chapter, the rules adopted under section 3328.50 of the Revised Code, the contract between the operator and the state board of education, and the charter granted to the school by the state board. The bylaws shall include procedures for the appointment of members of the school's board of trustees,

whose terms of office shall be as prescribed in section 3328.15 of the Revised Code. The bylaws also shall include standards for the admission of students to the school and their dismissal from the school. The bylaws shall be subject to the approval of the state board.

Sec. 3328.14. Each operator of a college-preparatory boarding school established under this chapter shall adopt a program of outreach to inform every city, local, and exempted village school district about the school and the procedures for admission to the school and for becoming a participating school district.

Sec. 3328.15. (A) Each college-preparatory boarding school established under this chapter shall be governed by a board of trustees consisting of up to twenty-five members. Five of those members shall be appointed by the governor, with the advice and consent of the senate. The governor's appointments may be based on nonbinding recommendations made by the superintendent of public instruction. The remaining members shall be appointed pursuant to the bylaws adopted under section 3328.13 of the Revised Code.

(B) The terms of office of the initial members shall be as follows:

(1) Two members appointed by the governor shall serve for an initial term of three years.

(2) Two members appointed by the governor shall serve for an initial term of two years.

(3) One member appointed by the governor shall serve for an initial term of one year.

(4) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of three years.

(5) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of two years.

(6) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of one year.

(7) Any remaining members appointed pursuant to the bylaws shall serve for an initial term of one year.

Thereafter the terms of office of all members shall be for three years.

The beginning date and ending date of terms of office shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code.

(C) Vacancies on the board shall be filled in the same manner as the

initial appointments. A member appointed to an unexpired term shall serve for the remainder of that term and may be reappointed subject to division (D) of this section.

(D) No member may serve for more than three consecutive three-year terms.

(E) The officers of the board shall be selected by and from among the members of the board.

(F) Compensation for the members of the board, if any, shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code.

Sec. 3328.17. Employees of a college-preparatory boarding school established under this chapter may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the Revised Code, a unit containing teaching and nonteaching employees employed under this section may be considered an appropriate unit.

Sec. 3328.18. (A) As used in this section, "license" has the same meaning as in section 3319.31 of the Revised Code.

(B) If a person who is employed by a college-preparatory boarding school established under this chapter or its operator is arrested, summoned, or indicted for an alleged violation of an offense listed in division (C) of section 3319.31 of the Revised Code, if the person holds a license, or an offense listed in division (B)(1) of section 3319.39 of the Revised Code, if the person does not hold a license, the chief administrator of the school in which that person works shall suspend that person from all duties that require the care, custody, or control of a child during the pendency of the criminal action against the person. If the person who is arrested, summoned, or indicted for an alleged violation of an offense listed in division (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code is the chief administrator of the school, the board of trustees of the school shall suspend the chief administrator from all duties that require the care, custody, or control of a child.

(C) When a person who holds a license is suspended in accordance with this section, the chief administrator or board that imposed the suspension promptly shall report the person's suspension to the department of education. The report shall include the offense for which the person was arrested, summoned, or indicted.

Sec. 3328.19. (A) As used in this section:

(1) "Conduct unbecoming to the teaching profession" shall be as described in rules adopted by the state board of education.

(2) "Intervention in lieu of conviction" means intervention in lieu of conviction under section 2951.041 of the Revised Code.

(3) "License" has the same meaning as in section 3319.31 of the Revised Code.

(4) "Pre-trial diversion program" means a pre-trial diversion program under section 2935.36 of the Revised Code or a similar diversion program under rules of a court.

(B) The chief administrator of each college-preparatory boarding school established under this chapter, or the president or chairperson of the board of trustees of the school if division (C) of this section applies, shall promptly submit to the superintendent of public instruction the information prescribed in division (D) of this section when any of the following conditions applies to a person employed to work in the school who holds a license issued by the state board of education:

(1) The chief administrator, or president or chairperson, knows that the employee has pleaded guilty to, has been found guilty by a jury or court of, has been convicted of, has been found to be eligible for intervention in lieu of conviction for, or has agreed to participate in a pre-trial diversion program for an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(2) The board of trustees of the school, or the operator, has initiated termination or nonrenewal proceedings against, has terminated, or has not renewed the contract of the employee because the board or operator has reasonably determined that the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(3) The employee has resigned under threat of termination or nonrenewal as described in division (B)(2) of this section.

(4) The employee has resigned because of or in the course of an investigation by the board or operator regarding whether the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(C) If the employee to whom any of the conditions prescribed in divisions (B)(1) to (4) of this section applies is the chief administrator of the school, the president or chairperson of the board of trustees of the school shall make the report required under this section.

(D) If a report is required under this section, the chief administrator, or president or chairperson, shall submit to the superintendent of public

instruction the name and social security number of the employee about whom the information is required and a factual statement regarding any of the conditions prescribed in divisions (B)(1) to (4) of this section that apply to the employee.

(E) A determination made by the board or operator as described in division (B)(2) of this section or a termination, nonrenewal, resignation, or other separation described in divisions (B)(2) to (4) of this section does not create a presumption of the commission or lack of the commission by the employee of an act unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(F) No individual required to submit a report under division (B) of this section shall knowingly fail to comply with that division.

(G) An individual who provides information to the superintendent of public instruction in accordance with this section in good faith shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the provision of that information.

Sec. 3328.191. The board of trustees of each college-preparatory boarding school established under this chapter shall require that the reports of any investigation by the board or by the school's operator of an employee who works in the school, regarding whether the employee has committed an act or offense for which the chief administrator of the school or the president or chairperson of the board is required to make a report to the superintendent of public instruction under section 3328.19 of the Revised Code, be kept in the employee's personnel file. If, after an investigation under division (A) of section 3319.311 of the Revised Code, the superintendent of public instruction determines that the results of that investigation do not warrant initiating action under section 3319.31 of the Revised Code, the board shall require the reports of the investigation to be moved from the employee's personnel file to a separate public file.

Sec. 3328.192. Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the provisions of sections 3328.19 and 3328.191 of the Revised Code prevail over any conflicting provisions of a collective bargaining agreement or contract for employment entered into on or after the effective date of this section.

Sec. 3328.193. (A) As used in this section, "license" has the same meaning as in section 3319.31 of the Revised Code.

(B) No employee of a college-preparatory boarding school established under this chapter or its operator shall do either of the following:

(1) Knowingly make a false report to the chief administrator of the school, or the chief administrator's designee, alleging misconduct by another employee of the school or its operator;

(2) Knowingly cause the chief administrator, or the chief administrator's designee, to make a false report of the alleged misconduct to the superintendent of public instruction or the state board of education.

(C) Any employee of a college-preparatory boarding school established under this chapter or its operator who in good faith reports to the chief administrator of the school, or the chief administrator's designee, information about alleged misconduct committed by another employee of the school or operator shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information.

If the alleged misconduct involves a person who holds a license but the chief administrator is not required to submit a report to the superintendent of public instruction under section 3328.19 of the Revised Code and the chief administrator, or the chief administrator's designee, in good faith reports the alleged misconduct to the superintendent of public instruction or the state board, the chief administrator, or the chief administrator's designee, shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information.

(D)(1) In any civil action brought against a person in which it is alleged and proved that the person violated division (B) of this section, the court shall award the prevailing party reasonable attorney's fees and costs that the prevailing party incurred in the civil action or as a result of the false report that was the basis of the violation.

(2) If a person is convicted of or pleads guilty to a violation of division (B) of this section, if the subject of the false report that was the basis of the violation was charged with any violation of a law or ordinance as a result of the false report, and if the subject of the false report is found not to be guilty of the charges brought against the subject as a result of the false report or those charges are dismissed, the court that sentences the person for the violation of division (B) of this section, as part of the sentence, shall order the person to pay restitution to the subject of the false report, in an amount equal to reasonable attorney's fees and costs that the subject of the false report incurred as a result of or in relation to the charges.

Sec. 3328.20. (A) As used in this section:

(1) "Designated official" means the chief administrator of a college-preparatory boarding school established under this chapter, or the

chief administrator's designee.

(2) "Essential school services" means services provided by a private company under contract with a college-preparatory boarding school established under this chapter that the chief administrator of the school has determined are necessary for the operation of the school and that would need to be provided by persons employed by the school or its operator if the services were not provided by the private company.

(3) "License" has the same meaning as in section 3319.31 of the Revised Code.

(B) This section applies to any person who is an employee of a private company under contract with a college-preparatory boarding school established under this chapter to provide essential school services and who will work in the school in a position that does not require a license issued by the state board of education, is not for the operation of a vehicle for pupil transportation, and that involves routine interaction with a child or regular responsibility for the care, custody, or control of a child.

(C) No college-preparatory boarding school established under this chapter shall permit a person to whom this section applies to work in the school, unless one of the following applies to the person:

(1) The person's employer presents proof of both of the following to the designated official:

(a) That the person has been the subject of a criminal records check conducted in accordance with division (D) of this section within the five-year period immediately prior to the date on which the person will begin working in the school;

(b) That the criminal records check indicates that the person has not been convicted of or pleaded guilty to any offense described in division (B)(1) of section 3319.39 of the Revised Code.

(2) During any period of time in which the person will have routine interaction with a child or regular responsibility for the care, custody, or control of a child, the designated official has arranged for an employee of the school to be present in the same room with the child or, if outdoors, to be within a thirty-yard radius of the child or to have visual contact with the child.

(D) Any private company that has been hired or seeks to be hired by a college-preparatory boarding school established under this chapter to provide essential school services may request the bureau of criminal identification and investigation to conduct a criminal records check of any of its employees for the purpose of complying with division (C)(1) of this section. Each request for a criminal records check under this division shall

be made to the superintendent of the bureau in the manner prescribed in section 3319.39 of the Revised Code. Upon receipt of a request, the bureau shall conduct the criminal records check in accordance with section 109.572 of the Revised Code as if the request had been made under section 3319.39 of the Revised Code.

Notwithstanding division (H) of section 109.57 of the Revised Code, the private company may share the results of any criminal records check conducted under this division with the designated official for the purpose of complying with division (C)(1) of this section, but in no case shall the designated official release that information to any other person.

Sec. 3328.21. (A) Any eligible student may apply for admission to a college-preparatory boarding school established under this chapter in a grade level offered by the school that is appropriate for the student and shall be admitted to the school in that grade level to the extent the student's admission is within the capacity of the school as established by the school's board of trustees, subject to division (B) of this section. If more eligible students apply for admission than the number of students permitted by the capacity established by the board of trustees, admission shall be by lot.

(B) In the first year of operation, each school established under this chapter shall offer only grade six and shall not admit more than eighty students to the school. In each subsequent year of operation, the school may add additional grade levels as specified in the contract under section 3328.12 of the Revised Code, but at no time shall the school's total student population exceed four hundred students.

Sec. 3328.22. The educational program of a college-preparatory boarding school established under this chapter shall include at least all of the following:

(A) A remedial curriculum for students in grades lower than grade nine;

(B) A college-preparatory curriculum for high school students that, at a minimum, shall comply with section 3313.603 of the Revised Code as that section applies to school districts;

(C) Extracurricular activities, including athletic and cultural activities;

(D) College admission counseling;

(E) Health and mental health services;

(F) Tutoring services;

(G) Community services opportunities;

(H) A residential student life program.

Sec. 3328.23. (A) A college-preparatory boarding school established under this chapter and the school's operator shall comply with Chapter 3323. of the Revised Code as if the school were a school district. For each child

with a disability enrolled in the school for whom an IEP has been developed, the school and its operator shall verify in the manner prescribed by the department of education that the school is providing the services required under the child's IEP.

(B) The school district in which a child with a disability enrolled in the college-preparatory boarding school is entitled to attend school and the child's school district of residence, if different, are not obligated to provide the student with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child is enrolled in the college-preparatory boarding school.

Sec. 3328.24. A college-preparatory boarding school established under this chapter, its operator, and its board of trustees shall comply with sections 3301.0710, 3301.0711, 3301.0712, 3301.0714, 3319.39, and 3319.391 of the Revised Code as if the school and the operator were a school district and the school's board of trustees were a district board of education.

Sec. 3328.25. (A) The board of trustees of a college-preparatory boarding school established under this chapter shall grant a diploma to any student enrolled in the school to whom all of the following apply:

(1) The student has successfully completed the school's high school curriculum or the IEP developed for the student by the school pursuant to section 3323.08 of the Revised Code or has qualified under division (D) or (F) of section 3313.603 of the Revised Code, provided that the school shall not require a student to remain in school for any specific number of semesters or other terms if the student completes the required curriculum early.

(2) Subject to section 3313.614 of the Revised Code, the student has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable.

(a) If the student entered ninth grade prior to the date prescribed by rule of the state board of education under division (D)(2) of section 3301.0712 of the Revised Code, the student either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed by that division unless division (L) of section 3313.61 of the Revised Code applies to the student;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student has met the requirements of the entire assessment

system prescribed under division (B)(2) of section 3301.0710 of the Revised Code, except to the extent that the student is excused from some portion of that assessment system pursuant to division (L) of section 3313.61 of the Revised Code.

(3) The student is not eligible to receive an honors diploma granted under division (B) of this section.

No diploma shall be granted under this division to anyone except as provided in this division.

(B) In lieu of a diploma granted under division (A) of this section, the board of trustees shall grant an honors diploma, in the same manner that boards of education of school districts grant honors diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in the school who accomplishes all of the following:

(1) Successfully completes the school's high school curriculum or the IEP developed for the student by the school pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable.

(a) If the student entered ninth grade prior to the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed under that division;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student has met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code.

(3) Has met the additional criteria for granting an honors diploma prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of honors diplomas by school districts.

An honors diploma shall not be granted to a student who is subject to the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code but elects the option of division (D) or (F) of that section. No honors diploma shall be granted to anyone failing to comply with this division, and not more than one honors diploma shall be granted to any

student under this division.

(C) A diploma or honors diploma awarded under this section shall be signed by the presiding officer of the board of trustees. Each diploma shall bear the date of its issue and be in such form as the board of trustees prescribes.

(D) Upon granting a diploma to a student under this section, the presiding officer of the board of trustees shall provide notice of receipt of the diploma to the board of education of the city, exempted village, or local school district where the student is entitled to attend school when not residing at the college-preparatory boarding school. The notice shall indicate the type of diploma granted.

Sec. 3328.26. (A) The department of education shall issue an annual report card for each college-preparatory boarding school established under this chapter that includes all information applicable to school buildings under section 3302.03 of the Revised Code.

(B) For each student enrolled in the school, the department shall combine data regarding the academic performance of that student with comparable data from the school district in which the student is entitled to attend school for the purpose of calculating the performance of the district as a whole on the report card issued for the district under section 3302.03 of the Revised Code.

(C) Each college-preparatory boarding school and its operator shall comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the school.

Sec. 3328.31. Each college-preparatory boarding school established under this chapter shall report to the department of education, in the form and manner prescribed by the department, the following information:

(A) The total number of students enrolled in the school;

(B) The number of students enrolled in the school who are receiving special education and related services pursuant to an IEP;

(C) The city, exempted village, or local school district in which each student reported under division (A) of this section is entitled to attend school;

(D) Any additional information the department determines necessary to make payments to the school under this chapter.

Sec. 3328.32. The city, exempted village, or local school district in which each child enrolled in a college-preparatory boarding school established under this chapter is entitled to attend school shall count that child in the district's average daily membership and in the district's category

one through six special education ADM, as appropriate, as reported under divisions (A) and (B)(5) to (10) of section 3317.03 of the Revised Code.

The department of education shall count that child in the district's formula ADM.

Sec. 3328.33. (A) For each child enrolled in a college-preparatory boarding school, as reported under section 3328.31 of the Revised Code, the department of education shall deduct from the state education aid and, if necessary, from the payment under sections 321.24 and 323.156 of the Revised Code, for the city, exempted village, or local school district in which the child is entitled to attend school the amount calculated under division (B) of this section, as set forth in the agreement filed with the department under division (C) of this section.

(B) Each participating school district, in consultation with the college-preparatory boarding school's board of trustees, shall calculate the amount of funds per student to be deducted from the district's account under division (A) of this section, which shall be set forth in the agreement required by division (C) of this section. The amount to be deducted for each student shall equal eighty-five per cent of the operating expenditure per pupil of that district.

As used in this division, a district's "operating expenditure per pupil" is the total amount of state payments and other nonfederal revenue spent by the district for operating expenses during the previous fiscal year, divided by the district's average daily membership, as reported under division (A) of section 3317.03 of the Revised Code, for the previous fiscal year.

(C) Each participating school district and the college-preparatory boarding school's board of trustees shall execute an agreement setting forth the amount per student to be deducted from the district's account, as calculated under division (B) of this section, and shall file a copy of that agreement with the department.

Sec. 3328.34. (A) For each child enrolled in a college-preparatory boarding school, as reported under section 3328.31 of the Revised Code, the department of education shall pay to the school the sum of the amount deducted from a participating school district's account for that child under section 3328.33 of the Revised Code plus the per-pupil boarding amount specified in division (B) of this section.

(B) For the first fiscal year in which a college-preparatory boarding school may be established under this chapter, the "per-pupil boarding amount" is twenty-five thousand dollars. For each fiscal year thereafter, that amount shall be adjusted by the rate of inflation, as measured by the consumer price index (all urban consumers, all items) prepared by the

bureau of labor statistics of the United States department of labor, for the previous twelve-month period.

(C) The state board of education may accept funds from federal and state noneducation support services programs for the purpose of funding the per pupil boarding amount prescribed in division (B) of this section. Notwithstanding any other provision of the Revised Code, the state board shall coordinate and streamline any noneducation program requirements in order to eliminate redundant or conflicting requirements, licensing provisions, and oversight by government programs or agencies. The applicable regulatory entities shall, to the maximum extent possible, use independent reports and financial audits provided by the operator and coordinated by the department of education to eliminate or reduce contract and administrative reviews. Regulatory entities other than the state board may suggest reasonable additional items to be included in such independent reports and financial audits to meet any requirements of federal law. Reporting paperwork prepared for the state board shall be shared with and accepted by other state and local entities to the maximum extent feasible.

(D)(1) Notwithstanding division (A) of this section, if, in any fiscal year, the operator of a college-preparatory boarding school receives federal funds for the purpose of supporting the school's operations, the amount of those federal funds shall be deducted from the total per-pupil boarding amount for all enrolled students paid by the department to the school for that fiscal year, unless the operator and the department determine otherwise in a written agreement. Any portion of the total per-pupil boarding amount for all enrolled students remaining after the deduction of the federal funds shall be paid by the department to the school from state funds appropriated to the department.

(2) Notwithstanding division (A) of this section, if, in any fiscal year, the department receives federal funds for the purpose of supporting the operations of a college-preparatory boarding school, the department shall use those federal funds first to pay the school the total per-pupil boarding amount for all enrolled students for that fiscal year. Any portion of the total per-pupil boarding amount for all enrolled students remaining after the use of the federal funds shall be paid by the department to the school from state funds appropriated to the department.

(3) If any federal funds are used for the purpose prescribed in division (D)(1) or (2) of this section, the department shall comply with all requirements upon which the acceptance of the federal funds is conditioned, including any requirements set forth in the funding application submitted by the operator or the department and, to the extent sufficient funds are

appropriated by the general assembly, any requirements regarding maintenance of effort in expenditures.

Sec. 3328.35. To the extent permitted by federal law, the department of education shall include college-preparatory boarding schools established under this chapter in its annual allocation of federal moneys under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301, et seq. The department may apply for any other federal moneys that may be used to support the operations of college-preparatory boarding schools established under this chapter.

Sec. 3328.36. A college-preparatory boarding school established under this chapter shall be considered a school district and its board of trustees, on behalf of the school's operator, shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district or public school may receive under federal or state law or any appropriations act of the general assembly. The college-preparatory boarding school and its operator may apply to any private entity to receive and accept funds.

Sec. 3328.41. Each participating school district shall be responsible for providing transportation on a weekly basis for each student enrolled in a college-preparatory boarding school established under this chapter who is entitled to attend school in the district to and from that college-preparatory boarding school.

Sec. 3328.45. (A) If the state board of education determines that a college-preparatory boarding school established under this chapter is not in compliance with any provision of this chapter or the terms of the contract entered into under section 3328.12 of the Revised Code, or that the school has failed to meet the academic goals or performance standards specified in that contract, the state board may initiate the termination procedures specified in the contract. No termination shall take effect prior to the end of a school year. Upon the effective date of a termination, the school shall close.

(B) If a college-preparatory boarding school is required to close under division (A) of this section or closes for any other reason, the school's board of trustees shall execute the closing as provided in the contract under section 3328.12 of the Revised Code.

Sec. 3328.50. The state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary for the implementation of this chapter.

Sec. 3328.99. (A) Whoever violates division (F) of section 3328.19 of the Revised Code shall be punished as follows:

(1) Except as otherwise provided in division (A)(2) of this section, the person is guilty of a misdemeanor of the fourth degree.

(2) The person is guilty of a misdemeanor of the first degree if both of the following conditions apply:

(a) The employee who is the subject of the report that the person fails to submit was required to be reported for the commission or alleged commission of an act or offense involving the infliction on a child of any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child.

(b) During the period between the violation of division (F) of section 3328.19 of the Revised Code and the conviction of or plea of guilty by the person for that violation, the employee who is the subject of the report that the person fails to submit inflicts on any child attending a school district, educational service center, public or nonpublic school, or county board of developmental disabilities where the employee works any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child.

(B) Whoever violates division (B) of section 3328.193 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 3329.08. At any regular meeting, the board of education of each local ~~school district, from lists adopted by the educational service center governing board, and the board of education of each~~, city, and exempted village school district shall determine by a majority vote of all members elected or appointed under division (B) or (F) of section 3311.71 of the Revised Code which of such textbooks or electronic textbooks so filed shall be used in the schools under its control.

Sec. 3331.01. (A) As used in this chapter:

(1) "Superintendent" or "superintendent of schools" of a school district means the person employed as the superintendent or that person's designee. ~~In the case of a local school district, such designee may be the superintendent of the educational service center to which the school district belongs.~~

(2) "Chief administrative officer" means the chief administrative officer of a nonpublic or community school or that person's designee.

(B)(1) Except as provided in division (B)(2) of this section, an age and schooling certificate may be issued only by the superintendent of the city, local, joint vocational, or exempted village school district in which the child in whose name such certificate is issued resides or by the chief administrative officer of the nonpublic or community school the child attends, and only upon satisfactory proof that the child to whom the

certificate is issued is at least fourteen years of age.

(2) A child who resides in this state shall apply for an age and schooling certificate to the superintendent of the school district in which the child resides, or to the chief administrative officer of the school that the child attends. Residents of other states who work in Ohio shall apply to the superintendent of the school district in which the place of employment is located, as a condition of employment or service.

(C) Any such age and schooling certificate may be issued only upon satisfactory proof that the employment contemplated by the child is not prohibited by any law regulating the employment of such children. Section 4113.08 of the Revised Code does not apply to such employer in respect to such child while engaged in an employment legal for a child of the age stated therein.

(D) Age and schooling certificate forms shall be approved by the state board of education, including forms submitted electronically. Forms shall not display the social security number of the child. Except as otherwise provided in this section, every application for an age and schooling certificate must be signed in the presence of the officer issuing it by the child in whose name it is issued.

(E) A child shall furnish the superintendent or chief administrative officer all information required by this chapter in support of the issuance of a certificate.

(F) On and after September 1, 2002, each superintendent and chief administrative officer who issues an age and schooling certificate shall file electronically the certificate with the director of commerce in accordance with rules adopted by the director of administrative services pursuant to section 1306.21 of the Revised Code. On and after September 1, 2002, only electronically filed certificates are valid to satisfy the requirements of Chapter 4109. of the Revised Code.

Sec. 3333.03. (A) The governor, with the advice and consent of the senate, shall appoint the chancellor of the Ohio board of regents. ~~The governor may remove the chancellor in accordance with section 3.04 of the Revised Code, except that the removal shall not require the advice and consent of the senate.~~ The chancellor shall serve at the pleasure of the governor, and the governor shall prescribe the chancellor's duties in addition to the chancellor's duties prescribed by law. ~~In no case shall the chancellor assume any duties prescribed by the governor or law until the senate has consented to the chancellor's appointment.~~ The governor shall fix the compensation for the chancellor. The chancellor shall be a member of the governor's cabinet.

(B) ~~The term of office of the chancellor shall be five years. Any person appointed chancellor to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall hold office for the remainder of that term. Any vacancy in the office shall be filled within sixty days after the vacancy occurs. Each chancellor shall continue in office subsequent to the expiration date of the term for which the chancellor was appointed until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The chancellor may be reappointed.~~ The term of the chancellor in office on the effective date of this amendment shall coincide with the term of that chancellor's appointing governor. Subsequent appointments to the office of chancellor shall be made pursuant to division (A) of this section.

(C) The chancellor is responsible for appointing and fixing the compensation of all professional, administrative, and clerical employees and staff members necessary to assist in the performance of the chancellor's duties. All employees and staff shall serve at the chancellor's pleasure.

(D) The chancellor shall be a person qualified by training and experience to understand the problems and needs of the state in the field of higher education and to devise programs, plans, and methods of solving the problems and meeting the needs.

(E) Neither the chancellor nor any staff member or employee of the chancellor shall be a trustee, officer, or employee of any public or private college or university while serving as chancellor, staff member, or employee.

Sec. 3333.043. (A) As used in this section:

(1) "Institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, municipal educational institutions established under Chapter 3349. of the Revised Code, community colleges established under Chapter 3354. of the Revised Code, university branches established under Chapter 3355. of the Revised Code, technical colleges established under Chapter 3357. of the Revised Code, state community colleges established under Chapter 3358. of the Revised Code, any institution of higher education with a certificate of registration from the state board of career colleges and schools, and any institution for which the chancellor of the Ohio board of regents receives a notice pursuant to division (C) of this section.

(2) "Community service" has the same meaning as in section 3313.605 of the Revised Code.

(B)(1) The board of trustees or other governing entity of each institution of higher education shall encourage and promote participation of students in

community service through a program appropriate to the mission, student population, and environment of each institution. The program may include, but not be limited to, providing information about community service opportunities during student orientation or in student publications; providing awards for exemplary community service; encouraging faculty members to incorporate community service into students' academic experiences wherever appropriate to the curriculum; encouraging recognized student organizations to undertake community service projects as part of their purposes; and establishing advisory committees of students, faculty members, and community and business leaders to develop cooperative programs that benefit the community and enhance student experience. The program shall be flexible in design so as to permit participation by the greatest possible number of students, including part-time students and students for whom participation may be difficult due to financial, academic, personal, or other considerations. The program shall emphasize community service opportunities that can most effectively use the skills of students, such as tutoring or literacy programs. The programs shall encourage students to perform services that will not supplant the hiring of, result in the displacement of, or impair any existing employment contracts of any particular employee of any private or governmental entity for which services are performed.

(2) The chancellor of the Ohio board of regents shall encourage all institutions of higher education in the development of community service programs. With the assistance of the Ohio ~~community~~ commission on service ~~council~~ and volunteerism created in section 121.40 of the Revised Code, the chancellor shall make available information about higher education community service programs to institutions of higher education and to statewide organizations involved with or promoting volunteerism, including information about model community service programs, teacher training courses, and community service curricula and teaching materials for possible use by institutions of higher education in their programs. The chancellor shall encourage institutions of higher education to jointly coordinate higher education community service programs through consortia of institutions or other appropriate means of coordination.

(C) The board of trustees of any nonprofit institution with a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code or the governing authority of a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code may notify the chancellor that it is making itself subject to divisions (A) and (B) of this section. Upon receipt of such a notice, these

divisions shall apply to that institution.

Sec. 3333.0411. Not later than December 31, 2012, and annually thereafter, the chancellor of the Ohio board of regents shall report aggregate academic growth data for students assigned to graduates of teacher preparation programs approved under section 3333.048 of the Revised Code who teach English language arts or mathematics in any of grades four to eight in a public school in Ohio. For this purpose, the chancellor shall use the value-added progress dimension prescribed by section 3302.021 of the Revised Code. The chancellor shall aggregate the data by graduating class for each approved teacher preparation program, except that if a particular class has ten or fewer graduates to which this section applies, the chancellor shall report the data for a group of classes over a three-year period. In no case shall the report identify any individual graduate. The department of education shall share any data necessary for the report with the chancellor.

Sec. 3333.31. (A) For state subsidy and tuition surcharge purposes, status as a resident of Ohio shall be defined by the chancellor of the Ohio board of regents by rule promulgated pursuant to Chapter 119. of the Revised Code. No adjudication as to the status of any person under such rule, however, shall be required to be made pursuant to Chapter 119. of the Revised Code. The term "resident" for these purposes shall not be equated with the definition of that term as it is employed elsewhere under the laws of this state and other states, and shall not carry with it any of the legal connotations appurtenant thereto. Rather, except as provided in ~~division~~ divisions (B) and (D) of this section, for such purposes, the rule promulgated under this section shall have the objective of excluding from treatment as residents those who are present in the state primarily for the purpose of attending a state-supported or state-assisted institution of higher education, and may prescribe presumptive rules, rebuttable or conclusive, as to such purpose based upon the source or sources of support of the student, residence prior to first enrollment, evidence of intention to remain in the state after completion of studies, or such other factors as the chancellor deems relevant.

(B) The rules of the chancellor for determining student residency shall grant residency status to a veteran and to the veteran's spouse and any dependent of the veteran, if both of the following conditions are met:

(1) The veteran either:

(a) Served one or more years on active military duty and was honorably discharged or received a medical discharge that was related to the military service;

(b) Was killed while serving on active military duty or has been

declared to be missing in action or a prisoner of war.

(2) If the veteran seeks residency status for tuition surcharge purposes, the veteran has established domicile in this state as of the first day of a term of enrollment in an institution of higher education. If the spouse or a dependent of the veteran seeks residency status for tuition surcharge purposes, the veteran and the spouse or dependent seeking residency status have established domicile in this state as of the first day of a term of enrollment in an institution of higher education, except that if the veteran was killed while serving on active military duty or has been declared to be missing in action or a prisoner of war, only the spouse or dependent seeking residency status shall be required to have established domicile in accordance with this division.

(C) The rules of the chancellor for determining student residency shall not deny residency status to a student who is either a dependent child of a parent, or the spouse of a person who, as of the first day of a term of enrollment in an institution of higher education, has accepted full-time employment and established domicile in this state for reasons other than gaining the benefit of favorable tuition rates.

Documentation of full-time employment and domicile shall include both of the following documents:

(1) A sworn statement from the employer or the employer's representative on the letterhead of the employer or the employer's representative certifying that the parent or spouse of the student is employed full-time in Ohio;

(2) A copy of the lease under which the parent or spouse is the lessee and occupant of rented residential property in the state, a copy of the closing statement on residential real property of which the parent or spouse is the owner and occupant in this state or, if the parent or spouse is not the lessee or owner of the residence in which the parent or spouse has established domicile, a letter from the owner of the residence certifying that the parent or spouse resides at that residence.

Residency officers may also evaluate, in accordance with the chancellor's rule, requests for immediate residency status from dependent students whose parents are not living and whose domicile follows that of a legal guardian who has accepted full-time employment and established domicile in the state for reasons other than gaining the benefit of favorable tuition rates.

(D)(1) The rules of the chancellor for determining student residency shall grant residency status to a person who, while a resident of this state for state subsidy and tuition surcharge purposes, graduated from a high school in this state, if the person enrolls in an institution of higher education and

establishes domicile in this state, regardless of the student's residence prior to that enrollment.

(2) The rules of the chancellor for determining student residency shall not grant residency status to an alien if the alien is not also an immigrant or a nonimmigrant.

(E) As used in this section:

(1) "Dependent," "domicile," "institution of higher education," and "residency officer" have the meanings ascribed in the chancellor's rules adopted under this section.

(2) "Alien" means a person who is not a United States citizen or a United States national.

(3) "Immigrant" means an alien who has been granted the right by the United States bureau of citizenship and immigration services to reside permanently in the United States and to work without restrictions in the United States.

(4) "Nonimmigrant" means an alien who has been granted the right by the United States bureau of citizenship and immigration services to reside temporarily in the United States.

Sec. 3333.43. This section does not apply to any baccalaureate degree program that is a cooperative education program, as defined in section 3333.71 of the Revised Code.

(A) The chancellor of the Ohio board of regents shall require all state institutions of higher education that offer baccalaureate degrees, as a condition of reauthorization for certification of each baccalaureate program offered by the institution, to submit a statement describing how each major for which the school offers a baccalaureate degree may be completed within three academic years. The chronology of the statement shall begin with the fall semester of a student's first year of the baccalaureate program.

(B) The statement required under this section may include, but not be limited to, any of the following methods to contribute to earning a baccalaureate degree in three years:

(1) Advanced placement credit;

(2) International baccalaureate program credit;

(3) A waiver of degree and credit-hour requirements by completion of courses that are widely available at community colleges in the state or through online programs offered by state institutions of higher education or private nonprofit institutions of higher education holding certificates of authorization under Chapter 1713. of the Revised Code, and through courses taken by the student through the post-secondary enrollment options program under Chapter 3365. of the Revised Code;

(4) Completion of coursework during summer sessions;

(5) A waiver of foreign-language degree requirements based on a proficiency examination specified by the institution.

(C)(1) Not later than October 15, 2012, each state institution of higher education shall provide statements required under this section for ten per cent of all baccalaureate degree programs offered by the institution.

(2) Not later than June 30, 2014, each state institution of higher education shall provide statements required under this section for sixty per cent of all baccalaureate degree programs offered by the institution.

(D) Each state institution of higher education required to submit statements under this section shall post its three-year option on its web site and also provide that information to the department of education. The department shall distribute that information to the superintendent, high school principal, and guidance counselor, or equivalents, of each school district, community school established under Chapter 3314. of the Revised Code, and STEM school established under Chapter 3326. of the Revised Code.

(E) Nothing in this section requires an institution to take any action that would violate the requirements of any independent association accrediting baccalaureate degree programs.

Sec. 3333.66. (A)(1) Except as provided in division (A)(2) of this section, in each academic year, no student who receives a choose Ohio first scholarship shall receive less than one thousand five hundred dollars or more than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities. For this purpose, if Miami university is implementing the pilot tuition restructuring plan originally recognized in Am. Sub. H.B. 95 of the 125th general assembly, that university's instructional and general fees shall be considered to be the average full-time in-state undergraduate instructional and general fee amount after taking into account the Ohio resident and Ohio leader scholarships and any other credit provided to all Ohio residents.

(2) The chancellor of the Ohio board of regents may authorize a state university or college or a nonpublic Ohio institution of higher education to award a choose Ohio first scholarship in an amount greater than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities to either of the following:

(a) Any undergraduate student who qualifies for a scholarship and is enrolled in a program leading to a teaching profession in science, technology, engineering, mathematics, or medicine;

(b) Any graduate student who qualifies for a scholarship, if any

initiatives are selected for award under division (B) of this section.

(B) The chancellor shall encourage state universities and colleges, alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities, to submit proposals under the choose Ohio first scholarship program for initiatives that recruit either of the following:

(1) Ohio residents who enrolled in colleges and universities in other states or other countries to return to Ohio and enroll in state universities or colleges as graduate students in the fields of science, technology, engineering, mathematics, and medicine, or in the fields of science, technology, engineering, mathematics, or medical education. If such proposals are submitted and meet the chancellor's competitive criteria for awards, the chancellor, subject to approval by the controlling board, shall give at least one of the proposals preference for an award.

(2) Graduates, or undergraduates who will graduate in time to participate in the program described in this division by the subsequent school year, from an Ohio college or university who received, or will receive, a degree in science, technology, engineering, mathematics, or medicine to participate in a graduate-level teacher education masters program in one of those fields that requires the student to establish a domicile in the state and to commit to teach for a minimum of three years in a hard-to-staff school district in the state upon completion of the master's degree program. The chancellor may require a college or university to give priority to qualified candidates who graduated from a high school in this state.

"Hard-to-staff" shall be as defined by the department of education.

(C) The general assembly intends that money appropriated for the choose Ohio first scholarship program in each fiscal year be used for scholarships in the following academic year.

Sec. 3333.81. As used in sections 3333.81 to 3333.88 of the Revised Code:

(A) "Clearinghouse" means the clearinghouse established under section 3333.82 of the Revised Code.

(B) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(C) "Common statewide platform" means a software program that facilitates the delivery of courses via computers from multiple course providers to multiple end users, tracks the progress of the end user, and includes an integrated searchable database of standards-based course content.

(D) "Course provider" means a school district, community school, STEM school, state institution of higher education, private college or university, or nonprofit or for-profit private entity that creates or is an agent of the creator of original course content for a course offered through the clearinghouse.

(E) "Instructor" means an individual who holds a license issued by the state board of education, as defined in section 3319.31 of the Revised Code, or an individual employed as an instructor or professor by a state institution of higher education or a private college or university.

(F) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(G) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

(H) A "student's community school" means the community school in which the student is enrolled instead of being enrolled in a school operated by a school district.

(I) A "student's school district" means the school district operating the school in which the student is lawfully enrolled.

(J) "A student's STEM school" means the STEM school in which the student is enrolled instead of being enrolled in a school operated by a school district.

(K) "School district" means a city, exempted village, local, or joint vocational school district.

Sec. 3333.82. (A) The chancellor of the Ohio board of regents shall establish a clearinghouse of interactive distance learning courses and other distance learning courses delivered via a computer-based method offered by school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and other nonprofit and for-profit course providers for sharing with other school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and individuals for the fee set pursuant to section 3333.84 of the Revised Code. The chancellor shall not be responsible for the content of courses offered through the clearinghouse; however, all such courses shall be delivered only in accordance with technical specifications approved by the chancellor and on a common statewide platform administered by the chancellor.

The clearinghouse's distance learning program for students in grades kindergarten to twelve shall be based on the following principles:

(1) All Ohio students shall have access to high quality distance learning courses at any point in their educational careers.

(2) All students shall be able to customize their education using distance learning courses offered through the clearinghouse and no student shall be denied access to any course in the clearinghouse in which the student is eligible to enroll.

(3) Students may take distance learning courses for all or any portion of their curriculum requirements and may utilize a combination of distance learning courses and courses taught in a traditional classroom setting.

(4) Students may earn an unlimited number of academic credits through distance learning courses.

(5) Students may take distance learning courses at any time of the calendar year.

(6) Student advancement to higher coursework shall be based on a demonstration of subject area competency instead of completion of any particular number of hours of instruction.

(B) To offer a course through the clearinghouse, a course provider shall apply to the chancellor in a form and manner prescribed by the chancellor. The application for each course shall describe the course of study in as much detail as required by the chancellor, whether an instructor is provided, the qualification and credentials of the instructor, the number of hours of instruction, and any other information required by the chancellor. The chancellor may require course providers to include in their applications information recommended by the state board of education under former section 3353.30 of the Revised Code.

(C) The chancellor shall review the technical specifications of each application submitted under division (B) of this section. In reviewing applications, the chancellor may consult with the department of education; however, the responsibility to either approve or not approve a course for the clearinghouse belongs to the chancellor. The chancellor may request additional information from a course provider that submits an application under division (B) of this section, if the chancellor determines that such information is necessary. The chancellor may negotiate changes in the proposal to offer a course, if the chancellor determines that changes are necessary in order to approve the course.

(D) The chancellor shall catalog each course approved for the clearinghouse, through a print or electronic medium, displaying the following:

(1) Information necessary for a student and the student's parent, guardian, or custodian and the student's school district, community school, STEM school, college, or university to decide whether to enroll in or subscribe to the course;

(2) Instructions for enrolling in that course, including deadlines for enrollment.

(E) Any expenses related to the installation of a course into the common statewide platform shall be borne by the course provider.

(F) ~~The chancellor may contract with an entity to perform any or all of the chancellor's duties under sections 3333.81 to 3333.88 of the Revised Code.~~ The eTech Ohio commission, in consultation with the chancellor and the state board, shall distribute information to students and parents describing the clearinghouse. The information shall be provided in an easily understandable format.

Sec. 3333.83. (A) ~~A student who is enrolled in a school operated by a school district or in a community school or STEM school may enroll in a course through the clearinghouse only if both of the following conditions are satisfied:~~

~~(1) The student's enrollment in the course is approved by the student's school district, community school, or STEM school.~~

~~(2) The student's school district, community school, or STEM school agrees to accept for credit the grade assigned by the course provider, if that provider is another school district, community school, or STEM school~~ Each school district, community school, and STEM school shall encourage students to take advantage of the distance learning opportunities offered through the clearinghouse and shall assist any student electing to participate in the clearinghouse with the selection and scheduling of courses that satisfy the district's or school's curriculum requirements and promote the student's post-secondary college or career plans.

(B) For each student enrolled in a school operated by a school district or in a community school or STEM school who is enrolling in a course provided through the clearinghouse by another school district, community school, or STEM school, the student's school district, community school, or STEM school shall transmit the student's name to the course provider.

The course provider may request from the student's school district, community school, or STEM school other information from the student's school record. The district or school shall provide the requested information only in accordance with section 3319.321 of the Revised Code.

(C) The student's school district, community school, or STEM school shall determine the manner in which and facilities at which the student shall participate in the course consistent with specifications for technology and connectivity adopted by the chancellor of the Ohio board of regents.

(D) A student may withdraw from a course prior to the end of the course only by a date and in a manner prescribed by the student's school district,

community school, or STEM school.

(E) A student who is enrolled in a school operated by a school district or in a community school or STEM school and who takes a course through the clearinghouse shall be counted in the formula ADM of a school district under section 3317.03 of the Revised Code as if the student were taking the course from the student's school district, community school, or STEM school.

Sec. 3333.84. (A) The fee charged for any course offered through the clearinghouse shall be set by the course provider.

(B) The chancellor of the Ohio board of regents shall prescribe the manner in which the fee for a course shall be collected or deducted from the school district, school, college or university, or individual subscribing to the course and in which manner the fee shall be paid to the course provider.

(C) The chancellor may retain a percentage of the fee charged for a course to offset the cost of maintaining and operating the clearinghouse, including the payment of compensation for an entity or a private entity that is under contract with the chancellor under division (F) of section 3333.82 of the Revised Code. The percentage retained shall be determined by the chancellor.

(D) Nothing in this section shall be construed to require the school district, community school, or STEM school in which a student is enrolled to pay the fee charged for a course taken by the student.

Sec. 3333.85. (A) The grade for a student enrolled in a school operated by a school district or in a community school or STEM school for a course provided through the clearinghouse by another school district, community school, or STEM school shall be assigned by the course provider and shall be transmitted to the student's school district, community school, or STEM school.

(B) The district or school enrolling the student shall award the student credit for successful completion of the course. The credit awarded shall be equivalent to any credit that would be granted for successful completion of a similar course offered by the district or school.

(C) No district or school shall prohibit or otherwise limit any student's access to or participation in courses offered through the clearinghouse, or refuse to recognize such courses as fulfilling curriculum requirements, including the requirements for a high school diploma under section 3313.603 of the Revised Code.

Sec. 3333.87. The chancellor of the Ohio board of regents and the state board of education jointly, and in consultation with the director of the governor's office of 21st century education, shall adopt rules in accordance

with Chapter 119. of the Revised Code prescribing procedures for the implementation of sections 3333.81 to 3333.86 of the Revised Code.

Sec. 3333.90. (A) As used in this section:

(1) "Allocated state share of instruction" means, for any fiscal year, the amount of the state share of instruction appropriated to the Ohio board of regents by the general assembly that is allocated to a community or technical college or community or technical college district for such fiscal year.

(2) "~~Authority~~ Issuing authority" ~~means the Ohio building authority~~ has the same meaning as in section 154.01 of the Revised Code.

(3) "Bond service charges" has the same meaning as in section ~~152.09~~ 154.01 of the Revised Code.

(4) "Chancellor" means the chancellor of the Ohio board of regents.

(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:

(a) A community college as defined in section 3354.01 of the Revised Code;

(b) A technical college as defined in section 3357.01 of the Revised Code;

(c) A state community college as defined in section 3358.01 of the Revised Code.

(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:

(a) A community college district as defined in section 3354.01 of the Revised Code;

(b) A technical college district as defined in section 3357.01 of the Revised Code;

(c) A state community college district as defined in section 3358.01 of the Revised Code.

(7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code.

(8) "Obligations" has the meaning as in section ~~152.09~~ 154.01 or 3345.12 of the Revised Code, as the context requires.

(B) The board of trustees of any community or technical college district authorizing the issuance of obligations under section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the Revised Code, or for whose benefit and on whose behalf the issuing authority proposes to issue obligations under ~~division (G) of~~ section ~~152.09~~ 154.25 of the Revised Code, may adopt a resolution requesting the chancellor to enter into an agreement with the

community or technical college district and the primary paying agent or fiscal agent for such obligations, providing for the withholding and deposit of funds otherwise due the district or the community or technical college it operates in respect of its allocated state share of instruction, for the payment of bond service charges on such obligations.

The board of trustees shall deliver to the chancellor a copy of the resolution and any additional pertinent information the chancellor may require.

The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, shall evaluate each request received from a community or technical college district under this section. The chancellor, with the advice and consent of the director of budget and management and the issuing authority in the case of obligations to be issued by the issuing authority, shall approve each request if all of the following conditions are met:

(1) Approval of the request will enhance the marketability of the obligations for which the request is made;

(2) The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, have no reason to believe the requesting community or technical college district or the community or technical college it operates will be unable to pay when due the bond service charges on the obligations for which the request is made, and bond service charges on those obligations are therefore not anticipated to be paid pursuant to this section from the allocated state share of instruction for purposes of Section 17 of Article VIII, Ohio Constitution.

(3) Any other pertinent conditions established in rules adopted under division (H) of this section.

(C) If the chancellor approves the request of a community or technical college district to withhold and deposit funds pursuant to this section, the chancellor shall enter into a written agreement with the district and the primary paying agent or fiscal agent for the obligations, which agreement shall provide for the withholding of funds pursuant to this section for the payment of bond service charges on those obligations. The agreement may also include both of the following:

(1) Provisions for certification by the district to the chancellor, prior to the deadline for payment of the applicable bond service charges, whether the district and the community or technical college it operates are able to pay those bond service charges when due;

(2) Requirements that the district or the community or technical college

it operates deposits amounts for the payment of those bond service charges with the primary paying agent or fiscal agent for the obligations prior to the date on which the bond service charges are due to the owners or holders of the obligations.

(D) Whenever a district or the community or technical college it operates notifies the chancellor that it will not be able to pay the bond service charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the chancellor that it has not timely received from a district or from the college it operates the full amount needed for payment of the bond service charges when due to the holders or owners of such obligations, the chancellor shall immediately contact the district or college and the paying agent or fiscal agent to confirm that the district and the college are not able to make the required payment by the date on which it is due.

If the chancellor confirms that the district and the college are not able to make the payment and the payment will not be made pursuant to a credit enhancement facility, the chancellor shall promptly pay to the applicable primary paying agent or fiscal agent the lesser of the amount due for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or to the college in respect of its allocated state share of instruction. If this amount is insufficient to pay the total amount then due the agent for the payment of bond service charges, the chancellor shall continue to pay to the agent from each periodic distribution thereafter, and until the full amount due the agent for unpaid bond service charges is paid in full, the lesser of the remaining amount due the agent for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or college in respect of its allocated state share of instruction.

(E) The chancellor may make any payments under this section by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under this section shall be applied only to the payment of bond service charges on the obligations of the community or technical college district or community or technical college subject to this section or to the reimbursement of the provider of a credit enhancement facility that has paid the bond service charges.

(F) The chancellor may make payments under this section to paying agents or fiscal agents during any fiscal biennium of the state only from and to the extent that money is appropriated to the board of regents by the general assembly for distribution during such biennium for the state share of instruction and only to the extent that a portion of the state share of

instruction has been allocated to the community or technical college district or community or technical college. Obligations of the issuing authority or of a community or technical college district to which this section is made applicable do not constitute an obligation or a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of those obligations have no right to have excises or taxes levied or appropriations made by the general assembly for the payment of bond service charges on the obligations, and the obligations shall contain a statement to that effect. The agreement for or the actual withholding and payment of money under this section does not constitute the assumption by the state of any debt of a community or technical college district or a community or technical college, and bond service charges on the related obligations are not anticipated to be paid from the state general revenue fund for purposes of Section 17 of Article VIII, Ohio Constitution.

(G) In the case of obligations subject to the withholding provisions of this section, the issuing community or technical college district, or the issuing authority in the case of obligations issued by the issuing authority, shall appoint a paying agent or fiscal agent who is not an officer or employee of the district or college.

(H) The chancellor, with the advice and consent of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section to secure payment of bond service charges on obligations issued by a community or technical college district or by the issuing authority for the benefit of a community or technical college district or the community or technical college it operates. Those rules shall include criteria for the evaluation and approval or denial of community or technical college district requests for withholding under this section.

(I) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3334.19. (A) The Ohio tuition trust authority shall adopt an investment plan that sets forth investment policies and guidelines to be utilized in administering the variable college savings program and investment options offered by the authority. The investment options shall include a default option to benefit contributors who are first-time investors or have low to moderate incomes. Except as provided in section 3334.20 of the Revised Code, the authority shall contract with one or more insurance companies, banks, or other financial institutions to act as its investment agents and to provide such services as the authority considers appropriate to

the investment plan, including:

(1) Purchase, control, and safekeeping of assets;

(2) Record keeping and accounting for individual accounts and for the program as a whole;

(3) Provision of consolidated statements of account.

(B) The authority or its investment agents shall maintain a separate account for the beneficiary of each contract entered into under the variable college savings program. If a beneficiary has more than one such account, the authority or its agents shall track total contributions and earnings and provide a consolidated system of account distributions to institutions of higher education.

(C) The authority or its investment agents may place assets of the program in savings accounts and may purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the investment plan.

(D) Contributors shall not direct the investment of their contributions under the investment plan. The authority shall impose other limits on contributors' investment discretion to the extent required under section 529 of the Internal Revenue Code.

(E) The investment agents with which the authority contracts shall discharge their duties with respect to program funds with the care and diligence that a prudent person familiar with such matters and with the character and aims of the program would use.

(F) The assets of the program shall be preserved, invested, and expended solely for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the state for any other purpose. This section shall not be construed to prohibit the investment agents of the authority from investing, by purchase or otherwise, in bonds, notes, or other obligations of the state or any agency or instrumentality of the state. Unless otherwise specified by the authority, assets of the program shall be expended in the following order of priority:

(1) To make payments on behalf of beneficiaries;

(2) To make refunds upon termination of variable college savings program contracts;

(3) To pay the authority's costs of administering the program;

(4) To pay or cover any other expenditure or disbursement the authority determines necessary or appropriate.

(G) Fees, charges, and other costs imposed or collected by the authority in connection with the variable college savings program, including any fees or other payments that the authority requires an investment agent to pay to

the authority, shall be credited to either the variable operating fund or the index operating fund at the discretion of the authority. These funds are hereby created in the state treasury. Expenses incurred in the administration of the variable college savings program, as well as other expenses, disbursements, or payments the authority considers appropriate for the benefit of any college savings programs administered by the authority, the state of Ohio and its citizens, shall be paid from the variable operating fund or the index operating fund at the discretion of the authority.

(H) No records of the authority indicating the identity of purchasers, contributors, and beneficiaries under the program or amounts contributed to, earned by, or distributed from program accounts are public records within the meaning of section 149.43 of the Revised Code.

Sec. 3345.023. (A) No state institution of higher education shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct.

(B) As used in this section:

(1) "Benefits" include, without limitation:

(a) Recognition;

(b) Registration;

(c) The use of facilities of the state institution of higher education for meetings or speaking purposes, subject to section 3345.021 of the Revised Code;

(d) The use of channels of communication of the state institution of higher education;

(e) Funding sources that are otherwise available to any other student group in the state institution of higher education.

(2) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3345.061. (A) Ohio's two-year institutions of higher education are respected points of entry for students embarking on post-secondary careers and courses completed at those institutions are transferable to state universities in accordance with articulation and transfer agreements developed under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

(B) Beginning with undergraduate students who commence undergraduate studies in the 2014-2015 academic year, no state university listed in section 3345.011 of the Revised Code, except Central state university, Shawnee state university, and Youngstown state university, shall

receive any state operating subsidies for any academic remedial or developmental courses for undergraduate students, including courses prescribed in the Ohio core curriculum for high school graduation under division (C) of section 3313.603 of the Revised Code, offered at its main campus, except as provided in divisions (B)(1) to (4) of this section.

(1) In the 2014-2015 and 2015-2016 academic years, a state university may receive state operating subsidies for academic remedial or developmental courses for not more than three per cent of the total undergraduate credit hours provided by the university at its main campus.

(2) In the 2016-2017 academic year, a state university may receive state operating subsidies for academic remedial or developmental courses for not more than fifteen per cent of the first-year students who have graduated from high school within the previous twelve months and who are enrolled in the university at its main campus, as calculated on a full-time-equivalent basis.

(3) In the 2017-2018 academic year, a state university may receive state operating subsidies for academic remedial or developmental courses for not more than ten per cent of the first-year students who have graduated from high school within the previous twelve months and who are enrolled in the university at its main campus, as calculated on a full-time-equivalent basis.

(4) In the 2018-2019 academic year, a state university may receive state operating subsidies for academic remedial or developmental courses for not more than five per cent of the first-year students who have graduated from high school within the previous twelve months and who are enrolled in the university at its main campus, as calculated on a full-time-equivalent basis.

Each state university may continue to offer academic remedial and developmental courses at its main campus beyond the extent for which state operating subsidies may be paid under this division and may continue to offer such courses beyond the 2018-2019 academic year. However, the university shall not receive any state operating subsidies for such courses above the maximum amounts permitted in this division.

(C) Except as otherwise provided in division (B) of this section, beginning with students who commence undergraduate studies in the 2014-2015 academic year, state operating subsidies for academic remedial or developmental courses offered by state institutions of higher education may be paid only to Central state university, Shawnee state university, Youngstown state university, any university branch, any community college, any state community college, or any technical college.

(D) Each state university shall grant credit for academic remedial or developmental courses successfully completed at an institution described in

division (C) of this section pursuant to any applicable articulation and transfer agreements the university has entered into in accordance with policies and procedures adopted under section 3333.16, 3333.161, or 3333.162 of the Revised Code.

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

(1) Withhold state operating subsidies for academic remedial or developmental courses provided by a state university as required in order to conform to divisions (B) and (C) of this section;

(2) Adopt uniform statewide standards for academic remedial and developmental courses offered by all state institutions of higher education~~, as defined in section 3345.011 of the Revised Code~~;

(3) Encourage and assist in the design and establishment of academic remedial and developmental courses by institutions of higher education;

(4) Define "academic year" for purposes of this section and section 3345.06 of the Revised Code;

(5) Encourage and assist in the development of articulation and transfer agreements between state universities and other institutions of higher education in accordance with policies and procedures adopted under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

(F) Not later than December 31, 2012, the presidents, or equivalent position, of all state institutions of higher education, or their designees, jointly shall establish uniform statewide standards in mathematics, science, reading, and writing each student enrolled in a state institution of higher education must meet to be considered in remediation-free status. The presidents also shall establish assessments, if they deem necessary, to determine if a student meets the standards adopted under this division. Each institution is responsible for assessing the needs of its enrolled students in the manner adopted by the presidents. The board of trustees or managing authority of each state institution of higher education shall adopt the remediation-free status standard, and any related assessments, into the institution's policies.

The chancellor shall assist in coordinating the work of the presidents under this division.

(G) Each year, not later than a date established by the chancellor, each state institution of higher education shall report to the governor, the general assembly, the chancellor, and the superintendent of public instruction all of the following for the prior academic year:

(1) The institution's aggregate costs for providing academic remedial or developmental courses;

(2) The amount of those costs disaggregated according to the city, local, or exempted village school districts from which the students taking those courses received their high school diplomas;

(3) Any other information with respect to academic remedial and developmental courses that the chancellor considers appropriate.

(H) Not later than December 31, 2011, and the thirty-first day of each December thereafter, the chancellor and the superintendent of public instruction shall issue a report recommending policies and strategies for reducing the need for academic remediation and developmental courses at state institutions of higher education.

(I) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3345.14. (A) As used in this section, "state college or university" means any state university or college defined in division (A)(1) of section 3345.12 of the Revised Code, and any other institution of higher education defined in division (A)(2) of that section.

(B) All rights to and interests in discoveries, inventions, or patents which result from research or investigation conducted in any experiment station, bureau, laboratory, research facility, or other facility of any state college or university, or by employees of any state college or university acting within the scope of their employment or with funding, equipment, or infrastructure provided by or through any state college or university, shall be the sole property of that college or university. No person, firm, association, corporation, or governmental agency which uses the facilities of such college or university in connection with such research or investigation and no faculty member, employee, or student of such college or university participating in or making such discoveries or inventions, shall have any rights to or interests in such discoveries or inventions, including income therefrom, except as may, by determination of the board of trustees of such college or university, be assigned, licensed, transferred, or paid to such persons or entities in accordance with division (C) of this section or in accordance with rules adopted under division (D) of this section.

(C) As may be determined from time to time by the board of trustees of any state college or university, the college or university may retain, assign, license, transfer, sell, or otherwise dispose of, in whole or in part and upon such terms as the board of trustees may direct, any and all rights to, interests in, or income from any such discoveries, inventions, or patents which the college or university owns or may acquire. Such dispositions may be to any individual, firm, association, corporation, or governmental agency, or to any faculty member, employee, or student of the college or university as the

board of trustees may direct. Any and all income or proceeds derived or retained from such dispositions shall be applied to the general or special use of the college or university as determined by the board of trustees of such college or university.

(D)(1) Notwithstanding any provision of the Revised Code to the contrary, including but not limited to sections 102.03, 102.04, 2921.42, and 2921.43 of the Revised Code, the board of trustees of any state college or university may adopt rules in accordance with section 111.15 of the Revised Code that set forth circumstances under which an employee of the college or university may solicit or accept, and under which a person may give or promise to give to such an employee, a financial interest in any firm, corporation, or other association to which the board has assigned, licensed, transferred, or sold the college or university's interests in its intellectual property, including discoveries or inventions made or created by that employee or in patents issued to that employee.

(2) Rules established under division (D)(1) of this section shall include the following:

(a) A requirement that each college or university employee disclose to the college or university board of trustees any financial interest the employee holds in a firm, corporation, or other association as described in division (D)(1) of this section;

(b) A requirement that all disclosures made under division (D)(2)(a) of this section are reviewed by officials designated by the college or university board of trustees. The officials designated under this division shall determine the information that shall be disclosed and safeguards that shall be applied in order to manage, reduce, or eliminate any actual or potential conflict of interest.

(c) A requirement that in implementing division (D) of this section all members of the college or university board of trustees shall be governed by Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code.

(d) Guidelines to ensure that any financial interest held by any employee of the college or university does not result in misuse of the students, employees, or resources of the college or university for the benefit of the firm, corporation, or other association in which such interest is held or does not otherwise interfere with the duties and responsibilities of the employee who holds such an interest.

(3) Rules established under division (D)(1) of this section may include other provisions at the discretion of the college or university board of trustees.

(E) Notwithstanding division (D) of this section, the Ohio ethics

commission retains authority to provide assistance to a college or university board of trustees in the implementation of division (D)(2) of this section and to address any matter that is outside the scope of the exception to division (B) of this section as set forth in division (D) of this section or as set forth in rules established under division (D) of this section.

Sec. 3345.54. (A) As used in this section:

(1) "Auxiliary facilities" has the same meaning as in section 3345.12 of the Revised Code.

(2) "Conduit entity" means an organization described in section 501(c)(3) of the Internal Revenue Code qualified as a public charity under section 509(a)(2) or 509(a)(3) of the Internal Revenue Code, whose corporate purpose allows it to perform the functions and obligations of a conduit entity pursuant to the terms of a financing agreement.

(3) "Conveyed property" means auxiliary facilities conveyed by a state institution to a conduit entity pursuant to a financing agreement.

(4) "Financing agreement" means a contract described in division (C) of this section.

(5) "Independent funding source" means a private entity that enters into a financing agreement with a conduit entity and a state institution.

(6) "State institution" means a state institution of higher education as defined in section 3345.011 of the Revised Code.

(B) The board of trustees of a state institution, with the approval of the chancellor of the Ohio board of regents and the controlling board, may enter into a financing agreement with a conduit entity and an independent funding source selected either through a competitive selection process or by direct negotiations, and may convey to the conduit entity title to any auxiliary facilities owned by the state institution pursuant to the terms of a financing agreement.

(C) A financing agreement under this section is a written contract entered into among a state institution, a conduit entity, and an independent funding source that provides for:

(1) The conveyance of auxiliary facilities owned by a state institution to the conduit entity for consideration deemed adequate by the state institution;

(2) The lease of the conveyed property by the conduit entity to the independent funding source and leaseback of the conveyed property to the conduit entity for a term not to exceed ninety-nine years;

(3) Such other terms and conditions that may be negotiated and agreed upon by the parties, including, but not limited to, terms regarding:

(a) Payment to the state institution by the conduit entity of revenues received by it from the operations of the conveyed property in excess of the

payments it is required to make to the independent funding source under the lease-leaseback arrangement described in division (C)(2) of this section;

(b) Pledge, assignment, or creation of a lien in favor of the independent funding source by the conduit entity of any revenues derived from the conveyed property;

(c) Reverter or conveyance of title to the conveyed property to the state institution when the conveyed property is no longer subject to a lease with the independent funding source.

(4) Terms and conditions required by the chancellor or the controlling board as a condition of approval of the financing agreement.

(D) The state institution and the conduit entity may enter into such other management agreements or other contracts regarding the conveyed property the parties deem appropriate, including agreements pursuant to which the state institution may maintain or administer the conveyed property and collect and disburse revenues from the conveyed property on behalf of the conduit entity.

(E) The parties may modify or extend the term of the financing agreement with the approval of the chancellor and the controlling board.

(F) The conveyed property shall retain its exemption from property taxes and assessments as though title to the conveyed property were held by the state institution during any part of a tax year that title is held by the state institution or the conduit entity and, if held by the conduit entity, remains subject to the lease-leaseback arrangement described in division (C)(2) of this section. However, as a condition of the continued exemption of the conveyed property during the term of the lease-leaseback arrangement the conduit entity shall apply for and maintain the exemption as provided by law.

(G) Nothing in this section is intended to abrogate, amend, limit, or replace any existing authority state institutions may have with respect to the conveyance, lease, lease-leaseback, finance, or acquisition of auxiliary facilities including, but not limited to, authority granted under sections 3345.07, 3345.11, and 3345.12 of the Revised Code.

Sec. 3345.55. (A) For purposes of this section, "university" includes a state institution of higher education as defined in section 3345.011 of the Revised Code and a university housing commission created under section 3347.01 of the Revised Code.

(B) Each university may enter into a lease agreement with a nonpublic vendor to provide housing services in campus housing facilities to students of the university. The lease agreement may require the vendor to construct new campus housing facilities to serve students. The vendor with whom the

university enters into an agreement shall be responsible for the operation and maintenance of the housing facilities. The lease shall be for a term of at least twenty years but shall not exceed thirty years. The lease agreement shall specify that the vendor is required to lease housing units to students of the university. Any university housing policies shall extend to and be enforced by the vendors with whom the university contracts.

(C) If the vendors with whom the university has entered into a lease agreement violate the terms of the lease, the university may revoke the lease and regain operational control over the dormitory.

Sec. 3345.81. (A) The chancellor of the Ohio board of regents shall develop a plan for designating public institutions of higher education as charter universities. In developing the plan, the chancellor shall:

(1) Study the administrative and financial relationships between the state and its public institutions of higher education to determine the extent to which public colleges and universities can manage their operations more effectively when accorded flexibility through selected delegation of authority;

(2) Examine legal and other issues related to the feasibility and practicability of restructuring the administrative and financial relationships between the state and its public institutions of higher education;

(3) Consult with the presidents of the institutions of higher education of the university system of Ohio.

(B) The office of budget and management, the department of administrative services, and each state institution of higher education shall provide the chancellor, upon the chancellor's request, with research assistance, fiscal and policy analysis, and other services in conducting the study and developing the plan under this section. Each state agency shall provide the chancellor with any other assistance requested by the chancellor in conducting the study and developing the plan.

(C) The chancellor shall specify in the plan:

(1) The manner in which a state institution of higher education may become eligible for restructured financial and operational authority, and performance measures and criteria to determine eligibility. The performance measures and criteria shall address the institution's ability to manage successfully its administrative and financial operations without jeopardizing the financial integrity and stability of the institution.

(2) Specific areas of financial and operational authority that are subject to increased flexibility;

(3) The nature and term of the management agreement required between the state and an institution.

(D) Not later than August 15, 2011, the chancellor shall submit to the general assembly and the governor a report of findings and recommendations for use in developing policy, statutory, and administrative rule changes necessary to implement the plan. No institution shall be designated a charter university until the general assembly, after considering the chancellor's plan, has enacted legislation establishing a procedure for making the designation. The chancellor shall not adopt, amend, or rescind any rules with respect to designating institutions as charter universities until that legislation is enacted. The general assembly intends that the general assembly, governor, and chancellor will take actions necessary for implementation of the plan for charter universities to commence July 1, 2012.

Sec. 3349.29. An agreement made pursuant to sections 3349.27 and 3349.28 of the Revised Code is not effective unless it has been approved by the legislative authority of the municipal corporation with which the municipal university is identified, upon such legislative authority's determination that such agreement will be beneficial to the municipal corporation, and also approved by the Ohio board of regents, and, if required by any applicable appropriation measure, by the state controlling board, and any payment from state tax moneys provided for in the agreement will be subject to appropriations made by the general assembly. If provision is to be made under such agreement for the transfer of, or grant of the right to use, all or a substantial part of the assets of the municipal university to the state university and assumption by the state university of educational functions of the municipal university, such agreement shall not become effective, under sections 3349.27 to 3349.30 of the Revised Code until the electors of the municipal corporation have approved such transfer or grant.

The legislative authority of the municipal corporation shall, by ordinance, submit the question to the electors at a general, primary, or a special election to be held on the date specified in the ordinance. The ordinance shall be certified to the board of elections not later than the forty-fifth day preceding the date of the election. Notice of the election shall be published in one ~~or more newspapers~~ newspaper of general circulation in the municipal corporation once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, prior to the election ~~and, if~~. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The form of the ballot to be used at the election shall be substantially as follows, with such variations as may be appropriate to reflect the general nature of the transfer or grant of use of assets and the

transfer of educational functions contemplated:

"Shall assets of the municipal university known as ..... be transferred to (make available for use by) a state university known as ..... and the state university assume educational functions of the municipal university and provide higher education in (or in close proximity to) the city of ..... to the residents of the city of ..... and of the state of Ohio and such others as shall be admitted?"

The favorable vote of a majority of those voting on the proposition constitutes such approval as is required by this section.

Sec. 3353.04. (A) The eTech Ohio commission may perform any act necessary to carry out the functions of this chapter, including any of the following:

(1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology;

(2) Establish a reporting system for school districts, community schools, other educational institutions, affiliates, and educational technology organizations that receive financial assistance from the commission. The system may require the reporting of information regarding the manner in which the assistance was expended, the manner in which the equipment or services purchased with the assistance is being utilized, the results or outcome of the utilization, the manner in which the utilization is compatible with the statewide academic standards adopted by the state board of education pursuant to section 3301.079 of the Revised Code, and any other information determined by the commission.

(3) Ensure that, where appropriate, products produced by any entity to which the commission provides financial assistance for use in elementary and secondary education are aligned with the statewide academic standards adopted by the state board pursuant to section 3301.079 of the Revised Code;

(4) Promote accessibility to educational products aligned with the statewide academic standards, adopted by the state board pursuant to section 3301.079 of the Revised Code, for school districts, community schools, and other entities serving grades kindergarten through twelve;

(5) Own or operate transmission facilities and interconnection facilities, or contract for transmission facilities and interconnection facilities, for an

educational television, radio, or radio reading service network;

(6) Establish standards for interconnection facilities used by the commission in the transmission of educational television, radio, or radio reading service programming;

(7) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the operation of the interconnection;

(8) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the production and use of educational television, radio, or radio reading service programs to be transmitted by the educational telecommunications network;

(9) Execute contracts and other agreements necessary and desirable to carry out the purposes of this chapter and other duties prescribed to the commission by law or authorize the executive director of the commission to execute such contracts and agreements on the commission's behalf;

(10) Act as consultant with educational television and educational radio stations and radio reading services toward coordination within the state of the distribution of federal funds that may become available for equipment for educational broadcasting or radio reading services;

(11) Make payments to noncommercial Ohio educational television or radio broadcasting stations or radio reading services to sustain the operation of such stations or services;

(12) In consultation with participants in programs administered by the commission, establish guidelines governing purchasing and procurement that facilitate the timely and effective implementation of such programs;

(13) In consultation with participants in programs administered by the commission, consider the efficiency and cost savings of statewide procurement prior to allocating and releasing funds for such programs;

(14) In consultation with participants in programs administered by the commission, establish a systems support network to facilitate the timely implementation of the programs and other projects and activities for which the commission provides assistance.

(B) Chapters 123., 124., 125., and 153. of the Revised Code and sections 9.331~~, 9.332, and 9.333~~ to 9.335 of the Revised Code do not apply to contracts, programs, projects, or activities of the commission.

Sec. 3353.15. There is hereby created in the state treasury the information technology service fund. The fund shall consist of money received by the eTech Ohio commission pursuant to agreements with educational entities for the provision of information technology services to support initiatives to align education from preschool through college, and

any other money deposited into the fund by the commission. Money in the fund shall be used to provide the services specified in the agreements, including implementation and maintenance of an electronic clearinghouse for student transcript transfers and development of the education data repository described in section 3301.94 of the Revised Code. Investment earnings of the fund shall be credited to the fund.

Sec. 3354.12. (A) Upon the request by resolution approved by the board of trustees of a community college district, and upon certification to the board of elections not less than ninety days prior to the election, the boards of elections of the county or counties comprising such district shall place upon the ballot in their respective counties the question of levying a tax on all the taxable property in the community college district outside the ten-mill limitation, for a specified period of years or for a continuing period of time, to provide funds for any one or more of the following purposes: the acquisition of sites, the erection, furnishing, and equipment of buildings, the acquisition, construction, or improvement of any property which the board of trustees of a community college district is authorized to acquire, construct, or improve and which has an estimated life of usefulness of five years or more as certified by the fiscal officer, and the payment of operating costs. Not more than two special elections shall be held in any one calendar year. Levies for a continuing period of time adopted under this section may be reduced in accordance with section 5705.261 of the Revised Code.

If such proposal is to be or include the renewal of an existing levy at the expiration thereof, the ballot for such election shall state whether it is a renewal of a tax; a renewal of a stated number of mills and an increase of a stated number of mills, or a renewal of a part of an existing levy with a reduction of a stated number of mills; the year of the tax duplicate on which such renewal will first be made; and if earlier, the year of the tax duplicate on which such additional levy will first be made, which may include the tax duplicate for the current year unless the election is to be held after the first Tuesday after the first Monday in November of the current tax year. The ballot shall also state the period of years for such levy or that it is for a continuing period of time. If a levy for a continuing period of time provides for but is not limited to current expenses, the resolution of the board of trustees providing for the election on such levy shall apportion the annual rate of the levy between current expenses and the other purpose or purposes. Such apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for current expenses and the other purpose or purposes shall be limited by such apportionment. The portion of the rate apportioned to the other purpose or purposes shall be

reduced as provided in division (B) of this section.

If a majority of the electors in such district voting on such question approve thereof, the county auditor or auditors of the county or counties comprising such district shall annually, for the applicable years, place such levy on the tax duplicate in such district, in an amount determined by the board of trustees, but not to exceed the amount set forth in the proposition approved by the electors.

The boards of trustees of a community college district shall establish a special fund for all revenue derived from any tax levied pursuant to this section.

The boards of elections of the county or counties comprising the district shall cause to be published in a newspaper of general circulation in each such county an advertisement of the proposed tax levy question once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election at which the question is to appear on the ballot~~, and, if~~. If a board of elections operates and maintains a web site, that board also shall post ~~a similar~~ the advertisement on its web site for thirty days prior to that election.

After the approval of such levy by vote, the board of trustees of a community college district may anticipate a fraction of the proceeds of such levy and from time to time issue anticipation notes having such maturity or maturities that the aggregate principal amount of all such notes maturing in any calendar year shall not exceed seventy-five per cent of the anticipated proceeds from such levy for such year, and that no note shall mature later than the thirty-first day of December of the tenth calendar year following the calendar year in which such note is issued. Each issue of notes shall be sold as provided in Chapter 133. of the Revised Code.

The amount of bonds or anticipatory notes authorized pursuant to Chapter 3354. of the Revised Code, may include sums to repay moneys previously borrowed, advanced, or granted and expended for the purposes of such bond or anticipatory note issues, whether such moneys were advanced from the available funds of the community college district or by other persons, and the community college district may restore and repay to such funds or persons from the proceeds of such issues the moneys so borrowed, advanced or granted.

All operating costs of such community college may be paid out of any gift or grant from the state, pursuant to division (K) of section 3354.09 of the Revised Code; out of student fees and tuition collected pursuant to division (G) of section 3354.09 of the Revised Code; or out of unencumbered funds from any other source of the community college

income not prohibited by law.

(B) Prior to the application of section 319.301 of the Revised Code, the rate of a levy that is limited to, or to the extent that it is apportioned to, purposes other than current expenses shall be reduced in the same proportion in which the district's total valuation increases during the life of the levy because of additions to such valuation that have resulted from improvements added to the tax list and duplicate.

Sec. 3354.16. (A) When the board of trustees of a community college district has by resolution determined to let by contract the work of improvements pursuant to the official plan of such district, contracts in amounts exceeding a dollar amount set by the board, which dollar amount shall not exceed ~~fifty~~ two hundred thousand dollars, shall be advertised after notices calling for bids have been published once a week for three consecutive weeks or as provided in section 7.16 of the Revised Code, in ~~at least one~~ a newspaper of general circulation within the community college district wherein the work is to be done. Subject to section 3354.10 of the Revised Code, the board of trustees of the district may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall be approved by the board of trustees and signed by the president of the board and by the contractor.

(B) On the first day of January of every even-numbered year, the chancellor of the board of regents shall adjust the ~~fifty~~ two hundred thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division. The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of economic analysis implicit price deflator for gross domestic product, nonresidential structures, or an alternative if the federal government ceases to publish this metric, provided that no increase or decrease for any year shall exceed three per cent of the contract limit in existence at the time of the adjustment. Notwithstanding division (A) of this section, the limit adjusted under this division shall be used thereafter in lieu of the limit in division (A) of this section.

(C) Before entering into an improvement pursuant to division (A) of this section, and except for contracts made with a construction manager at risk, a design-build firm, or a general contracting firm, as those terms are defined in section 153.50 of the Revised Code, the board of trustees of a community

college district shall require separate and distinct proposals to be made for furnishing materials or doing work on the improvement, or both, in the board's discretion, for each separate and distinct branch or class of work entering into the improvement. The board of trustees also may require a single, combined proposal for the entire project for materials or doing work, or both, in the board's discretion, that includes each separate and distinct branch or class of work entering into the improvement. ~~The board of trustees need not solicit separate proposals for a branch or class of work for an improvement if the estimate cost for that branch or class of work is less than five thousand dollars.~~

(D) When more than one branch or class of work is required, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work shall be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids in the aggregate. ~~The board of trustees need not award separate contracts for a branch or class of work entering into an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.~~

Sec. 3355.09. Upon receipt of a request from the university branch district managing authority, the boards of elections of the county or counties comprising such district shall place upon the ballot in the district at the next primary or general election occurring not less than ninety days after submission of such request by such managing authority, the question of levying a tax outside the ten-mill limitation, for a specified period of years, to provide funds for any of the following purposes:

(A) Purchasing a site or enlargement thereof;

(B) The erection and equipment of buildings;

(C) Enlarging, improving, or rebuilding buildings;

(D) The acquisition, construction, or improvement of any property which the university branch district managing authority is authorized to acquire, construct, or improve and which has been certified by the fiscal officer to have an estimated useful life of five or more years.

If a majority of the electors in such district voting on such question approve, the county auditor of the county or counties comprising such district shall annually place such levy on the tax duplicate in such district, in the amount set forth in the proposition approved by the electors.

The managing authority of the university branch district shall establish a special fund pursuant to section 3355.07 of the Revised Code for all revenue derived from any tax levied pursuant to provisions of this section.

The boards of election of the county or counties comprising the district shall cause to be published in a newspaper of general circulation in each such county an advertisement of the proposed tax levy question once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election at which the question is to appear on the ballot~~, and, if~~. If a board of elections operates and maintains a web site, that board also shall post ~~a similar~~ the advertisement on its web site for thirty days prior to the election.

After the approval of such levy by vote, the managing authority of the university branch district may anticipate a fraction of the proceeds of such levy and from time to time, during the life of such levy, issue anticipation notes in an amount not to exceed seventy-five per cent of the estimated proceeds of such levy to be collected in each year over a period of five years after the date of the issuance of such notes, less an amount equal to the proceeds of such levy previously obligated for such year by the issuance of anticipation notes, provided, that the total amount maturing in any one year shall not exceed seventy-five per cent of the anticipated proceeds of such levy for that year.

Each issue of notes shall be sold as provided in Chapter 133. of the Revised Code and shall mature serially in substantially equal amounts, during each remaining year of the levy, not to exceed five, after their issuance.

Sec. 3357.16. (A) When the board of trustees of a technical college district has by resolution determined to let by contract the work of improvements pursuant to the official plan of such district, contracts in amounts exceeding a dollar amount set by the board, which dollar amount shall not exceed ~~fifty~~ two hundred thousand dollars, shall be advertised after notice calling for bids has been published once a week for three consecutive weeks or as provided in section 7.16 of the Revised Code, in ~~at least one~~ a newspaper of general circulation within the technical college district where the work is to be done. The board of trustees of the technical college district may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall be approved by the board of trustees and signed by the president of the board and by the contractor.

(B) On the first day of January of every even-numbered year, the chancellor of the board of regents shall adjust the ~~fifty~~ two hundred

thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division. The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of economic analysis implicit price deflator for gross domestic product, nonresidential structures, or an alternative if the federal government ceases to publish this metric, provided that no increase or decrease for any year shall exceed three per cent of the contract limit in existence at the time of the adjustment. Notwithstanding division (A) of this section, the limit adjusted under this division shall be used thereafter in lieu of the limit in division (A) of this section.

(C) Before entering into an improvement pursuant to division (A) of this section, and except for contracts made with a construction manager at risk, a design-build firm, or a general contracting firm, as those terms are defined in section 153.50 of the Revised Code, the board of trustees of a technical college district shall require separate and distinct proposals to be made for furnishing materials or doing work on the improvement, or both, in the board's discretion, for each separate and distinct branch or class of work entering into the improvement. The board of trustees also may require a single, combined proposal for the entire project for materials or doing work, or both, in the board's discretion, that includes each separate and distinct branch or class of work entering into the improvement. ~~The board of trustees need not solicit separate proposals for a branch or class of work for an improvement if the estimate cost for that branch or class of work is less than five thousand dollars.~~

(D) When more than one branch or class of work is required, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work shall be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids in the aggregate. ~~The board of trustees need not award separate contracts for a branch or class of work entering into an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.~~

Sec. 3365.01. As used in this chapter:

(A) "College" means any state-assisted college or university described in section 3333.041 of the Revised Code, any nonprofit institution holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code, any private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, and

any institution holding a certificate of registration from the state board of career colleges and schools and program authorization for an associate or bachelor's degree program issued under section 3332.05 of the Revised Code.

(B) "School district," except as specified in division (G) of this section, means any school district to which a student is admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of the Revised Code and does not include a joint vocational or cooperative education school district.

(C) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(D) "Participant" means a student enrolled in a college under the post-secondary enrollment options program established by this chapter.

(E) "Secondary grade" means the ninth through twelfth grades.

(F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code.

(G) "Tuition base" means, with respect to a participant's school district, the sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code for fiscal year 2009.

The participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code.

(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June.

(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary grades.

(L) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

Sec. 3365.08. (A) A college that expects to receive or receives reimbursement under section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code shall furnish to a participant all

textbooks and materials directly related to a course taken by the participant under division (B) of section 3365.04 of the Revised Code. No college shall charge such participant for tuition, textbooks, materials, or other fees directly related to any such course.

(B) No student enrolled under this chapter in a course for which credit toward high school graduation is awarded shall receive direct financial aid through any state or federal program.

(C) If a school district provides transportation for resident school students in grades eleven and twelve under section 3327.01 of the Revised Code, a parent of a pupil enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the board of education for full or partial reimbursement for the necessary costs of transporting the student between the secondary school the student attends and the college in which the student is enrolled. Reimbursement may be paid solely from funds received by the district for pupil transportation under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law. The state board of education shall establish guidelines, based on financial need, under which a district may provide such reimbursement.

(D) If a community school provides or arranges transportation for its pupils in grades nine through twelve under section 3314.091 of the Revised Code, a parent of a pupil of the community school who is enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the governing authority of the community school for full or partial reimbursement of the necessary costs of transporting the student between the community school and the college. The governing authority may pay the reimbursement in accordance with the state board's rules adopted under division (C) of this section solely from funds paid to it under section 3314.091 of the Revised Code.

Sec. 3375.41. When a board of library trustees appointed pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of the Revised Code determines to construct, demolish, alter, repair, or reconstruct a library or make any improvements or repairs, the cost of which will exceed twenty-five thousand dollars, except in cases of urgent necessity or for the security and protection of library property, it shall proceed as follows:

(A) The board shall advertise for a period of two weeks for sealed bids in ~~some~~ a newspaper of general circulation in the district~~, and, if there are two such newspapers, the board shall advertise in both of them~~ or as provided in section 7.16 of the Revised Code. If no newspaper has a general circulation in the district, the board shall post the advertisement in three

public places in the district. The advertisement shall be entered in full by the fiscal officer on the record of proceedings of the board.

(B) The sealed bids shall be filed with the fiscal officer by twelve noon of the last day stated in the advertisement.

(C) The sealed bids shall be opened at the next meeting of the board, shall be publicly read by the fiscal officer, and shall be entered in full on the records of the board; provided that the board, by resolution, may provide for the public opening and reading of the bids by the fiscal officer, immediately after the time for their filing has expired, at the usual place of meeting of the board, and for the tabulation of the bids and a report of the tabulation to the board at its next meeting.

(D) Each sealed bid shall contain the name of every person interested in it and shall meet the requirements of section 153.54 of the Revised Code.

(E) When both labor and materials are embraced in the work bid for, the board may require that each be separately stated in the sealed bid, with their price, or may require that bids be submitted without the separation.

(F) None but the lowest responsible bid shall be accepted. The board may reject all the bids or accept any bid for both labor and material for the improvement or repair which is the lowest in the aggregate.

(G) The contract shall be between the board and the bidders. The board shall pay the contract price for the work in cash at the times and in the amounts as provided by sections 153.12, 153.13, and 153.14 of the Revised Code.

(H) When two or more bids are equal, in whole or in part, and are lower than any others, either may be accepted, but in no case shall the work be divided between these bidders.

(I) When there is reason to believe there is collusion or combination among the bidders, the bids of those concerned in the collusion or combination shall be rejected.

Sec. 3381.11. The board of trustees of a regional arts and cultural district or any officer or employee designated by such board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed ten thousand dollars. When an expenditure, other than for the acquisition of real estate, the discharge of noncontractual claims, personal services, or for the product or services of public utilities, exceeds ten thousand dollars, such expenditure shall be made only after a notice calling for bids has been published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation within the territory of the district or as provided in section 7.16 of the Revised Code. The board may then let said contract to

the lowest and best bidder, who shall give a good and approved bond with ample security conditioned on the carrying out of the contract. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered part of the contract. The contract shall be approved by the board and signed on behalf of the district and by the contractor. No sale of any real or personal property or a lease thereof having a term thereof in excess of five years shall be made except with the highest and best bidder after publication of notice for bids in the manner above provided.

Competitive bidding under this section is not required when:

(A) The board, by a two-thirds affirmative vote of its members, determines that a real and present emergency exists and such determination and the reasons therefor are entered in the proceedings of the board, when:

(1) The estimated cost is less than fifteen thousand dollars; or

(2) There is actual physical damage to structures or equipment.

(B) Such purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the district and the only source of supply for such supplies, part, or parts is limited to a single supplier;

(C) The lease is a renewal of a lease for electronic data processing equipment, services, or systems;

(D) Services or supplies are available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;

(E) With respect to any contract, agreement, or lease by a district with any arts or cultural organization or any governmental body or agency.

Sec. 3501.03. At least ten days before the time for holding an election the board of elections shall give public notice by a proclamation, posted in a conspicuous place in the courthouse and city hall, or by one insertion in a newspaper ~~published~~ of general circulation in the county~~, but if no newspaper is published in such county, then in a newspaper of general circulation therein~~.

The board shall have authority to publicize information relative to registration or elections.

Sec. 3501.17. (A) The expenses of the board of elections shall be paid from the county treasury, in pursuance of appropriations by the board of county commissioners, in the same manner as other county expenses are paid. If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board of elections pertaining to the conduct of elections, the board of elections may

apply to the court of common pleas within the county, which shall fix the amount necessary to be appropriated and the amount shall be appropriated. Payments shall be made upon vouchers of the board of elections certified to by its chairperson or acting chairperson and the director or deputy director, upon warrants of the county auditor.

The board of elections shall not incur any obligation involving the expenditure of money unless there are moneys sufficient in the funds appropriated therefor to meet the obligation. If the board of elections requests a transfer of funds from one of its appropriation items to another, the board of county commissioners shall adopt a resolution providing for the transfer except as otherwise provided in section 5705.40 of the Revised Code. The expenses of the board of elections shall be apportioned among the county and the various subdivisions as provided in this section, and the amount chargeable to each subdivision shall be withheld by the county auditor from the moneys payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year, the board of elections shall submit to the taxing authority of each subdivision, upon the request of the subdivision, an estimate of the amount to be withheld from the subdivision during the next fiscal year.

A board of township trustees may, by resolution, request that the county auditor withhold expenses charged to the township from a specified township fund that is to be credited with revenue at a tax settlement. The resolution shall specify the tax levy ballot issue, the date of the election on the levy issue, and the township fund from which the expenses the board of elections incurs related to that ballot issue shall be withheld.

(B) Except as otherwise provided in division (F) of this section, the compensation of the members of the board of elections and of the director, deputy director, and regular employees in the board's offices, other than compensation for overtime worked; the expenditures for the rental, furnishing, and equipping of the office of the board and for the necessary office supplies for the use of the board; the expenditures for the acquisition, repair, care, and custody of the polling places, booths, guardrails, and other equipment for polling places; the cost of tally sheets, maps, flags, ballot boxes, and all other permanent records and equipment; the cost of all elections held in and for the state and county; and all other expenses of the board which are not chargeable to a political subdivision in accordance with this section shall be paid in the same manner as other county expenses are paid.

(C) The compensation of judges of elections and intermittent employees in the board's offices; the cost of renting, moving, heating, and lighting

polling places and of placing and removing ballot boxes and other fixtures and equipment thereof, including voting machines, marking devices, and automatic tabulating equipment; the cost of printing and delivering ballots, cards of instructions, registration lists required under section 3503.23 of the Revised Code, and other election supplies, including the supplies required to comply with division (H) of section 3506.01 of the Revised Code; the cost of contractors engaged by the board to prepare, program, test, and operate voting machines, marking devices, and automatic tabulating equipment; and all other expenses of conducting primaries and elections in the odd-numbered years shall be charged to the subdivisions in and for which such primaries or elections are held. The charge for each primary or general election in odd-numbered years for each subdivision shall be determined in the following manner: first, the total cost of all chargeable items used in conducting such elections shall be ascertained; second, the total charge shall be divided by the number of precincts participating in such election, in order to fix the cost per precinct; third, the cost per precinct shall be prorated by the board of elections to the subdivisions conducting elections for the nomination or election of offices in such precinct; fourth, the total cost for each subdivision shall be determined by adding the charges prorated to it in each precinct within the subdivision.

(D) The entire cost of special elections held on a day other than the day of a primary or general election, both in odd-numbered or in even-numbered years, shall be charged to the subdivision. Where a special election is held on the same day as a primary or general election in an even-numbered year, the subdivision submitting the special election shall be charged only for the cost of ballots and advertising. Where a special election is held on the same day as a primary or general election in an odd-numbered year, the subdivision submitting the special election shall be charged for the cost of ballots and advertising for such special election, in addition to the charges prorated to such subdivision for the election or nomination of candidates in each precinct within the subdivision, as set forth in the preceding paragraph.

(E) Where a special election is held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, and a subdivision conducts a special election on the same day, the entire cost of the special election shall be divided proportionally between the state and the subdivision based upon a ratio determined by the number of issues placed on the ballot by each, except as otherwise provided in division (G) of this section. Such proportional division of cost shall be made only to the extent

funds are available for such purpose from amounts appropriated by the general assembly to the secretary of state. If a primary election is also being conducted in the subdivision, the costs shall be apportioned as otherwise provided in this section.

(F) When a precinct is open during a general, primary, or special election solely for the purpose of submitting to the voters a statewide ballot issue, the state shall bear the entire cost of the election in that precinct and shall reimburse the county for all expenses incurred in opening the precinct.

(G)(1) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law. Appropriations made to the controlling board shall be used to reimburse the secretary of state for all expenses the secretary of state incurs for such advertising under division (G) of section 3505.062 of the Revised Code.

(2) There is hereby created in the state treasury the statewide ballot advertising fund. The fund shall receive transfers approved by the controlling board, and shall be used by the secretary of state to pay the costs of advertising state ballot issues as required under division (G)(1) of this section. Any such transfers may be requested from and approved by the controlling board prior to placing the advertising, in order to facilitate timely provision of the required advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) At the request of a majority of the members of the board of elections, the board of county commissioners may, by resolution, establish an elections revenue fund. Except as otherwise provided in this division, the purpose of the fund shall be to accumulate revenue withheld by or paid to the county under this section for the payment of any expense related to the duties of the board of elections specified in section 3501.11 of the Revised Code, upon approval of a majority of the members of the board of elections. The fund shall not accumulate any revenue withheld by or paid to the county under this section for the compensation of the members of the board of elections or of the director, deputy director, or other regular employees in the board's offices, other than compensation for overtime worked.

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the Revised Code, the board of county commissioners may, by resolution, transfer money to the elections revenue fund from any other fund of the political

subdivision from which such payments lawfully may be made. Following an affirmative vote of a majority of the members of the board of elections, the board of county commissioners may, by resolution, rescind an elections revenue fund established under this division. If an elections revenue fund is rescinded, money that has accumulated in the fund shall be transferred to the county general fund.

(J) As used in this section:

(1) "Political subdivision" and "subdivision" mean any board of county commissioners, board of township trustees, legislative authority of a municipal corporation, board of education, or any other board, commission, district, or authority that is empowered to levy taxes or permitted to receive the proceeds of a tax levy, regardless of whether the entity receives tax settlement moneys as described in division (A) of this section;

(2) "Statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

Sec. 3505.13. A contract for the printing of ballots involving a cost in excess of ten thousand dollars shall not be let until after five days' notice published once in a ~~leading~~ newspaper ~~published~~ of general circulation in the county or upon notice given by mail by the board of elections, addressed to the responsible printing offices within the state. Except as otherwise provided in this section, each bid for such printing must be accompanied by a bond with at least two sureties, or a surety company, satisfactory to the board, in a sum double the amount of the bid, conditioned upon the faithful performance of the contract for such printing as is awarded and for the payment as damages by such bidder to the board of any excess of cost over the bid which it may be obliged to pay for such work by reason of the failure of the bidder to complete the contract. No bid unaccompanied by such bond shall be considered by the board. The board may, however, waive the requirement that each bid be accompanied by a bond if the cost of the contract is ten thousand dollars or less. The contract shall be let to the lowest responsible bidder in the state. All ballots shall be printed within the state.

Sec. 3506.05. (A) As used in this section, except when used as part of the phrase "tabulating equipment" or "automatic tabulating equipment":

(1) "Equipment" means a voting machine, marking device, automatic tabulating equipment, or software.

(2) "Vendor" means the person that owns, manufactures, distributes, or has the legal right to control the use of equipment, or the person's agent.

(B) No voting machine, marking device, automatic tabulating equipment, or software for the purpose of casting or tabulating votes or for

communications among systems involved in the tabulation, storage, or casting of votes shall be purchased, leased, put in use, or continued to be used, except for experimental use as provided in division (B) of section 3506.04 of the Revised Code, unless it, a manual of procedures governing its use, and training materials, service, and other support arrangements have been certified by the secretary of state and unless the board of elections of each county where the equipment will be used has assured that a demonstration of the use of the equipment has been made available to all interested electors. The secretary of state shall appoint a board of voting machine examiners to examine and approve equipment and its related manuals and support arrangements. The board shall consist of four members, who shall be appointed as follows:

(1) Two members appointed by the secretary of state.

(2) One member appointed by either the speaker of the house of representatives or the minority leader of the house of representatives, whichever is a member of the opposite political party from the one to which the secretary of state belongs.

(3) One member appointed by either the president of the senate or the minority leader of the senate, whichever is a member of the opposite political party from the one to which the secretary of state belongs.

In all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the board shall submit the matter in controversy to the secretary of state, who shall summarily decide the question, and the secretary of state's decision shall be final. Each member of the board shall be a competent and experienced election officer or a person who is knowledgeable about the operation of voting equipment and shall serve during the secretary of state's term. Any vacancy on the board shall be filled in the same manner as the original appointment. The secretary of state shall provide staffing assistance to the board, at the board's request.

For the member's service, each member of the board shall receive three hundred dollars per day for each combination of marking device, tabulating equipment, and voting machine examined and reported, but in no event shall a member receive more than six hundred dollars to examine and report on any one marking device, item of tabulating equipment, or voting machine. Each member of the board shall be reimbursed for expenses the member incurs during an examination or during the performance of any related duties that may be required by the secretary of state. Reimbursement of these expenses shall be made in accordance with, and shall not exceed, the rates provided for under section 126.31 of the Revised Code.

Neither the secretary of state nor the board, nor any public officer who

participates in the authorization, examination, testing, or purchase of equipment, shall have any pecuniary interest in the equipment or any affiliation with the vendor.

(C)(1) A vendor who desires to have the secretary of state certify equipment shall first submit the equipment, all current related procedural manuals, and a current description of all related support arrangements to the board of voting machine examiners for examination, testing, and approval. The submission shall be accompanied by a fee of ~~eighteen~~ two thousand four hundred dollars and a detailed explanation of the construction and method of operation of the equipment, a full statement of its advantages, and a list of the patents and copyrights used in operations essential to the processes of vote recording and tabulating, vote storage, system security, and other crucial operations of the equipment as may be determined by the board. An additional fee, in an amount to be set by rules promulgated by the board, may be imposed to pay for the costs of alternative testing or testing by persons other than board members, record-keeping, and other extraordinary costs incurred in the examination process. Moneys not used shall be returned to the person or entity submitting the equipment for examination.

(2) Fees collected by the secretary of state under this section shall be deposited into the state treasury to the credit of the board of voting machine examiners fund, which is hereby created. All moneys credited to this fund shall be used solely for the purpose of paying for the services and expenses of each member of the board or for other expenses incurred relating to the examination, testing, reporting, or certification of voting machine devices, the performance of any related duties as required by the secretary of state, or the reimbursement of any person submitting an examination fee as provided in this chapter.

(D) Within sixty days after the submission of the equipment and payment of the fee, or as soon thereafter as is reasonably practicable, but in any event within not more than ninety days after the submission and payment, the board of voting machine examiners shall examine the equipment and file with the secretary of state a written report on the equipment with its recommendations and its determination or condition of approval regarding whether the equipment, manual, and other related materials or arrangements meet the criteria set forth in sections 3506.07 and 3506.10 of the Revised Code and can be safely used by the voters at elections under the conditions prescribed in Title XXXV of the Revised Code, or a written statement of reasons for which testing requires a longer period. The board may grant temporary approval for the purpose of allowing

experimental use of equipment. If the board finds that the equipment meets the criteria set forth in sections 3506.06, 3506.07, and 3506.10 of the Revised Code, can be used safely and can be depended upon to record and count accurately and continuously the votes of electors, and has the capacity to be warranted, maintained, and serviced, it shall approve the equipment and recommend that the secretary of state certify the equipment. The secretary of state shall notify all boards of elections of any such certification. Equipment of the same model and make, if it provides for recording of voter intent, system security, voter privacy, retention of vote, and communication of voting records in an identical manner, may then be adopted for use at elections.

(E) The vendor shall notify the secretary of state, who shall then notify the board of voting machine examiners, of any enhancement and any significant adjustment to the hardware or software that could result in a patent or copyright change or that significantly alters the methods of recording voter intent, system security, voter privacy, retention of the vote, communication of voting records, and connections between the system and other systems. The vendor shall provide the secretary of state with an updated operations manual for the equipment, and the secretary of state shall forward the manual to the board. Upon receiving such a notification and manual, the board may require the vendor to submit the equipment to an examination and test in order for the equipment to remain certified. The board or the secretary of state shall periodically examine, test, and inspect certified equipment to determine continued compliance with the requirements of this chapter and the initial certification. Any examination, test, or inspection conducted for the purpose of continuing certification of any equipment in which a significant problem has been uncovered or in which a record of continuing problems exists shall be performed pursuant to divisions (C) and (D) of this section, in the same manner as the examination, test, or inspection is performed for initial approval and certification.

(F) If, at any time after the certification of equipment, the board of voting machine examiners or the secretary of state is notified by a board of elections of any significant problem with the equipment or determines that the equipment fails to meet the requirements necessary for approval or continued compliance with the requirements of this chapter, or if the board of voting machine examiners determines that there are significant enhancements or adjustments to the hardware or software, or if notice of such enhancements or adjustments has not been given as required by division (E) of this section, the secretary of state shall notify the users and vendors of that equipment that certification of the equipment may be

withdrawn.

(G)(1) The notice given by the secretary of state under division (F) of this section shall be in writing and shall specify both of the following:

(a) The reasons why the certification may be withdrawn;

(b) The date on which certification will be withdrawn unless the vendor takes satisfactory corrective measures or explains why there are no problems with the equipment or why the enhancements or adjustments to the equipment are not significant.

(2) A vendor who receives a notice under division (F) of this section shall, within thirty days after receiving it, submit to the board of voting machine examiners in writing a description of the corrective measures taken and the date on which they were taken, or the explanation required under division (G)(1)(b) of this section.

(3) Not later than fifteen days after receiving a written description or explanation under division (G)(2) of this section from a vendor, the board shall determine whether the corrective measures taken or the explanation is satisfactory to allow continued certification of the equipment, and the secretary of state shall send the vendor a written notice of the board's determination, specifying the reasons for it. If the board has determined that the measures taken or the explanation given is unsatisfactory, the notice shall include the effective date of withdrawal of the certification. This date may be different from the date originally specified in division (G)(1)(b) of this section.

(4) A vendor who receives a notice under division (G)(3) of this section indicating a decision to withdraw certification may, within thirty days after receiving it, request in writing that the board hold a hearing to reconsider its decision. Any interested party shall be given the opportunity to submit testimony or documentation in support of or in opposition to the board's recommendation to withdraw certification. Failure of the vendor to take appropriate steps as described in division (G)(1)(b) or to comply with division (G)(2) of this section results in a waiver of the vendor's rights under division (G)(4) of this section.

(H)(1) The secretary of state, in consultation with the board of voting machine examiners, shall establish, by rule, guidelines for the approval, certification, and continued certification of the voting machines, marking devices, and tabulating equipment to be used under Title XXXV of the Revised Code. The guidelines shall establish procedures requiring vendors or computer software developers to place in escrow with an independent escrow agent approved by the secretary of state a copy of all source code and related documentation, together with periodic updates as they become

known or available. The secretary of state shall require that the documentation include a system configuration and that the source code include all relevant program statements in low- or high-level languages. As used in this division, "source code" does not include variable codes created for specific elections.

(2) Nothing in any rule adopted under division (H) of this section shall be construed to limit the ability of the secretary of state to follow or adopt, or to preclude the secretary of state from following or adopting, any guidelines proposed by the federal election commission, any entity authorized by the federal election commission to propose guidelines, the election assistance commission, or any entity authorized by the election assistance commission to propose guidelines.

(3)(a) Before the initial certification of any direct recording electronic voting machine with a voter verified paper audit trail, and as a condition for the continued certification and use of those machines, the secretary of state shall establish, by rule, standards for the certification of those machines. Those standards shall include, but are not limited to, all of the following:

(i) A definition of a voter verified paper audit trail as a paper record of the voter's choices that is verified by the voter prior to the casting of the voter's ballot and that is securely retained by the board of elections;

(ii) Requirements that the voter verified paper audit trail shall not be retained by any voter and shall not contain individual voter information;

(iii) A prohibition against the production by any direct recording electronic voting machine of anything that legally could be removed by the voter from the polling place, such as a receipt or voter confirmation;

(iv) A requirement that paper used in producing a voter verified paper audit trail be sturdy, clean, and resistant to degradation;

(v) A requirement that the voter verified paper audit trail shall be capable of being optically scanned for the purpose of conducting a recount or other audit of the voting machine and shall be readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic codes;

(vi) A requirement, for office-type ballots, that the voter verified paper audit trail include the name of each candidate selected by the voter;

(vii) A requirement, for questions and issues ballots, that the voter verified paper audit trail include the title of the question or issue, the name of the entity that placed the question or issue on the ballot, and the voter's ballot selection on that question or issue, but not the entire text of the question or issue.

(b) The secretary of state, by rule adopted under Chapter 119. of the

Revised Code, may waive the requirement under division (H)(3)(a)(v) of this section, if the secretary of state determines that the requirement is cost prohibitive.

(4)(a) Except as otherwise provided in division (H)(4)(c) of this section, any voting machine, marking device, or automatic tabulating equipment initially certified or acquired on or after December 1, 2008, shall have the most recent federal certification number issued by the election assistance commission.

(b) Any voting machine, marking device, or automatic tabulating equipment certified for use in this state on ~~the effective date of this amendment~~ September 12, 2008, shall meet, as a condition of continued certification and use, the voting system standards adopted by the federal election commission in 2002.

(c) A county that acquires additional voting machines, marking devices, or automatic tabulating equipment on or after December 1, 2008, shall not be considered to have acquired those machines, devices, or equipment on or after December 1, 2008, for the purpose of division (H)(4)(a) of this section if all of the following apply:

(i) The voting machines, marking devices, or automatic tabulating equipment acquired are the same as the machines, devices, or equipment currently used in that county.

(ii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment does not replace or change the primary voting system used in that county.

(iii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment is for the purpose of replacing inoperable machines, devices, or equipment or for the purpose providing additional machines, devices, or equipment required to meet the allocation requirements established pursuant to division (I) of section 3501.11 of the Revised Code.

Sec. 3701.021. (A) The public health council shall adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to carry out sections 3701.021 to 3701.0210 of the Revised Code, including, but not limited to, rules to establish the following:

(1) Medical and financial eligibility requirements for the program for medically handicapped children;

(2) Eligibility requirements for providers of services for medically handicapped children;

(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division

(A)(2) of this section;

(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;

(5) Standards for the provision of service coordination by the department of health and city and general health districts;

(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;

(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;

(8) Criteria for payment of approved providers who provide services for medically handicapped children;

(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;

(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;

(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;

(12) Eligibility requirements for the hemophilia program, including income and hardship requirements;

(13) If a manufacturer discount program is established under division (J)(1) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and other requirements for participation in the program by manufacturers of drugs and nutritional formulas.

(B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to 3701.0210 of the Revised Code.

Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the public health council pursuant to division (A)(1) of section 3701.021 of the

Revised Code, and by the department in the manual of operational procedures and guidelines for the program for medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the program may be submitted to the department on behalf of the child by parents, guardians, public health nurses, or any other interested person. The department of health may designate other agencies to refer applicants to the department of health.

(B) In accordance with the procedures established in rules adopted under division (A)(4) of section 3701.021 of the Revised Code, the department of health shall authorize a provider or providers to provide to any Ohio resident under twenty-one years of age, without charge to the resident or the resident's family and without restriction as to the economic status of the resident or the resident's family, diagnostic services necessary to determine whether the resident has a medically handicapping or potentially medically handicapping condition.

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in accordance with the provider agreement required by the medical assistance program established under section 5111.01 of the Revised Code. No provider shall charge a medically handicapped child or the child's parent or guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service

coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the department may authorize payment of health insurance premiums on behalf of eligible children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost-effective.

(E) The department of health shall pay, from appropriations to the department, any necessary expenses, including but not limited to, expenses for diagnosis, treatment, service coordination, supportive services, transportation, and accessories and their upkeep, provided to medically handicapped children, provided that the provision of the goods or services is authorized by the department under division (B) or (D) of this section. Money appropriated to the department of health may also be expended for reasonable administrative costs incurred by the program. The department of health also may purchase liability insurance covering the provision of services under the program for medically handicapped children by physicians and other health care professionals.

Payments made to providers by the department of health pursuant to this division for inpatient hospital care, outpatient care, and all other medical assistance furnished to eligible recipients shall be made in accordance with rules adopted by the public health council pursuant to division (A) of section 3701.021 of the Revised Code.

The departments of health and job and family services shall jointly implement procedures to ensure that duplicate payments are not made under the program for medically handicapped children and the medical assistance program established under section 5111.01 of the Revised Code and to identify and recover duplicate payments.

(F) At the time of applying for participation in the program for medically handicapped children, a medically handicapped child or the child's parent or guardian shall disclose the identity of any third party against whom the child or the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. The department of health shall require a medically handicapped child who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined

under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the medical assistance program established under section 5111.01 of the Revised Code shall be considered payment in full of the amount determined under division (E) of this section.

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who have cystic fibrosis and who meet the eligibility requirements established by the rules of the public health council pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents', or guardians' advocates in matters pertaining to the administration of the program for medically handicapped children and eligibility for program services. The ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in

accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

(J)(1) The department of health may establish a manufacturer discount program under which a manufacturer of a drug or nutritional formula is permitted to enter into an agreement with the department to provide a discount on the price of the drug or nutritional formula distributed to medically handicapped children participating in the program for medically handicapped children. The program shall be administered in accordance with rules adopted under section 3701.021 of the Revised Code.

(2) If a manufacturer enters into an agreement with the department as described in division (J)(1) of this section, the manufacturer and the department may negotiate the amount and terms of the discount.

(3) In lieu of establishing a discount program as described in division (J)(1) of this section, the department and a manufacturer of a drug or nutritional formula may discuss a donation of drugs, nutritional formulas, or money by the manufacturer to the department.

Sec. 3701.0211. For each year that federal funds are made available to states under Title V of the "Social Security Act," 124 Stat. 352 (2010), 42 U.S.C. 710, as amended, for use in providing abstinence education, the director of health shall submit to the United States secretary of health and human services an application for the allotment of those funds that is available to this state. The director shall use the funds received in accordance with any conditions under which the application was approved.

Sec. 3701.032. The director of health may adopt rules defining what constitutes a "health home" for the purpose of any entity that is authorized to provide care coordination services. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3701.07. (A) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code defining and classifying hospitals and dispensaries and providing for the reporting of information by hospitals and dispensaries. Except as otherwise provided in the Revised Code, the rules providing for the reporting of information shall not require inclusion of any confidential patient data or any information concerning the financial condition, income, expenses, or net worth of the facilities other than that financial information already contained in those portions of the medicare or medicaid cost report that is necessary for the department of health to certify the per diem cost under section 3701.62 of the Revised Code. The rules may require the reporting of information in the following categories:

(1) Information needed to identify and classify the institution;

(2) Information on facilities and type and volume of services provided by the institution;

(3) The number of beds listed by category of care provided;

(4) The number of licensed or certified professional employees by classification;

(5) The number of births that occurred at the institution the previous calendar year;

(6) Any other information that the council considers relevant to the safety of patients served by the institution.

Every hospital and dispensary, public or private, annually shall register with and report to the department of health. Reports shall be submitted in the manner prescribed in rules adopted under this division.

(B) Every governmental entity or private nonprofit corporation or association whose employees or representatives are defined as residents' rights advocates under divisions (E)(1) and (2) of section 3721.10 ~~or division (A)(10) of section 3722.01~~ of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.

The department shall compile a list of the governmental entities, corporations, or associations registering under this division and shall update the list annually. Copies of the list shall be made available to nursing home administrators as defined in division (C) of section 3721.10 of the Revised Code and to adult care facility managers as defined in section ~~3722.01~~ 5119.70 of the Revised Code.

Sec. 3701.61. (A) The department of health shall establish the help me grow program ~~for the purpose of encouraging~~ to encourage early prenatal and well-baby care, provide parenting education to promote the comprehensive health and development of children, and provide early intervention services in accordance with part C of the "Individuals with Disabilities Education Act," 118 Stat. 2744 (2004), 20 U.S.C. 1431 et seq. The program shall include ~~distributing subsidies to counties to provide~~ the following services:

(1) ~~Home-visiting~~ Home visiting services to ~~newborn infants and their~~ families with a pregnant woman or an infant or toddler under three years of age who meet the eligibility requirements established in rules adopted under this section;

(2) ~~Services~~ Part C early intervention services to infants and toddlers under three years of age who ~~are at risk for, or who have, a developmental~~

~~delay or disability and their families~~ meet the eligibility requirements established in rules adopted under this section.

(B) The ~~department shall not provide home-visiting services under the help me grow program unless requested in writing by a parent of the infant or toddler~~ director of health may enter into an interagency agreement with one or more state agencies to implement the help me grow program and ensure coordination of early childhood programs.

(C) The director may distribute help me grow program funds through contracts, grants, or subsidies to entities providing services under the program.

(D) To the extent funds are available, the department shall establish a system of payment to providers of home visiting and part C early intervention services.

~~(C)~~(E) As a condition of receiving payments for home visiting services, providers shall report to the director data on the program performance indicators that are used to assess progress toward achieving the goals of the program. The report shall include data on the performance indicator of birth outcomes, including risk indicators of low birth weight and preterm births, and data on all other performance indicators specified in rules adopted under this section. The providers shall report the data in the format and within the time frames specified in the rules.

The director shall prepare an annual report on the data received from the providers.

(F) Pursuant to Chapter 119. of the Revised Code, the ~~department~~ director shall adopt rules that are necessary and proper to implement this section. The rules shall specify all of the following:

(1) Eligibility requirements for home visiting services and part C early intervention services;

(2) Eligibility requirements for providers of home visiting services and providers of part C early intervention services;

(3) Standards and procedures for the provision of program services, including data collection, program monitoring, and program evaluation;

(4) Procedures for appealing the denial of an application for program services or the termination of services;

(5) Procedures for appealing the denial of an application to become a provider of program services or the termination of the department's approval of a provider;

(6) Procedures for addressing complaints;

(7) The program performance indicators on which data must be reported by providers of home visiting services under division (E) of this section,

which, to the extent possible, shall be consistent with federal reporting requirements for federally funded home visiting services;

(8) The format in which reports must be submitted under division (E) of this section and the time frames within which the reports must be submitted;

(9) Criteria for payment of approved providers of program services;

(10) Any other rules necessary to implement the program.

(G) A family enrolled in the help me grow at-risk program on the effective date of this amendment shall be eligible for at-risk services until December 31, 2013, or until the eligible child reaches three years of age, whichever occurs first.

Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:

(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(4) "Health care practitioner" means all of the following:

(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

(b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(c) An optometrist licensed under Chapter 4725. of the Revised Code;

(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;

(e) A pharmacist licensed under Chapter 4729. of the Revised Code;

(f) A physician;

(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;

(i) A psychologist licensed under Chapter 4732. of the Revised Code;

(j) A chiropractor;

(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;

(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;

(p) A dietitian licensed under Chapter 4759. of the Revised Code;

(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.

(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section ~~3722.01~~ 5119.70 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.

(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative.

(10) "Patient" means either of the following:

(a) An individual who received health care treatment from a health care provider;

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section.

(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division.

(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record.

(B) A patient, a patient's personal representative or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal representative, or authorized person dated not more than one year before the date on which it is submitted. The request shall indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with section 3701.741 of the Revised Code, except that if a physician or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care provider shall provide the record to a physician or chiropractor designated by the patient. The health care provider shall take reasonable steps to establish the identity of the person making the request to

examine or obtain a copy of the patient's record.

(C) If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may bring a civil action to enforce the patient's right of access to the record.

(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24, 2305.25, 2305.251, and 2305.252 of the Revised Code.

Sec. 3701.83. (A) There is hereby created in the state treasury the general operations fund. Moneys in the fund shall be used for the purposes specified in sections 3701.04, 3701.344, 3702.20, 3710.15, 3711.16, 3717.45, 3718.06, 3721.02, ~~3722.04,~~ 3721.022, 3729.07, ~~3733.04, 3733.25,~~ 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 of the Revised Code.

(B) The alcohol testing program fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce the alcohol testing and permit program authorized by section 3701.143 of the Revised Code.

The fund shall receive transfers from the liquor control fund created under section 4301.12 of the Revised Code. All investment earnings of the alcohol testing program fund shall be credited to the fund.

Sec. 3702.52. The director of health shall administer a state certificate of need program in accordance with sections 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections.

(A) The director shall issue rulings on whether a particular proposed project is a reviewable activity. The director shall issue a ruling not later than forty-five days after receiving a request for a ruling accompanied by the information needed to make the ruling. If the director does not issue a ruling in that time, the project shall be considered to have been ruled not a reviewable activity.

(B) ~~The director shall review applications for certificates of need.~~ Each application for a certificate of need shall be submitted to the director on forms prescribed by the director~~, shall include all information required by rules adopted under division (B) of section 3702.57 of the Revised Code, and~~. Each application shall include a plan for obligating the capital expenditures or implementing the proposed project on a timely basis in

accordance with section 3702.525 of the Revised Code. Each application shall also include all other information required by rules adopted under division (B) of section 3702.57 of the Revised Code.

Each application shall be accompanied by the application fee established in rules adopted under division (G) of ~~that~~ section~~.~~

~~Application~~ 3702.57 of the Revised Code. Application fees received by the director under this division shall be deposited into the state treasury to the credit of the certificate of need fund, which is hereby created. The director shall use the fund only to pay the costs of administering sections 3702.11 to 3702.20, 3702.30, and 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections.

The director shall review applications for certificates of need. As part of a review, the director shall determine whether an application is complete. The director shall not consider an application to be complete unless the application meets all criteria for a complete application specified in rules adopted under section 3702.57 of the Revised Code. The director shall mail to the applicant a written notice that the application ~~meets the criteria for a complete application specified in rules adopted under section 3702.57 of the Revised Code~~ is complete, or a written request for additional information, not later than thirty days after receiving an application or a response to an earlier request for information. ~~The~~ Except as provided in section 3702.523 of the Revised Code, the director shall not make more than two requests for additional information.

The director may conduct a public informational hearing in the course of reviewing any application for a certificate of need, and shall conduct one if requested to do so by any affected person not later than fifteen days after the director mails the notice that the application is complete. The hearing shall be conducted in the community in which the activities authorized by the certificate of need would be carried out. Any affected person may testify at the hearing. The director may, with the health service agency's consent, designate a health service agency to conduct the hearing.

Except during a public hearing or as necessary to comply with a subpoena issued under division (E) of this section, after a notice of completeness has been received, no person shall make revisions to information that was submitted to the director before the director mailed the notice of completeness or knowingly discuss in person or by telephone the merits of the application with the director. A person may supplement an application after a notice of completeness has been received by submitting clarifying information to the director. If one or more persons request a meeting in person or by telephone, the director shall make a reasonable

effort to invite interested parties to the meeting or conference call.

(C) All of the following apply to the process of granting or denying a certificate of need:

(1) If the project proposed in a certificate of need application meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections, the director shall grant a certificate of need for all or part of the project that is the subject of the application by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section.

(2) The director's grant of a certificate of need does not affect, and sets no precedent for, the director's decision to grant or deny other applications for similar reviewable activities proposed to be conducted in the same or different health service areas.

(3) If the director receives written objections to an application from any affected person by the thirtieth day after mailing the notice of completeness, the director shall notify the applicant and assign a hearing examiner to conduct an adjudication hearing concerning the application in accordance with Chapter 119. of the Revised Code. In the case of applications under comparative review, if the director receives written objections to any of the applications from any affected person by the thirtieth day after the director mails the last notice of completeness, the director shall notify all of the applicants and appoint a hearing examiner to conduct a consolidated adjudication hearing concerning the applications in accordance with Chapter 119. of the Revised Code. The hearing examiner shall be employed by or under contract with the department of health.

The adjudication hearings may be conducted in the health service area in which the reviewable activity is proposed to be conducted. Consolidated adjudication hearings for applications in comparative review may be conducted in the geographic region in which all of the reviewable activities will be conducted. The applicant, the director, and the affected persons that filed objections to the application shall be parties to the hearing. If none of the affected persons that submitted written objections to the application appears or prosecutes the hearing, the hearing examiner shall dismiss the hearing and the director shall grant a certificate of need for all or part of the project that is the subject of the application if the proposed project meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections. The affected persons bear the burden of proving by a preponderance of evidence that the project is not needed or that granting the

certificate would not be in accordance with sections 3702.51 to 3702.62 of the Revised Code or the rules adopted under those sections.

(4) Except as provided in division (C)(5) of this section, the director shall grant or deny certificate of need applications for which an adjudication hearing is not conducted under division (C)(3) of this section not later than sixty days after mailing the notice of completeness or, in the case of an application proposing addition of long-term care beds, not later than sixty days after such other time as is specified in rules adopted under section 3702.57 of the Revised Code. Except as provided in division (C)(5) of this section, the director shall grant or deny certificate of need applications for which an adjudication hearing is conducted under division (C)(3) of this section not later than thirty days after the expiration of the time for filing objections to the report and recommendation of the hearing examiner under section 119.09 of the Revised Code. The director shall base decisions concerning applications for which an adjudication hearing is conducted under division (C)(3) of this section on the report and recommendations of the hearing examiner.

(5) Except as otherwise provided in division (C) (6) of this section, the director or the applicant may extend the deadline prescribed in division (C)(4) of this section once, for no longer than thirty days, by written notice before the end of the deadline prescribed by division (C)(4) of this section. An extension by the director under division (C)(5) of this section shall apply to all applications that are in comparative review.

(6) No applicant in a comparative review may extend the deadline specified in division (C)(4) of this section.

(7) If the director does not grant or deny the certificate by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section, the certificate shall be considered to have been granted.

(8) In granting a certificate of need, the director shall specify as the maximum capital expenditure the certificate holder may obligate under the certificate a figure equal to one hundred ten per cent of the approved project cost.

(9) In granting a certificate of need, the director may grant the certificate with conditions that must be met by the holder of the certificate.

(D) The director shall monitor the activities of persons granted certificates of need during the period beginning with the granting of the certificate of need and ending five years after implementation of the activity for which the certificate was granted.

(E) When reviewing applications for certificates of need or monitoring

activities of persons granted certificates of need, the director may issue and enforce, in the manner provided in section 119.09 of the Revised Code, subpoenas duces tecum to compel the production of documents relevant to review of the application or monitoring of the activities. In addition, the director or the director's designee, which may include a health service agency, may visit the sites where the activities are or will be conducted.

(F) The director may withdraw certificates of need.

(G) The director shall conduct, on a regular basis, health system data collection and analysis activities and prepare reports. The director shall make recommendations based upon these activities to the public health council concerning the adoption of appropriate rules under section 3702.57 of the Revised Code. All health care facilities and other health care providers shall submit to the director, upon request, any information that is necessary to conduct reviews of certificate of need applications and to develop recommendations for criteria for reviews, and that is prescribed by rules adopted under division (H) of section 3702.57 of the Revised Code.

(H) Any decision to grant or deny a certificate of need shall consider the special needs and circumstances resulting from moral and ethical values and the free exercise of religious rights of health care facilities administered by religious organizations, and the special needs and circumstances of inner city and rural communities.

Sec. 3702.523. A person who has an application for a certificate of need pending with the director of health may revise the application to change the site of the proposed project unless either of the following applies:

(A) The director, under section 3702.52 of the Revised Code, has mailed the applicant a written notice that the application is complete.

(B) The application is subject to a comparative review under section 3702.593 of the Revised Code.

The only revision that may be made in the revised application is the site of the proposed project. The revised site of the proposed project must be located in the same county as the site of the proposed project specified in the original application. The director may not accept a revised application if it includes revisions other than the site of the proposed project or if the revised site is located in a different county than the county in which the site specified in the original application is located.

A revised application shall be accompanied by an additional, non-refundable fee equal to twenty-five per cent of the fee charged under section 3702.52 of the Revised Code for the original application. The additional fee shall be deposited into the certificate of need fund created under section 3702.52 of the Revised Code.

On acceptance of a revised application, the director shall continue to review the application as revised in accordance with section 3702.52 of the Revised Code to determine whether it is complete and, if necessary and regardless of whether the director previously made two requests for additional information, may make a final written request to the applicant for additional information not later than thirty days after the date the director accepts the revised application.

Sec. 3702.57. (A) The public health council shall adopt rules establishing procedures and criteria for reviews of applications for certificates of need and issuance, denial, or withdrawal of certificates.

(1) In adopting rules that establish criteria for reviews of applications of certificates of need, the council shall consider the availability of and need for long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries and shall prescribe criteria for reviewing applications that propose to add long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries.

(2) The criteria for reviews of applications for certificates of need shall relate to the need for the reviewable activity and shall pertain to all of the following matters:

(a) The impact of the reviewable activity on the cost and quality of health services in the relevant geographic area, including, but not limited, to the historical and projected utilization of the services to which the application pertains and the effect of the reviewable activity on utilization of other providers of similar services;

(b) The quality of the services to be provided as the result of the activity, as evidenced by the historical performance of the persons that will be involved in providing the services and by the provisions that are proposed in the application to ensure quality, including but not limited to adequate available personnel, available ancillary and support services, available equipment, size and configuration of physical plant, and relations with other providers;

(c) The impact of the reviewable activity on the availability and accessibility of the type of services proposed in the application to the population of the relevant geographic area, and the level of access to the services proposed in the application that will be provided to medically underserved individuals such as recipients of public assistance and individuals who have no health insurance or whose health insurance is insufficient;

(d) The activity's short- and long-term financial feasibility and cost-effectiveness, the impact of the activity on the applicant's costs and

charges, and a comparison of the applicant's costs and charges with those of providers of similar services in the applicant's proposed service area;

(e) The advantages, disadvantages, and costs of alternatives to the reviewable activity;

(f) The impact of the activity on all other providers of similar services in the health service area or other relevant geographic area, including the impact on their utilization, market share, and financial status;

(g) The historical performance of the applicant and related or affiliated parties in complying with previously granted certificates of need and any applicable certification, accreditation, or licensure requirements;

(h) The relationship of the activity to the current edition of the state health resources plan issued under section 3702.521 of the Revised Code;

(i) The historical performance of the applicant and related or affiliated parties in providing cost-effective health care services;

(j) The special needs and circumstances of the applicant or population proposed to be served by the proposed project, including research activities, prevalence of particular diseases, unusual demographic characteristics, cost-effective contractual affiliations, and other special circumstances;

(k) The appropriateness of the zoning status of the proposed site of the activity;

(l) The participation by the applicant in research conducted by the United States food and drug administration or clinical trials sponsored by the national institutes of health.

(3) The criteria for reviews of applications shall include a formula for determining each county's long-term care bed need for purposes of section 3702.593 of the Revised Code and may include other formulas for determining need for beds.

Any rules prescribing criteria that establish ratios of beds to population shall specify the bases for establishing the ratios or mitigating factors or exceptions to the ratios.

(B) The council shall adopt rules specifying all of the following:

(1) Information that must be provided in applications for certificates of need~~, which shall include a plan for obligating the capital expenditure or implementing the proposed project on a timely basis in accordance with section 3702.525 of the Revised Code~~;

(2) Procedures for reviewing applications for completeness of information;

(3) Criteria for determining that the application is complete.

(C) The council shall adopt rules specifying requirements that holders of certificates of need must meet in order for the certificates to remain valid

and establishing definitions and requirements for obligation of capital expenditures and implementation of projects authorized by certificates of need.

(D) The council shall adopt rules establishing criteria and procedures under which the director of health may withdraw a certificate of need if the holder fails to meet requirements for continued validity of the certificate.

(E) The council shall adopt rules establishing procedures under which the department of health shall monitor project implementation activities of holders of certificates of need. The rules adopted under this division also may establish procedures for monitoring implementation activities of persons that have received nonreviewability rulings.

(F) The council shall adopt rules establishing procedures under which the director of health shall review certificates of need whose holders exceed or appear likely to exceed an expenditure maximum specified in a certificate.

(G) The council shall adopt rules establishing certificate of need application fees sufficient to pay the costs incurred by the department for administering sections 3702.51 to 3702.62 of the Revised Code and to pay health service agencies for the functions they perform under division (D)(5) of section 3702.58 of the Revised Code. Unless rules are adopted under this division establishing different application fees, the application fee for a project not involving a capital expenditure shall be three thousand dollars and the application fee for a project involving a capital expenditure shall be nine-tenths of one per cent of the capital expenditure proposed subject to a minimum of three thousand dollars and a maximum of twenty thousand dollars.

(H) The council shall adopt rules specifying information that is necessary to conduct reviews of certificate of need applications and to develop recommendations for criteria for reviews that health care facilities and other health care providers are to submit to the director under division (G) of section 3702.52 of the Revised Code.

(I) The council shall adopt rules defining "affiliated person," "related person," and "ultimate controlling interest" for purposes of section 3702.524 of the Revised Code.

(J) The council shall adopt rules prescribing requirements for holders of certificates of need to demonstrate to the director under section 3702.526 of the Revised Code that reasonable progress is being made toward completion of the reviewable activity and establishing standards by which the director shall determine whether reasonable progress is being made.

(K) The public health council shall adopt all rules under divisions (A) to

(J) of this section in accordance with Chapter 119. of the Revised Code. The council may adopt other rules as necessary to carry out the purposes of sections 3702.51 to 3702.62 of the Revised Code.

Sec. 3702.59. (A) The director of health shall accept for review certificate of need applications as provided in sections 3702.592, 3702.593, and 3702.594 of the Revised Code.

(B)(1) The director shall not approve an application for a certificate of need for the addition of long-term care beds to an existing health care facility or for the development of a new health care facility if any of the following apply:

(a) The existing health care facility in which the beds are being placed has one or more waivers for life safety code deficiencies, one or more state fire code violations, or one or more state building code violations, and the project identified in the application does not propose to correct all life safety code deficiencies for which a waiver has been granted, all state fire code violations, and all state building code violations at the existing health care facility in which the beds are being placed;

(b) During the sixty-month period preceding the filing of the application, a notice of proposed license revocation was issued under section 3721.03 of the Revised Code for the existing health care facility in which the beds are being placed or a nursing home owned or operated by the applicant or a principal participant.

(c) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing health care facility in which the beds are being placed, any of the following occurred:

(i) The facility was cited on three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies.

(ii) The facility was cited on two or more separate occasions for final, nonappealable immediate jeopardy deficiencies.

(iii) The facility was cited on two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(d) More than two nursing homes owned or operated in this state by the applicant or a principal participant or, if the applicant or a principal participant owns or operates more than twenty nursing homes in this state, more than ten per cent of those nursing homes, were each cited during the period that precedes the filing of the application for the certificate of need and is encompassed by the three most recent standard surveys of the nursing homes that were so cited in any of the following manners:

(i) On three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies;

(ii) On two or more separate occasions for final, nonappealable immediate jeopardy deficiencies;

(iii) On two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(2) In applying divisions (B)(1)(a) to (d) of this section, the director shall not consider deficiencies or violations cited before the applicant or a principal participant acquired or began to own or operate the health care facility at which the deficiencies or violations were cited. The director may disregard deficiencies and violations cited after the health care facility was acquired or began to be operated by the applicant or a principal participant if the deficiencies or violations were attributable to circumstances that arose under the previous owner or operator and the applicant or principal participant has implemented measures to alleviate the circumstances. In the case of an application proposing development of a new health care facility by relocation of beds, the director shall not consider deficiencies or violations that were solely attributable to the physical plant of the existing health care facility from which the beds are being relocated.

(C) The director also shall accept for review any application for the conversion of infirmary beds to long-term care beds if the infirmary meets all of the following conditions:

(1) Is operated exclusively by a religious order;

(2) Provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related;

(3) Was providing care exclusively to members of such a religious order on January 1, 1994.

~~At no time shall individuals other than those described in division (C)(2) of this section be admitted to a facility to use beds for which a certificate of need is approved under this division.~~

(D) Notwithstanding division (C)(2) of this section, a facility that has been granted a certificate of need under division (C) of this section may provide care to any of the following family members of the individuals described in division (C)(2) of this section: mothers, fathers, brothers, sisters, brothers-in-law, sisters-in-law, or children.

The long-term care beds in a facility that have been granted a certificate of need under division (C) of this section may not be relocated pursuant to sections 3702.592 to 3702.594 of the Revised Code.

Sec. 3704.06. (A) The attorney general, upon the request of the director of environmental protection, shall prosecute any person who violates section 3704.05 or 3704.16 of the Revised Code.

(B) The attorney general, upon request of the director, shall bring an action for an injunction, a civil penalty, or any other appropriate proceedings in any court of competent jurisdiction against any person violating or threatening to violate section 3704.05 or 3704.16 of the Revised Code. The court shall have jurisdiction to grant prohibitory and mandatory injunctive relief and to require payment of a civil penalty upon the showing that ~~such~~ the person has violated this chapter or rules adopted thereunder.

(C) A person who violates section 3704.05 or 3704.16 of the Revised Code shall pay a civil penalty of not more than twenty-five thousand dollars for each day of each violation. This division does not apply to any requirement of this chapter regarding the prevention or abatement of odors.

(D) One-half of the moneys collected as civil penalties under division (C) of this section shall be credited to the environmental education fund created in section 3745.22 of the Revised Code. The remainder of the moneys so collected shall be credited to the air pollution control administration fund, which is hereby created in the state treasury. The air pollution control administration fund shall be administered by the director. Moneys in the air pollution control administration fund shall be used to supplement other moneys available for the administration and enforcement of this chapter and the rules adopted and terms and conditions of orders and permits issued under it, including, without limitation, the issuance of permits under it, and shall not be used to satisfy any state matching fund requirements for the receipt of any federal grant funds.

The director may expend not more than ~~seven~~ one million five hundred ~~fifty~~ thousand dollars of the moneys credited to the air pollution control administration fund under this division in any fiscal year for the purposes specified in this division. The director may request authority from the controlling board to expend any moneys credited to that fund in any fiscal year in excess of that amount.

(E) Upon written complaint by any person, the director shall conduct such investigations and make such inquiries as are necessary to secure compliance with this chapter. The director, upon complaint or upon ~~his~~ the director's own initiative, may investigate or make inquiries into any alleged violation or act of air pollution.

Sec. 3704.14. (A)(1) If the director of environmental protection determines that implementation of a motor vehicle inspection and maintenance program is necessary for the state to effectively comply with

the federal Clean Air Act after June 30, ~~2009~~ 2011, the director may provide for the implementation of the program in those counties in this state in which such a program is federally mandated. Upon making such a determination, the director of environmental protection may request the director of administrative services to extend the terms of the contract that was entered into under the authority of ~~Section 7 of~~ Am. Sub. H.B. ~~24~~ 1 of the ~~127th~~ 128th general assembly. Upon receiving the request, the director of administrative services shall extend the contract, beginning on July 1, ~~2009~~ 2011, in accordance with this section. The contract shall be extended for a period of up to ~~six~~ twelve months with the contractor who conducted the motor vehicle inspection and maintenance program under that contract.

(2) Prior to the expiration of the contract extension that is authorized by division (A)(1) of this section, the director of environmental protection ~~may~~ shall request the director of administrative services to enter into a contract with a vendor to operate a decentralized motor vehicle inspection and maintenance program in each county in this state in which such a program is federally mandated through June 30, ~~2011~~ 2015, with an option for the state to renew the contract through June 30, ~~2012~~ 2017. The contract shall ensure that the decentralized motor vehicle inspection and maintenance program achieves at least the same ~~ozone precursor~~ emission reductions as achieved by the program operated under the authority of the contract that was extended under division (A)(1) of this section. The director of administrative services shall select a vendor through a competitive selection process in compliance with Chapter 125. of the Revised Code.

(3) Notwithstanding any law to the contrary, the director of administrative services shall ensure that a competitive selection process regarding a contract to operate a decentralized motor vehicle inspection and maintenance program in this state incorporates the following ~~elements~~, which shall be included in the contract:

(a) ~~A~~ For purposes of expanding the number of testing locations for consumer convenience, a requirement that the vendor utilize established local businesses, auto repair facilities, or leased properties to operate state-approved inspection and maintenance testing facilities;

(b) A requirement that the vendor selected to operate the program provide notification of the program's requirements to each owner of a motor vehicle that is required to be inspected under the program. The contract shall require the notification to be provided not later than sixty days prior to the date by which the owner of the motor vehicle is required to have the motor vehicle inspected. The director of environmental protection and the vendor shall jointly agree on the content of the notice. However, the notice shall

include at a minimum the locations of all inspection facilities within a specified distance of the address that is listed on the owner's motor vehicle registration;

(c) A requirement that the vendor comply with testing methodology and supply the required equipment approved by the director of environmental protection as specified in the competitive selection process in compliance with Chapter 125. of the Revised Code.

(4) A decentralized motor vehicle inspection and maintenance program operated under this section shall comply with division (B) of this section. The director of environmental protection shall administer the decentralized motor vehicle inspection and maintenance program operated under this section.

(B) The decentralized motor vehicle inspection and maintenance program authorized by this section, at a minimum, shall do all of the following:

(1) Comply with the federal Clean Air Act;

(2) Provide for the issuance of inspection certificates;

(3) Provide for a new car exemption for motor vehicles four years old or newer and provide that a new motor vehicle is exempt for four years regardless of whether legal title to the motor vehicle is transferred during that period.

(C) ~~A motor vehicle inspection and maintenance program shall not be implemented in any county in which such a program is not authorized under division (A) of this section without the approval of the general assembly through the enactment of legislation. Further, a motor vehicle inspection and maintenance program shall not be implemented in any county beyond June 30, 2012, without the approval of the general assembly through the enactment of legislation.~~

~~(D)~~ The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code that the director determines are necessary to implement this section. The director may continue to implement and enforce rules pertaining to the motor vehicle inspection and maintenance program previously implemented under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th general assembly, provided that the rules do not conflict with this section.

~~(E)~~(D) There is hereby created in the state treasury the auto emissions test fund, which shall consist of money received by the director from any cash transfers, state and local grants, and other contributions that are received for the purpose of funding the program established under this

section. The director of environmental protection shall use money in the fund solely for the implementation, supervision, administration, operation, and enforcement of the motor vehicle inspection and maintenance program established under this section. Money in the fund shall not be used for either of the following:

(1) To pay for the inspection costs incurred by a motor vehicle dealer so that the dealer may provide inspection certificates to an individual purchasing a motor vehicle from the dealer when that individual resides in a county that is subject to the motor vehicle inspection and maintenance program;

(2) To provide payment for more than one free passing emissions inspection or a total of three emissions inspections for a motor vehicle in any three-hundred-sixty-five day period. The owner or lessee of a motor vehicle is responsible for inspection fees that are related to emissions inspections beyond one free passing emissions inspection or three total emissions inspections in any three-hundred-sixty-five day period. Inspection fees that are charged by a contractor conducting emissions inspections under a motor vehicle inspection and maintenance program shall be approved by the director of environmental protection.

~~(F)~~(E) The motor vehicle inspection and maintenance program established under this section expires upon the termination of all contracts entered into under this section and shall not be implemented beyond the final date on which termination occurs.

Sec. 3705.24. (A)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request.

(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;

(c) Filing of a delayed registration of a vital record;

(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;

(e) Any other documents or services for which the public health council considers the charging of a fee appropriate.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be

less than twelve dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fees required by sections 3109.14 and 3705.242 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics ~~or,~~ the board of health of a city or general health district, or a local registrar of vital statistics who is not a salaried employee of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used to support the operations, the modernization, and the automation of the vital records program in this state. A board of health or a local registrar shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and

completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is

hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

(I)(1) Four dollars of each fee collected by ~~the director of health or~~ the board of health of a city or general health district for ~~an item or service described in division (A)(1)(a) of this section~~ a certified copy of a vital record or a certification of birth shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter ~~and~~. The amount collected shall be used to support public health systems. Of each four dollars collected, one dollar shall be used by the director of health to pay subsidies to boards of health. The subsidies shall be distributed in accordance with the same formula established under section 3701.342 of the Revised Code for the distribution of state health district subsidy funds to boards of health and local health departments.

(2) Four dollars of each fee collected by a local registrar of vital statistics who is not a salaried employee of a city or general health district, for a certified copy of a vital record or certification of birth, shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems.

Sec. 3709.09. (A) The board of health of a city or general health district may, by rule, establish a uniform system of fees to pay the costs of any services provided by the board.

The fee for issuance of a certified copy of a vital record or a certification of birth shall not be less than the fee prescribed for the same service under division (A)(1) of section 3705.24 of the Revised Code and shall include the fees required by division (B) of section 3705.24 and section 3109.14 of the Revised Code.

Fees for services provided by the board for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25,~~ and 3749.04 of the Revised Code shall be established in accordance with rules adopted under division (B) of this section. The district advisory council, in the case of a general health district, and the legislative authority of the city, in the case of a city health district, may disapprove any fee established by the board of health under this division, and any such fee, as disapproved, shall not be charged by the board of health.

(B) The public health council shall adopt rules under section 111.15 of

the Revised Code that establish fee categories and a uniform methodology for use in calculating the costs of services provided for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25,~~ and 3749.04 of the Revised Code. In adopting the rules, the public health council shall consider recommendations it receives from advisory boards established either by statute or the director of health for entities subject to the fees.

(C) Except when a board of health establishes a fee by adopting a rule as an emergency measure, the board of health shall hold a public hearing regarding each proposed fee for a service provided by the board for a purpose specified in section 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25,~~ or 3749.04 of the Revised Code. If a public hearing is held, at least twenty days prior to the public hearing the board shall give written notice of the hearing to each entity affected by the proposed fee. The notice shall be mailed to the last known address of each entity and shall specify the date, time, and place of the hearing and the amount of the proposed fee.

(D) If payment of a fee established under this section is not received by the day on which payment is due, the board of health shall assess a penalty. The amount of the penalty shall be equal to twenty-five per cent of the applicable fee.

(E) All rules adopted by a board of health under this section shall be adopted, recorded, and certified as are ordinances of municipal corporations and the record thereof shall be given in all courts the same effect as is given such ordinances, but the advertisements of such rules shall be by publication in one newspaper of general circulation within the health district. Publication shall be made once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, and such rules shall take effect and be in force ten days from the date of the first publication.

Sec. 3709.092. (A) A board of health of a city or general health district shall transmit to the director of health all fees or additional amounts that the public health council requires to be collected under sections 3701.344, 3718.06, 3729.07, ~~3733.04, 3733.25,~~ and 3749.04 of the Revised Code. The fees and amounts shall be transmitted according to the following schedule:

(1) For fees and amounts received by the board on or after the first day of January but not later than the thirty-first day of March, transmit the fees and amounts not later than the fifteenth day of May;

(2) For fees and amounts received by the board on or after the first day of April but not later than the thirtieth day of June, transmit the fees and amounts not later than the fifteenth day of August;

(3) For fees and amounts received by the board on or after the first day of July but not later than the thirtieth day of September, transmit the fees and amounts not later than the fifteenth day of November;

(4) For fees and amounts received by the board on or after the first day of October but not later than the thirty-first day of December, transmit the fees and amounts not later than the fifteenth day of February of the following year.

(B) The director shall deposit the fees and amounts received under this section into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. Each amount shall be used solely for the purpose for which it was collected.

Sec. 3709.21. The board of health of a general health district may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease, and the prevention, abatement, or suppression of nuisances. Such board may require that no human, animal, or household wastes from sanitary installations within the district be discharged into a storm sewer, open ditch, or watercourse without a permit therefor having been secured from the board under such terms as the board requires. All orders and regulations not for the government of the board, but intended for the general public, shall be adopted, recorded, and certified as are ordinances of municipal corporations and the record thereof shall be given in all courts the same effect as is given such ordinances, but the advertisements of such orders and regulations shall be by publication in ~~one~~ a newspaper ~~published and~~ of general circulation within the district. Publication shall be made once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, and such orders and regulations shall take effect and be in force ten days from the date of the first publication. In cases of emergency caused by epidemics of contagious or infectious diseases, or conditions or events endangering the public health, the board may declare such orders and regulations to be emergency measures, and such orders and regulations shall become effective immediately without such advertising, recording, and certifying.

Sec. 3709.341. The board of county commissioners may donate or sell property, buildings, and furnishings to any board of health of a general or combined health district. Upon acceptance by the board of health of the general or combined district, the board of county commissioners may convey the property, buildings, and furnishings to the board of health to be used as quarters by the board of health. The instrument conveying the property, buildings, and furnishings shall include a reverter clause that, in the event the board of health subsequently sells the property, buildings, and

furnishings:

(A) Reverts the property, buildings, and furnishings to the board of county commissioners if they initially were donated by the board of county commissioners; or

(B) Specifies how the proceeds of the board of health's subsequent sale of the property, buildings, and furnishings shall be distributed, if they initially were sold by the board of county commissioners.

Sec. 3717.53. (A) As used in this section:

(1) "Food nutrition information" includes, but is not limited to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin, mineral, allergen, and sodium content of food. "Food nutrition information" also includes the designation of food as healthy or unhealthy.

(2) "Political subdivision" and "local legislation" have the same meanings as in section 905.501 of the Revised Code.

(3) "Consumer incentive item" means any licensed media character, toy, game, trading card, contest, point accumulation, club membership, admission ticket, token, code or password for digital access, coupon, voucher, incentive, crayons, coloring placemat, or other premium, prize, or consumer product that is associated with a meal served by or acquired from a food service operation.

(B) The director of agriculture has sole and exclusive authority in this state to regulate the provision of food nutrition information and consumer incentive items at food service operations. The director may adopt rules for that purpose in accordance with Chapter 119. of the Revised Code, including rules that establish a schedule of civil penalties for violations of this section and rules adopted under it. Subject to the approval of the joint committee on agency rule review, portions of the rules may be adopted by referencing all or any part of any federal regulations pertaining to the provision of food nutrition information and consumer incentive items.

The regulation of the provision of food nutrition information and consumer incentive items at food service operations ~~is a matter~~ and how food service operations are characterized are matters of general statewide interest that ~~requires~~ require statewide regulation, and rules adopted under this section constitute a comprehensive plan with respect to all aspects of the regulation of the provision of food nutrition information and consumer incentive items at food service operations in this state. Rules adopted under this section shall be applied uniformly throughout this state.

(C) No political subdivision shall ~~enact~~ do any of the following:

(1) Enact, adopt, or continue in effect local legislation relating to the provision or nonprovision of food nutrition information or consumer

incentive items at food service operations;

(2) Condition a license, a permit, or regulatory approval on the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(3) Ban, prohibit, or otherwise restrict food at food service operations based on the food nutrition information or on the provision or nonprovision of consumer incentive items;

(4) Condition a license, a permit, or regulatory approval for a food service operation on the existence or nonexistence of food-based health disparities;

(5) Where food service operations are permitted to operate, ban, prohibit, or otherwise restrict a food service operation based on the existence or nonexistence of food-based health disparities as recognized by the department of health, the national institute of health, or the centers for disease control.

Sec. 3719.141. (A) A peace officer may sell any controlled substance in the performance of the officer's official duties only if either of the following applies:

(1) A peace officer may sell any controlled substance in the performance of the officer's official duties if all of the following apply:

(a) Prior approval for the sale has been given by the prosecuting attorney of the county in which the sale takes place, in any manner described in division (B) of this section;

(b) The peace officer who makes the sale determines that the sale is necessary in the performance of the officer's official duties;

(c) Any of the following applies:

(i) The person to whom the sale is made or any other person who is involved in the sale does not know that the officer who makes the sale is a peace officer, and the peace officer who makes the sale determines that the sale is necessary to prevent the person from determining or suspecting that the officer who makes the sale is a peace officer.

(ii) The peace officer who makes the sale determines that the sale is necessary to preserve an identity that the peace officer who makes the sale has assumed in the performance of the officer's official duties.

(iii) The sale involves a controlled substance that, during the course of another sale, was intercepted by the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale; the intended recipient of the controlled substance in the other sale does not know that the controlled substance has been so intercepted; the sale in question is made to the intended recipient of the

controlled substance in the other sale and is undertaken with the intent of obtaining evidence of a drug abuse offense against the intended recipient of the controlled substance; and the sale in question does not involve the transfer of any money or other thing of value to the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale in exchange for the controlled substance.

(d) If the sale is made under the circumstances described in division (A)(1)(c)(i) or (ii) of this section, no person is charged with any criminal offense or any delinquent act based upon the sale unless both of the following apply:

(i) The person also is charged with a criminal offense or a delinquent act that is based upon an act or omission that is independent of the sale but that either is connected together with the sale, or constitutes a part of a common scheme or plan with the sale, or is part of a course of criminal conduct involving the sale.

(ii) The criminal offense or delinquent act based upon the sale and the other criminal offense or delinquent act are charged in the same indictment, information, or complaint.

(e) The sale is not part of a continuing course of conduct involving the sale of controlled substances by the peace officer who makes the sale.

(f) The amount of the controlled substance sold and the scope of the sale of the controlled substance is as limited as possible under the circumstances.

(g) Prior to the sale, the law enforcement agency served by the peace officer who makes the sale has adopted a written internal control policy that does all of the following:

(i) Addresses the keeping of detailed records as to the amount of money or other things of value obtained in the sale in exchange for the controlled substance;

(ii) Addresses the delivery of all moneys or things of value so obtained to the prosecuting attorney pursuant to division (D) of this section;

(iii) Addresses the agency's use and disposition of all such moneys or things of value that are deposited in the law enforcement trust fund of the sheriff, municipal corporation, or township, pursuant to division (D) of this section, and that are used by the sheriff, are allocated to the police department of the municipal corporation by its legislative authority, or are allocated by the board of township trustees to the township police department, township <u>or joint</u> police district police force, or office of the constable;

(iv) Provides for the keeping of detailed financial records of the receipts of the proceeds, the general types of expenditures made out of the proceeds

received, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any peace officer involved in the sale, any information that is or may be needed in an ongoing investigation, or any specific expenditure that is made in an ongoing investigation.

(2) A peace officer may sell any controlled substance in the performance of the officer's official duties if all of the following apply:

(a) Prior approval for the sale has been given by the prosecuting attorney of the county in which the sale takes place, in any manner described in division (B) of this section;

(b) Prior to the sale, the law enforcement agency served by the peace officer has adopted a written internal control policy that does the things listed in divisions (A)(1)(g)(i) to (iv) of this section;

(c) The purchaser of the controlled substance acquires possession of it in the presence of the peace officer who makes the sale.

(d) Upon the consummation of the sale, either of the following occurs:

(i) The peace officer arrests the purchaser of the controlled substance, recovers it and the proceeds of the sale, and secures it and the proceeds as evidence to be used in a subsequent prosecution.

(ii) The peace officer makes a reasonable, good faith effort to arrest the purchaser of the controlled substance and to recover the controlled substance and the proceeds of the sale, but the officer is unable to make the arrest and recover all of the controlled substance and proceeds for reasons beyond the officer's control, and the peace officer secures all of the controlled substance recovered and all of the proceeds recovered as evidence to be used in a subsequent prosecution.

(B) The approval of a prosecuting attorney required by division (A)(1)(a) or (2)(a) of this section may be in either of the following forms:

(1) A general approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served by that peace officer, that grants approval only to that peace officer, and that grants approval for any such sale that may be necessary, after the approval has been granted, under the standards described in division (A)(1) or (2) of this section;

(2) A specific approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served by that peace officer, and that grants approval only to that peace officer and only for the particular sale in question, under the standards described in division (A)(1) or (2) of this section.

(C) If a peace officer sells a controlled substance in the performance of

the officer's official duties under division (A)(1) or (2) of this section, the peace officer, within a reasonable time after the sale, shall provide the prosecuting attorney who granted approval for the sale with a written summary that identifies the amount and type of controlled substance sold, the circumstances of the sale, and the amount of any money or other thing of value obtained in the sale in exchange for the controlled substance. The summary shall not identify or enable the identification of any peace officer involved in the sale and shall not contain any information that is or may be needed in an ongoing investigation.

(D)(1) Except as provided in division (D)(2) of this section, if a peace officer sells a controlled substance in the performance of the officer's official duties under division (A)(1) or (2) of this section, the peace officer, as soon as possible after the sale, shall deliver all money or other things of value obtained in the sale in exchange for the controlled substance to the prosecuting attorney who granted approval for the sale. The prosecuting attorney shall safely keep all money and other things of value the prosecuting attorney receives under this division for use as evidence in any criminal action or delinquency proceeding based upon the sale. All money so received by a prosecuting attorney that no longer is needed as evidence in any criminal action or delinquency proceeding shall be deposited by the prosecuting attorney in the law enforcement trust fund of the sheriff if the peace officer who made the sale is the sheriff or a deputy sheriff or the law enforcement trust fund of a municipal corporation or township if it is served by the peace officer who made the sale, as established pursuant to section 2981.13 of the Revised Code, and upon deposit shall be expended only as provided in that section. All other things of value so received by a prosecuting attorney that no longer are needed as evidence in any criminal action or delinquency proceeding shall be disposed of, without appraisal, at a public auction to the highest bidder for cash; the proceeds of the sale shall be deposited by the prosecuting attorney in the law enforcement trust fund of the sheriff if the peace officer who made the sale is the sheriff or a deputy sheriff or the law enforcement trust fund of a municipal corporation or township if it is served by the peace officer who made the sale, as established pursuant to section 2981.13 of the Revised Code, and upon deposit shall be expended only as provided in that section. Each law enforcement agency that uses any money that was deposited in a law enforcement trust fund pursuant to this division shall comply with the written internal control policy adopted by the agency, as required by division (A)(1)(g) or (2)(b) of this section, in its use of the money.

(2) Division (D)(1) of this section does not apply in relation to a peace

officer who sells a controlled substance in the performance of the officer's official duties under division (A)(1) of this section in any of the following circumstances:

(a) The person to whom the sale is made or any other person who is involved in the sale does not know that the officer is a peace officer, and, if the officer were to retain and deliver the money or other things of value to the prosecuting attorney, the person would determine or suspect that the officer is a peace officer.

(b) If the officer were to retain and deliver the money or other things of value to the prosecuting attorney, an identity that has been assumed in the performance of the officer's official duties would not be preserved.

(c) The sale is made under the circumstances described in division (A)(1)(c)(iii) of this section.

(3) If division (D)(1) of this section does not apply in relation to a peace officer who sells a controlled substance in the performance of the officer's official duties under division (A)(1) of this section due to the operation of division (D)(2) of this section, the peace officer, as soon as possible after the sale, shall deliver to the prosecuting attorney who granted approval for the sale a written summary that describes the circumstances of the sale and the reason for which division (D)(1) of this section does not apply. The summary shall not identify or enable the identification of any peace officer involved in the sale and shall not contain any information that is or may be needed in an ongoing investigation.

(E)(1) A written internal control policy adopted by a law enforcement agency that is served by a peace officer who sells a controlled substance under division (A)(1) or (2) of this section, as required by division (A)(1)(g) or (2)(b) of this section, is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that adopts a written internal control policy of that nature shall comply with it in relation to any sale of a controlled substance under division (A)(1) or (2) of this section. All records as to the amount of money or things of value obtained in the sale of a controlled substance, in exchange for the controlled substance, and all financial records of the receipts of the proceeds, the general types of expenditures made out of the proceeds received, and the specific amounts of each general type of expenditure by a law enforcement agency in relation to any sale of a controlled substance under division (A)(1) or (2) of this section are public records open for inspection under section 149.43 of the Revised Code.

(2) A summary required by division (C) or (D)(3) of this section is a public record open for inspection under section 149.43 of the Revised Code.

(F)(1) Each prosecuting attorney who grants approval for a sale of controlled substances by a peace officer and who receives in any calendar year one or more summaries under division (C) of this section relative to the sale of a controlled substance by a peace officer shall prepare a report covering the calendar year that cumulates all of the information contained in each of the summaries so received in the calendar year and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

(2) Each prosecuting attorney who receives any money or any other thing of value under division (D)(1) of this section shall keep detailed financial records of the receipts and dispositions of all such moneys or things of value so received. No record of that nature shall identify, or enable the identification of, any person from whom money or another thing of value was received as a result of the sale of a controlled substance under division (A)(1) or (2) of this section or contain any information that is or may be needed in an ongoing investigation. Each record of that nature is a public record open for inspection under section 149.43 of the Revised Code and shall include, but is not limited to, all of the following information:

(a) The identity of each law enforcement agency that has so delivered any money or other thing of value to the prosecuting attorney;

(b) The total amount of money or other things of value so received from each law enforcement agency;

(c) The disposition made under this section of all money or other things of value so received.

(G) Divisions (A) to (F) of this section do not apply to any peace officer, or to any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice. Any peace officer, or any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice may sell a controlled substance in the performance of the officer's, agent's, or employee's official duties if the sale is made in accordance with federal statutes and regulations.

(H) As used in this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code and also includes a special agent of the bureau of criminal identification and investigation.

Sec. 3719.41. Controlled substance schedules I, II, III, IV, and V are hereby established, which schedules include the following, subject to amendment pursuant to section 3719.43 or 3719.44 of the Revised Code.

SCHEDULE I

(A) Narcotics-opiates

Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N- phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl]-N- phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;

(16) Clonitazene;

(17) Dextromoramide;

(18) Diampromide;

(19) Diethylthiambutene;

(20) Difenoxin;

(21) Dimenoxadol;

(22) Dimepheptanol;

(23) Dimethylthiambutene;

(24) Dioxaphetyl butyrate;

(25) Dipipanone;

(26) Ethylmethylthiambutene;

(27) Etonitazene;

(28) Etoxeridine;
(29) Furethidine;
(30) Hydroxypethidine;
(31) Ketobemidone;
(32) Levomoramide;
(33) Levophenacylmorphan;
(34) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
(35) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidinyl]-N- phenylpropanamide);
(36) Morpheridine;
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(38) Noracymethadol;
(39) Norlevorphanol;
(40) Normethadone;
(41) Norpipanone;
(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide;
(43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine;
(44) Phenadoxone;
(45) Phenampromide;
(46) Phenomorphan;
(47) Phenoperidine;
(48) Piritramide;
(49) Proheptazine;
(50) Properidine;
(51) Propiram;
(52) Racemoramide;
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;
(54) Tilidine;
(55) Trimeperidine.

(B) Narcotics-opium derivatives

Any of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;

(4) Codeine methylbromide;
(5) Codeine-n-oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine (except hydrochloride salt);
(11) Heroin;
(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Methyldihydromorphine;
(15) Morphine methylbromide;
(16) Morphine methylsulfonate;
(17) Morphine-n-oxide;
(18) Myrophine;
(19) Nicocodeine;
(20) Nicomorphine;
(21) Normorphine;
(22) Pholcodine;
(23) Thebacon.

(C) Hallucinogens

Any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this division only, "isomer" includes the optical isomers, position isomers, and geometric isomers.

(1) Alpha-ethyltryptamine (some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET);

(2) 4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methyphenethylamine; 4-bromo-2,5-DMA);

(3) 4-bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus);

(4) 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA);

(5) 2,5-dimethoxy-4-ethylamphetamine (some trade or other names: DOET);

(6) 4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

(7) 5-methoxy-3,4-methylenedioxy-amphetamine;

(8) 4-methyl-2,5-dimethoxy-amphetamine (some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM" and "STP");

(9) 3,4-methylenedioxy amphetamine;

(10) 3,4-methylenedioxymethamphetamine (MDMA);

(11) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

(12) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine and N-hydroxy MDA);

(13) 3,4,5-trimethoxy amphetamine;

(14) Bufotenine (some trade or other names: 3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine);

(15) Diethyltryptamine (some trade or other names: N, N-diethyltryptamine; DET);

(16) Dimethyltryptamine (some trade or other names: DMT);

(17) Ibogaine (some trade or other names: 7-ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido[1',2':1,2] azepino [5, 4-b] indole; tabernanthe iboga);

(18) Lysergic acid diethylamide;

(19) Marihuana;

(20) Mescaline;

(21) Parahexyl (some trade or other names: 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl);

(22) Peyote (meaning all parts of the plant presently classified botanically as "Lophophora williamsii Lemaire," whether growing or not, the seeds of that plant, any extract from any part of that plant, and every compound, manufacture, salts, derivative, mixture, or preparation of that plant, its seeds, or its extracts);

(23) N-ethyl-3-piperidyl benzilate;

(24) N-methyl-3-piperidyl benzilate;

(25) Psilocybin;

(26) Psilocyn;

(27) Tetrahydrocannabinols (synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta-1-cis or trans tetrahydrocannabinol, and their optical isomers; delta-6-cis or trans tetrahydrocannabinol, and their optical isomers; delta-3,4-cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered.));

(28) Ethylamine analog of phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE);

(29) Pyrrolidine analog of phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP);

(30) Thiophene analog of phencyclidine (some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP);

(31) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine;

(32) Hashish;

(33) Salvia divinorum;

(34) Salvinorin A.

(D) Depressants

Any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone;

(2) Methaqualone.

(E) Stimulants

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(1) Aminorex (some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine);

(2) Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,

2-aminopropiophenone, and norephedrone);

(3) Fenethylline;

(4) Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432, its salts, optical isomers, and salts of optical isomers;

(5) (+/-)cis-4-methylaminorex ((+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(6) N-ethylamphetamine;

(7) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine).

SCHEDULE II

(A) Narcotics-opium and opium derivatives

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(a) Raw opium;

(b) Opium extracts;

(c) Opium fluid extracts;

(d) Powdered opium;

(e) Granulated opium;

(f) Tincture of opium;

(g) Codeine;

(h) Ethylmorphine;

(i) Etorphine hydrochloride;

(j) Hydrocodone;

(k) Hydromorphone;

(l) Metopon;

(m) Morphine;

(n) Oxycodone;

(o) Oxymorphone;

(p) Thebaine.

(2) Any salt, compound, derivative, or preparation thereof that is chemically equivalent to or identical with any of the substances referred to in division (A)(1) of this schedule, except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine, their salts, isomers, and derivatives, and salts of those isomers and derivatives), and any salt, compound, derivative, or preparation thereof that is chemically equivalent to or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine;

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy).

(B) Narcotics-opiates

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, but excluding dextrorphan and levopropoxyphene:

(1) Alfentanil;

(2) Alphaprodine;

(3) Anileridine;

(4) Bezitramide;

(5) Bulk dextropropoxyphene (non-dosage forms);

(6) Carfentanil;

(7) Dihydrocodeine;

(8) Diphenoxylate;

(9) Fentanyl;

(10) Isomethadone;

(11) Levo-alphacetylmethadol (some other names: levo-alpha-acetylmethadol; levomethadyl acetate; LAAM);

(12) Levomethorphan;

(13) Levorphanol;

(14) Metazocine;

(15) Methadone;

(16) Methadone-intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl

butane;

(17) Moramide-intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;

(18) Pethidine (meperidine);

(19) Pethidine-intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(20) Pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(21) Pethidine-intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(22) Phenazocine;

(23) Piminodine;

(24) Racemethorphan;

(25) Racemorphan;

(26) Remifentanil;

(27) Sufentanil.

(C) Stimulants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, its optical isomers, and salts of its optical isomers;

(2) Methamphetamine, its salts, its isomers, and salts of its isomers;

(3) Methylphenidate;

(4) Phenmetrazine and its salts.

(D) Depressants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Gamma-hydroxy-butyrate;

(3) Glutethimide;

(4) Pentobarbital;

(5) Phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)piperidine; PCP);

(6) Secobarbital;

(7) 1-aminophenylcyclohexane and all N-mono-substituted and/or all N-N-disubstituted analogs including, but not limited to, the following:

(a) 1-phenylcyclohexylamine;
(b) (1-phenylcyclohexyl) methylamine;
(c) (1-phenylcyclohexyl) dimethylamine;
(d) (1-phenylcyclohexyl) methylethylamine;
(e) (1-phenylcyclohexyl) isopropylamine;
(f) 1-(1-phenylcyclohexyl) morpholine.

(E) Hallucinogenic substances

(1) Nabilone (another name for nabilone: (+)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one).

(F) Immediate precursors

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(a) Phenylacetone (some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone);

(2) Immediate precursors to phencyclidine (PCP):

(a) 1-phenylcyclohexylamine;
(b) 1-piperidinocyclohexanecarbonitrile (PCC).

SCHEDULE III

(A) Stimulants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, their optical isomers, position isomers, or geometric isomers, and salts of these isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) All stimulant compounds, mixtures, and preparations included in schedule III pursuant to the federal drug abuse control laws and regulations adopted under those laws;

(2) Benzphetamine;
(3) Chlorphentermine;
(4) Clortermine;
(5) Phendimetrazine.

(B) Depressants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a

depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs, and one or more other active medicinal ingredients that are not listed in any schedule;

(2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository;

(3) Any substance that contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid;

(4) Chlorhexadol;

(5) Ketamine, its salts, isomers, and salts of isomers (some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone);

(6) Lysergic acid;

(7) Lysergic acid amide;

(8) Methyprylon;

(9) Sulfondiethylmethane;

(10) Sulfonethylmethane;

(11) Sulfonmethane;

(12) Tiletamine, zolazepam, or any salt of tiletamine or zolazepam (some trade or other names for a tiletamine-zolazepam combination product: Telazol); (some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone); (some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8- dihydro-1,3,8-trimethylpyrazolo-[3, 4-e][1,4]-diazepin-7(1H)-one; flupyrazapon).

(C) Narcotic antidotes

(1) Nalorphine.

(D) Narcotics-narcotic preparations

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or

greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(E) Anabolic steroids

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts, esters, isomers, and salts of esters and isomers, whenever the existence of these salts, esters, and isomers is possible within the specific chemical designation:

(1) Anabolic steroids. Except as otherwise provided in division (E)(1) of schedule III, "anabolic steroids" means any drug or hormonal substance that is chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) and that promotes muscle growth. "Anabolic steroids" does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the United States secretary of health and human services for that administration, unless a person prescribes, dispenses, or distributes this type of anabolic steroid for human use. "Anabolic steroid" includes, but is not limited to, the following:

(a) Boldenone;

(b) Chlorotestosterone (4-chlortestosterone);

(c) Clostebol;

(d) Dehydrochlormethyltestosterone;

(e) Dihydrotestosterone (4-dihydrotestosterone);

(f) Drostanolone;

(g) Ethylestrenol;

(h) Fluoxymesterone;
(i) Formebulone (formebolone);
(j) Mesterolone;
(k) Methandienone;
(l) Methandranone;
(m) Methandriol;
(n) Methandrostenolone;
(o) Methenolone;
(p) Methyltestosterone;
(q) Mibolerone;
(r) Nandrolone;
(s) Norethandrolone;
(t) Oxandrolone;
(u) Oxymesterone;
(v) Oxymetholone;
(w) Stanolone;
(x) Stanozolol;
(y) Testolactone;
(z) Testosterone;
(aa) Trenbolone;

(bb) Any salt, ester, isomer, or salt of an ester or isomer of a drug or hormonal substance described or listed in division (E)(1) of schedule III if the salt, ester, or isomer promotes muscle growth.

(F) Hallucinogenic substances

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product (some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol).

SCHEDULE IV

(A) Narcotic drugs

Unless specifically excepted by federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than one milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene

(alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane)[final dosage forms].

(B) Depressants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;
(2) Barbital;
(3) Bromazepam;
(4) Camazepam;
(5) Chloral betaine;
(6) Chloral hydrate;
(7) Chlordiazepoxide;
(8) Clobazam;
(9) Clonazepam;
(10) Clorazepate;
(11) Clotiazepam;
(12) Cloxazolam;
(13) Delorazepam;
(14) Diazepam;
(15) Estazolam;
(16) Ethchlorvynol;
(17) Ethinamate;
(18) Ethyl loflazepate;
(19) Fludiazepam;
(20) Flunitrazepam;
(21) Flurazepam;
(22) Halazepam;
(23) Haloxazolam;
(24) Ketazolam;
(25) Loprazolam;
(26) Lorazepam;
(27) Lormetazepam;
(28) Mebutamate;
(29) Medazepam;
(30) Meprobamate;
(31) Methohexital;

(32) Methylphenobarbital (mephobarbital);
(33) Midazolam;
(34) Nimetazepam;
(35) Nitrazepam;
(36) Nordiazepam;
(37) Oxazepam;
(38) Oxazolam;
(39) Paraldehyde;
(40) Petrichloral;
(41) Phenobarbital;
(42) Pinazepam;
(43) Prazepam;
(44) Quazepam;
(45) Temazepam;
(46) Tetrazepam;
(47) Triazolam;
(48) Zaleplon;
(49) Zolpidem.

(C) Fenfluramine

Any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts, their optical isomers, position isomers, or geometric isomers, and salts of these isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Fenfluramine.

(D) Stimulants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, their optical isomers, position isomers, or geometric isomers, and salts of these isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine);
(2) Diethylpropion;
(3) Fencamfamin;
(4) Fenproporex;
(5) Mazindol;
(6) Mefenorex;
(7) Modafinil;

(8) Pemoline (including organometallic complexes and chelates thereof);

(9) Phentermine;

(10) Pipradrol;

(11) Sibutramine;

(12) SPA [(-)-1-dimethylamino-1,2-diphenylethane].

(E) Other substances

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts:

(1) Pentazocine;

(2) Butorphanol (including its optical isomers).

SCHEDULE V

(A) Narcotic drugs

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, and their salts, as set forth below:

(1) Buprenorphine.

(B) Narcotics-narcotic preparations

Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, and that includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(C) Stimulants

Unless specifically exempted or excluded under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(1) Ephedrine, except as provided in division (K) of section 3719.44 of the Revised Code;

(2) Pyrovalerone.

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 3721.99 of the Revised Code:

(1)(a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means both of the following:

(i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section 3702.522 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;

(ii) A residential facility for mentally ill persons as defined under section 5119.22 of the Revised Code;

(iii) A residential facility as defined in section 5123.19 of the Revised Code;

(iv) An adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code;

(v) An alcohol or drug addiction program as defined in section 3793.01

of the Revised Code;

(vi) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(vii) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code unless section 5123.192 of the Revised Code makes the facility subject to the requirements of this chapter;

(viii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(ix) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

(x) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the

patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home or district

home operated under Chapter 5155. of the Revised Code.

(B) The public health council may further classify homes. For the purposes of this chapter, any residence, institution, hotel, congregate housing project, or similar facility that meets the definition of a home under this section is such a home regardless of how the facility holds itself out to the public.

(C) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(D) Nothing in division (A)(4) of this section shall be construed to permit skilled nursing care to be imposed on an individual who does not require skilled nursing care.

Nothing in division (A)(5) of this section shall be construed to permit personal care services to be imposed on an individual who is capable of performing the activity in question without assistance.

(E) Division (A)(1)(c)(ix) of this section does not prohibit a facility, infirmary, or other entity described in that division from seeking licensure under sections 3721.01 to 3721.09 of the Revised Code or certification under Title XVIII or XIX of the "Social Security Act." However, such a facility, infirmary, or entity that applies for licensure or certification must meet the requirements of those sections or titles and the rules adopted under them and obtain a certificate of need from the director of health under section 3702.52 of the Revised Code.

(F) Nothing in this chapter, or rules adopted pursuant to it, shall be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents or patients in any home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

Sec. 3721.011. (A) In addition to providing accommodations, supervision, and personal care services to its residents, a residential care facility may ~~provide~~ do the following:

(1) Provide the following skilled nursing care to its residents ~~as follows~~:

~~(1)~~(a) Supervision of special diets;

~~(2)~~(b) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;

~~(3)~~(c) Subject to division (B)(1) of this section, administration of medication~~;~~

~~(4).~~

(2) Subject to division (C) of this section, provide other skilled nursing care ~~provided~~ on a part-time, intermittent basis for not more than a total of one hundred twenty days in a twelve-month period;

~~(5) Subject to division (D) of this section,~~ (3) Provide skilled nursing care ~~provided~~ for more than one hundred twenty days in a twelve-month period to a ~~hospice patient, as defined in section 3712.01 of the Revised Code~~ resident when the requirements of division (D) of this section are met.

A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section.

(B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C.~~A.~~ 1395, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication:

(a) A registered nurse licensed under Chapter 4723. of the Revised Code;

(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(c) A medication aide certified under Chapter 4723. of the Revised Code;

(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:

(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section

3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(C) ~~A~~ Except as provided in division (D) of this section, a residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period. In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The council shall adopt rules that are consistent with rules pertaining to home health care adopted by the director of job and family services for the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified under Title XVIII of the "Social Security Act," a hospice care program licensed under Chapter 3712. of the Revised Code, or a member of the staff of a residential care facility who is qualified to perform skilled nursing care.

A residential care facility that provides skilled nursing care pursuant to this division shall do both of the following:

(1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident receiving the care.

(D)(1) A residential care facility may admit or retain ~~a hospice patient~~ an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician;

(c) Unless the individual's personal physician oversees the skilled

nursing care, the provider of the skilled nursing care;

(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code. ~~The~~

(2) The agreement ~~between the residential care facility and hospice program~~ required by division (D)(1) of this section shall include all of the following provisions:

~~(1)~~(a) That the ~~hospice patient~~ individual will be provided skilled nursing care in the facility only if a determination has been made that the ~~patient's~~ individual's needs can be met at the facility;

~~(2)~~(b) That the ~~hospice patient~~ individual will be retained in the facility only if periodic redeterminations are made that the ~~patient's~~ individual's needs are being met at the facility;

~~(3)~~(c) That the redeterminations will be made according to a schedule specified in the agreement;

~~(4) That the~~ (d) If the individual is a hospice patient, that the individual has been given an opportunity to choose the hospice care program that best meets the ~~patient's~~ individual's needs;

(e) Unless the individual is a hospice patient, that the individual's personal physician has determined that the skilled nursing care the individual needs is routine.

(E) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.

Sec. 3721.02. (A) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid

license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

(B) A single facility may be licensed both as a nursing home pursuant to this chapter and as an adult care facility pursuant to Chapter ~~3722.~~ 5119. of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as an adult care facility.

(C) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.

(2) The home is both a nursing home and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(D)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

(a) For state fiscal year 2010, two hundred twenty dollars;

(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(E)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.022. (A) As used in this section:

(1) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(2) "Deficiency" and "survey" have the same meanings as in section 5111.35 of the Revised Code.

(B) The department of health is hereby designated the state agency responsible for establishing and maintaining health standards and serving as the state survey agency for the purposes of Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. The department shall carry out these functions in accordance with the regulations, guidelines, and procedures issued under Titles XVIII and XIX by the United States secretary of health and human services and with sections 5111.35 to 5111.62 of the Revised Code. The director of health shall enter into agreements with regard to these functions with the department of job and family services and the United States department of health and human services. The director may also enter into agreements with the department of job and family services under which the department of health is designated to perform functions under sections 5111.35 to 5111.62 of the Revised Code.

The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement the survey and certification requirements for skilled nursing facilities and nursing facilities established by the United States secretary of health and human services under Titles XVIII and XIX of the "Social Security Act," and the survey requirements established under sections 5111.35 to 5111.62 of the Revised Code. The rules shall include an informal process by which a facility may obtain ~~a review~~ up to two reviews of any deficiencies that have been cited on a statement of deficiencies made by the department of health under ~~section 5111.42 of the Revised Code~~ 42 C.F.R. Part 488 and cause the facility to be in noncompliance as defined in 42 C.F.R. 488.301. The first review shall be conducted by an employee of the department who did not participate in and was not otherwise involved in any way with the survey. ~~If the employee conducting the review determines~~ A facility that is not satisfied with the results of a first review may receive a second review on payment of a fee to the department. The amount of the fee shall be specified in rules adopted under this section. The fee shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the implementation of this section. The second review shall be conducted by either of the following as selected by the facility: a hearing officer employed by the department or a hearing officer included on a list the department shall provide the facility. A final determination that any deficiency citation is unjustified~~, that determination~~ shall be reflected clearly in all records relating to the survey.

The director need not adopt as rules any of the regulations, guidelines, or procedures issued under Titles XVIII and XIX of the "Social Security Act" by the United States secretary of health and human services.

Sec. 3721.04. (A) The public health council shall adopt and publish rules governing the operation of homes, which shall have uniform application throughout the state, and shall prescribe standards for homes with respect to, but not limited to, the following matters:

(1) The minimum space requirements for occupants and equipping of the buildings in which homes are housed so as to ensure healthful, safe, sanitary, and comfortable conditions for all residents, so long as they are not inconsistent with Chapters 3781. and 3791. of the Revised Code or with any rules adopted by the board of building standards and by the state fire marshal;

(2) The number and qualifications of personnel, including management and nursing staff, for each class of home, and the qualifications of nurse aides, as defined in section 3721.21 of the Revised Code, used by long-term

care facilities, as defined in that section;

(3) The medical, rehabilitative, and recreational services to be provided by each class of home;

(4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food;

(5) The personal and social services to be provided by each class of home;

(6) The business and accounting practices to be followed and the type of patient and business records to be kept by such homes;

(7) The operation of adult day-care programs provided by and on the same site as homes licensed under this chapter;

(8) The standards and procedures to be followed by residential care facilities in admitting and retaining a resident who requires the application of dressings, including requirements for charting and evaluating on a weekly basis;

(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities.

(B) The public health council may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.

(C) The following apply to the public health council when adopting rules under division (A)(1) of this section regarding the equipping of the buildings in which homes are housed:

(1) The rules shall not require that each resident sleeping room, or a percentage of the resident sleeping rooms, have a bathtub or shower that is directly accessible from or exclusively for the room.

(2) The rules shall require that the privacy and dignity of residents be protected when the residents are transported to and from bathing facilities, prepare for bathing, and bathe.

(D) The following apply to the public health council when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes:

(1) When adopting rules applicable to residential care facilities, the public health council shall take into consideration the effect that the following may have on the number of personnel needed:

(a) Provision of personal care services;

(b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised Code;

(c) Provision of skilled nursing care to ~~hospice patients~~ residents pursuant to division (D) of section 3721.011 of the Revised Code.

(2) When adopting rules applicable to nursing homes, the public health council shall require each nursing home to do both of the following:

(a) Have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner;

(b) Have the following individuals provide a minimum daily average of two and one-half hours of direct care per resident:

(i) Registered nurses, including registered nurses who perform administrative and supervisory duties;

(ii) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties;

(iii) Nurse aides.

(3) The rules prescribing qualifications of nurse aides used by long-term care facilities, as those terms are defined in section 3721.21 of the Revised Code, shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.~~A.~~ 301, as amended.

Sec. 3721.16. For each resident of a home, notice of a proposed transfer or discharge shall be in accordance with this section.

(A)(1) The administrator of a home shall notify a resident in writing, and the resident's sponsor in writing by certified mail, return receipt requested, in advance of any proposed transfer or discharge from the home. The administrator shall send a copy of the notice to the state department of health. The notice shall be provided at least thirty days in advance of the proposed transfer or discharge, unless any of the following applies:

(a) The resident's health has improved sufficiently to allow a more immediate discharge or transfer to a less skilled level of care;

(b) The resident has resided in the home less than thirty days;

(c) An emergency arises in which the safety of individuals in the home is endangered;

(d) An emergency arises in which the health of individuals in the home would otherwise be endangered;

(e) An emergency arises in which the resident's urgent medical needs necessitate a more immediate transfer or discharge.

In any of the circumstances described in divisions (A)(1)(a) to (e) of this section, the notice shall be provided as many days in advance of the proposed transfer or discharge as is practicable.

(2) The notice required under division (A)(1) of this section shall include all of the following:

(a) The reasons for the proposed transfer or discharge;

(b) The proposed date the resident is to be transferred or discharged;

(c) ~~The~~ Subject to division (A)(3) of this section, a proposed location to which the resident ~~is to be transferred or discharged~~ may relocate and a notice that the resident and resident's sponsor may choose another location to which the resident will relocate;

(d) Notice of the right of the resident and the resident's sponsor to an impartial hearing at the home on the proposed transfer or discharge, and of the manner in which and the time within which the resident or sponsor may request a hearing pursuant to section 3721.161 of the Revised Code;

(e) A statement that the resident will not be transferred or discharged before the date specified in the notice unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date;

(f) The address of the legal services office of the department of health;

(g) The name, address, and telephone number of a representative of the state long-term care ombudsperson program and, if the resident or patient has a developmental disability or mental illness, the name, address, and telephone number of the Ohio legal rights service.

(3) The proposed location to which a resident may relocate as specified pursuant to division (A)(2)(c) of this section in the proposed transfer or discharge notice shall be capable of meeting the resident's healthcare and safety needs. The proposed location for relocation need not have accepted the resident at the time the notice is issued to the resident and resident's sponsor.

(B) No home shall transfer or discharge a resident before the date specified in the notice required by division (A) of this section unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date.

(C) Transfer or discharge actions shall be documented in the resident's medical record by the home if there is a medical basis for the action.

(D) A resident or resident's sponsor may challenge a transfer or discharge by requesting an impartial hearing pursuant to section 3721.161 of the Revised Code, unless the transfer or discharge is required because of one of the following reasons:

(1) The home's license has been revoked under this chapter;

(2) The home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62, or section 5155.31 of the Revised Code;

(3) The resident is a recipient of medicaid and the home's participation in the medicaid program has been involuntarily terminated or denied by the federal government;

(4) The resident is a beneficiary under the medicare program and the home's certification under the medicare program has been involuntarily terminated or denied by the federal government.

(E) If a resident is transferred or discharged pursuant to this section, the home from which the resident is being transferred or discharged shall provide the resident with adequate preparation prior to the transfer or discharge to ensure a safe and orderly transfer or discharge from the home, and the home or alternative setting to which the resident is to be transferred or discharged shall have accepted the resident for transfer or discharge.

(F) At the time of a transfer or discharge of a resident who is a recipient of medicaid from a home to a hospital or for therapeutic leave, the home shall provide notice in writing to the resident and in writing by certified mail, return receipt requested, to the resident's sponsor, specifying the number of days, if any, during which the resident will be permitted under the medicaid program to return and resume residence in the home and specifying the medicaid program's coverage of the days during which the resident is absent from the home. An individual who is absent from a home for more than the number of days specified in the notice and continues to require the services provided by the facility shall be given priority for the first available bed in a semi-private room.

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:

(A) "Bed surrender" means the following:

(1) In the case of a nursing home, the removal of a bed from a nursing home's licensed capacity in a manner that reduces the total licensed capacity of all nursing homes;

(2) In the case of a hospital, the removal of a hospital bed from registration under section 3701.07 of the Revised Code as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered under that section as skilled nursing facility beds or long-term care beds.

(B) "Change of operator" means an entering operator becoming the operator of a nursing home or hospital in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property

associated with the nursing home or hospital is also transferred;

(c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.

(D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.

(E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.

(F) "Franchise permit fee rate" means the ~~amount determined as follows~~ following:

(1) ~~Determine the difference between the following:~~

~~(a) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long-term care units as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year~~

~~immediately preceding the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code~~ For fiscal year 2012, eleven dollars and forty-seven cents;

~~(b) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long-term care units as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code.~~

(2) ~~Multiply the amount determined under division (A)(1) of this section by five and five-tenths per cent;~~

~~(3) Divide the amount determined under division (A)(2) of this section by the total number of days in the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code;~~

~~(4) Subtract eleven dollars and ninety-five cents from the amount determined under division (A)(3) of this section;~~

~~(5) Add eleven dollars and ninety-five cents to the amount determined under division (A)(4) of this section~~ For fiscal year 2013 and each fiscal year thereafter, eleven dollars and sixty-seven cents.

~~(B)~~(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

~~(C)~~(H) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

~~(D)~~(I) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(J) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility

that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

~~(E)~~(K) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(F)~~(L) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days.

~~(G)~~(M) "Medicare" means the program established by Title XVIII.

~~(H)~~(N) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~(I)~~(O)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include any of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code;

(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX.

~~(J)~~(P) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.

(Q) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(K)~~(R) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) Subject to sections 3721.512 ~~and~~, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in ~~sections~~ section 3721.56 ~~and 3721.561~~ of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) Subject to sections 3721.512 ~~and~~, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in ~~sections~~ section 3721.56 ~~and 3721.561~~ of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(C) If the total amount of the franchise permit fee assessed under divisions (A) and (B) of this section for a fiscal year exceeds ~~five and one-half per cent~~ the indirect guarantee percentage of the actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year, do both of the following:

(1) Recalculate the assessments under divisions (A) and (B) of this section using a per bed per day rate equal to ~~five and one-half per cent~~ the indirect guarantee percentage of actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under divisions (A) and (B) of this section

and the amount recalculated under division (C)(1) of this section as a credit against the assessments imposed under divisions (A) and (B) of this section for the subsequent fiscal year.

(D) If the United States centers for medicare and medicaid services determines that the franchise permit fee established by sections 3721.50 to 3721.58 of the Revised Code is an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, take all necessary actions to cease implementation of sections 3721.50 to 3721.58 of the Revised Code in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3721.511. (A) Not later than four months after ~~the effective date of this section~~ July 17, 2009, the department of job and family services shall apply to the United States secretary of health and human services for a waiver under 42 U.S.C. 1396b(w)(3)(E) as necessary to do both of the following regarding the franchise permit fee ~~imposed by~~ assessed under section 3721.51 of the Revised Code:

(1) Reduce the franchise permit fee rate to zero dollars for each nursing home licensed under section 3721.02 or 3721.09 of the Revised Code to which either of the following applies:

(a) The nursing home:

(i) Is exempt from state taxation under section 140.08 of the Revised Code or is exempt from state taxation as a home for the aged as defined in section 5701.13 of the Revised Code;

(ii) Is exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986;

(iii) Does not participate in medicaid or medicare; and

(iv) Provides services for the life of each resident without regard to the resident's ability to secure payment for the services.

(b) The nursing home:

(i) Has had a written affiliation agreement with a university in this state for education and research related to Alzheimer's disease for each of the twenty years preceding ~~the effective date of this section~~ July 17, 2009, and has such an agreement on ~~the effective date of this section~~ July 17, 2009;

(ii) Was constructed pursuant to a certificate of need granted under Section 3 of Am. Sub. S.B. 256 of the 116th ~~General Assembly~~ general assembly; and

(iii) Does not participate in medicaid or medicare.

(2) For each nursing facility with more than two hundred beds certified as nursing facility beds under Title XIX, reduce the franchise permit fee rate for a number of the nursing facility's beds specified by the department to the

amount necessary to obtain approval of the waiver sought under this section.

(B) The effective date of the waiver sought under this section shall be the first day of the ~~calendar~~ quarter beginning after the United States secretary approves the waiver.

Sec. 3721.512. If the United States secretary of health and human services approves the waiver sought under section 3721.511 of the Revised Code, the department of job and family services shall, for each nursing home and hospital that qualifies for a reduction of its franchise permit fee rate under the waiver, reduce the franchise permit fee rate in accordance with the terms of the waiver. For purposes of the first fiscal year during which the waiver takes effect, the department shall determine the amount of the reduction not later than the effective date of the waiver and shall mail to each nursing home and hospital qualifying for the reduction notice of the reduction not later than the last day of the first month of the ~~calendar~~ quarter that begins after the United States secretary approves the waiver. For purposes of subsequent fiscal years, the department shall make such determinations and mail such notices in accordance with section 3721.53 of the Revised Code.

Sec. 3721.513. (A) If the United States secretary of health and human services approves the waiver sought under section 3721.511 of the Revised Code, the department of job and family services may do both of the following regarding the franchise permit fee ~~imposed by~~ assessed under section 3721.51 of the Revised Code:

(1) Determine how much money the franchise permit fee would have raised in a fiscal year if not for the waiver;

(2) For each nursing home and hospital subject to the franchise permit fee, other than a nursing home or hospital that has its franchise permit fee rate reduced under section 3721.512 of the Revised Code, uniformly increase the amount of the franchise permit fee rate for a fiscal year to an amount that will have the franchise permit fee raise an amount of money that does not exceed the amount determined under division (A)(1) of this section for that fiscal year.

(B) If the department increases the franchise permit fee rate in accordance with division (A) of this section for the first fiscal year during which the waiver takes effect, the department shall determine the amount of the increase not later than the effective date of the waiver and shall mail to each nursing home and hospital subject to the increase notice of the increase not later than the last day of the first month of the ~~calendar~~ quarter that begins after the United States secretary approves the waiver. If the department increases the franchise permit fee rate in accordance with

division (A) of this section for a subsequent fiscal year, the department shall make such determinations and mail such notices in accordance with section 3721.53 of the Revised Code.

Sec. 3721.52. The department of health shall do all of the following:

(A) For the purpose of the ~~fee~~ determinations made under ~~division~~ divisions (A) and (B) of section 3721.51 of the Revised Code~~, the department of health shall,~~ and not later than the first day of each June, report to the department of job and family services the following:

(1) For each nursing home, the number of beds in ~~each~~ the nursing home licensed on the preceding first day of May under section 3721.02 or 3721.09 of the Revised Code or certified on that date under Title XVIII or XIX~~.~~

~~(B) For the purpose of the fee under division (B) of section 3721.51 of the Revised Code, the department of health shall, not later than the first day of each June, report to the department of job and family services;~~

(2) For each hospital, the number of beds in ~~each~~ the hospital registered on the preceding first day of May pursuant to section 3701.07 of the Revised Code as skilled nursing facility or long-term care beds or licensed on that date under section 3721.02 or 3721.09 of the Revised Code as nursing home beds.

(B) For the purpose of the redetermination under section 3721.531 of the Revised Code and not later than the fifteenth day of each January, report to the department of job and family services, for each nursing home and hospital, the number of beds for which a bed surrender occurred during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made.

Sec. 3721.53. (A) Not later than the fifteenth day of September of each year, the department of job and family services shall determine the annual franchise permit fee for each nursing home and hospital in accordance with section 3721.51 of the Revised Code and any adjustments made in accordance with sections 3721.512 and 3721.513 of the Revised Code.

(B) Not later than the first day of October of each year, the department shall mail to each nursing home and hospital notice of the amount of the franchise permit fee that has been determined for the nursing home or hospital.

(C) ~~Each~~ Subject to section 3721.531 of the Revised Code, each nursing home and hospital shall pay its fee under section 3721.51 of the Revised Code, as adjusted in accordance with sections 3721.512 and 3721.513 of the Revised Code, to the department in four installment payments not later than

forty-five days after the last day of each October, December, March, and June.

~~(D) No nursing home or hospital shall directly bill its residents for the fee paid under this section, or otherwise directly pass the fee through to its residents.~~

Sec. 3721.531. (A) Not later than the last day of February of each year, the department of job and family services shall redetermine each nursing home's and hospital's franchise permit fee if one or more bed surrenders occur during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made.

(B) In redetermining nursing homes' and hospitals' franchise permit fees under this section, the department shall do both of the following:

(1) Provide for the redetermination to be conducted in a manner consistent with the terms of the waiver sought under section 3721.511 of the Revised Code;

(2) Recalculate each nursing home's and hospital's franchise permit fee in accordance with division (A) or (B) of section 3721.51 of the Revised Code with the following changes:

(a) In the case of a nursing home or hospital for which one or more bed surrenders occurred during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made, the number of beds included in the calculation for the purpose of division (A)(1) or (B)(1) of section 3721.51 of the Revised Code shall exclude the beds for which bed surrenders occurred during that period.

(b) The number of days used in the calculation under division (A)(2) or (B)(2) of section 3721.51 of the Revised Code shall be the number of days in the first half of the calendar year in which the redetermination is made.

(c) The franchise permit fee rate shall reflect adjustments made under sections 3721.512 and 3721.513 of the Revised Code.

(C) Not later than the first day of March of each year, the department shall mail to each nursing home and hospital notice of the amount of its redetermined franchise permit fee.

(D) Each nursing home and hospital shall pay its redetermined fee to the department in two installment payments not later than forty-five days after the last day of March and June of the calendar year in which the redetermination is made.

Sec. 3721.532. If a nursing home or hospital undergoes a change of operator during a fiscal year, the responsibility for paying the franchise

permit fee that was determined for the nursing home or hospital under section 3721.53 of the Revised Code, or redetermined for the nursing home or hospital under section 3721.531 of the Revised Code, for that fiscal year shall be divided proportionally. The exiting operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that ends on the day before the effective date of the change of operator. The entering operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that begins on the effective date of the change of operator. The department of job and family services is not required to mail a notice to the entering operator regarding the amount of that fiscal year's fee for which the entering operator is responsible.

Sec. 3721.533. No nursing home or hospital shall directly bill its residents for the franchise permit fee paid under section 3721.53 or 3721.531 of the Revised Code or otherwise directly pass the fee through to its residents.

Sec. 3721.55. (A) A nursing home or hospital may appeal the fee ~~imposed~~ assessed under section 3721.51 of the Revised Code, as adjusted under section 3721.512 or 3721.513 of the Revised Code, and redetermined under section 3721.531 of the Revised Code solely on the grounds that the department of job and family services committed a material error in determining or redetermining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department mails the notice of the fee and must include written materials setting forth the basis for the appeal.

(B) If a nursing home or hospital submits a request for an appeal within the time required under division (A) of this section, the department of job and family services shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, mail a notice of the date, time, and place of the hearing to the nursing home or hospital. The department may hear all the requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the nursing home or hospital, the department may adjust a fee. The department's decision is final.

Sec. ~~3721.561~~ 3721.56. (A) There is hereby created in the state treasury the nursing ~~facility stabilization~~ home franchise permit fee fund. All payments and penalties paid by nursing homes and hospitals under sections 3721.53, 3721.531, and 3721.54 of the Revised Code ~~that are not deposited into the home and community based services for the aged fund~~ shall be

deposited into the fund. The fund shall also consist of money deposited into it pursuant to sections 3769.08 and 3769.26 of the Revised Code. Subject to division (B) of section 3769.08 of the Revised Code, the department of job and family services shall use the money in the fund to make medicaid payments to providers of nursing ~~facilities~~ facility services and providers of home and community-based services. Money in the fund may also be used for the residential state supplement program established under section 5119.69 of the Revised Code.

(B) Any money remaining in the nursing ~~facility stabilization~~ home franchise permit fee fund after payments specified in division (A) of this section are made shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make medicaid payments in accordance with division (A) of this section.

Sec. 3721.58. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do ~~all~~ both of the following:

(A) Prescribe the actions the department of job and family services will take to cease implementation of sections 3721.50 through 3721.57 of the Revised Code if the United States centers for medicare and medicaid services determines that the franchise permit fee established by those sections is an impermissible health-care related tax under section 1903(w) of the "Social Security Act," ~~49~~ 105 Stat. ~~620~~ 1793 (~~1935~~ 1991), 42 U.S.C. 1396b(w), as amended;

(B) ~~Establish the method of distributing moneys in the home and community-based services for the aged fund created under section 3721.56 of the Revised Code;~~

~~(C)~~ Establish any requirements or procedures the director considers necessary to implement sections 3721.50 to 3721.58 of the Revised Code.

Sec. 3733.41. As used in sections 3733.41 to 3733.49 of the Revised Code:

(A) "Agricultural labor camp" means one or more buildings or structures, trailers, tents, or vehicles, together with any land appertaining thereto, established, operated, or used as temporary living quarters for two or more families or five or more persons intending to engage in or engaged in agriculture or related food processing, whether occupancy is by rent, lease, or mutual agreement. "Agricultural labor camp" does not include a hotel or motel, or a ~~trailer~~ manufactured home park ~~as defined and~~ regulated pursuant to ~~sections~~ section 3733.01 ~~to 3733.08~~ of the Revised Code, and rules adopted thereunder.

(B) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code or an authorized representative of the board of health.

(C) "Director" means the director of the department of health or ~~his~~ the authorized representative of the director of health.

(D) "Licensor" means the director of health.

(E) "Person" means the state, any political subdivision, public or private corporation, partnership, association, trust, individual, or other entity.

(F) "Public health council" means the public health council as created by section 3701.33 of the Revised Code.

Sec. 3733.99. ~~(A) Whoever violates division (A) of section 3733.08 of the Revised Code is guilty of a misdemeanor of the fourth degree.~~

~~(B) Whoever violates section 3733.30 of the Revised Code is guilty of a minor misdemeanor. Each day that such violation continues is a separate offense.~~

~~(C)~~ Whoever violates section 3733.48 of the Revised Code is guilty of a minor misdemeanor.

Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation, financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of

variances from the director's solid waste rules, including, without limitation, rules adopted under this chapter governing the management of scrap tires.

Variances shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variances shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions. The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail and shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held. The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing. Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be

appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail.

(B) The director shall prescribe and furnish the forms necessary to administer and enforce this chapter. The director may cooperate with and enter into agreements with other state, local, or federal agencies to carry out the purposes of this chapter. The director may exercise all incidental powers necessary to carry out the purposes of this chapter.

The director may use moneys in the infectious waste management fund created in section 3734.021 of the Revised Code exclusively for administering and enforcing the provisions of this chapter governing the management of infectious wastes. Of each registration and renewal fee collected under rules adopted under division (A)(2)(a) of section 3734.021 or under section 3734.022 of the Revised Code, the director, within forty-five days of its receipt, shall remit from the fund one-half of the fee received to the board of health of the health district in which the registered premises is located, or, in the instance of an infectious wastes transporter, to the board of health of the health district in which the transporter's principal place of business is located. However, if the board of health having jurisdiction over a registrant's premises or principal place of business is not on the approved list under section 3734.08 of the Revised Code, the director shall not make that payment to the board of health.

(C) Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

No person shall continue to operate a solid waste facility for which the director has denied a permit for which an application was required under division (A)(3) of section 3734.05 of the Revised Code, or for which the director has disapproved plans and specifications required to be filed by an order issued under division (A)(5) of that section, after the date prescribed for commencement of closure of the facility in the order issued under division (A)(6) of section 3734.05 of the Revised Code denying the permit

application or approval.

On and after the effective date of the rules adopted under division (A) of this section and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, no person shall establish a new, or modify an existing, solid waste transfer facility without first submitting an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the director and receiving a permit issued by the director.

No person shall establish a new compost facility or continue to operate an existing compost facility that accepts exclusively source separated yard wastes without submitting a completed registration for the facility to the director in accordance with rules adopted under divisions (A) and (N)(3) of this section.

This division does not apply to an infectious waste treatment facility that meets any of the following conditions:

(1) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the premises where the generator's treatment facility is located or, if the generator is a hospital as defined in section 3727.01 of the Revised Code, infectious wastes that are described in division (A)(1)(g), (h), or (i) of section 3734.021 of the Revised Code;

(2) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(3) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment that are disposed of with solid wastes from the individual's residence; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of

the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous

waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

TYPE OF BASIC MANAGEMENT UNIT	TYPE OF FACILITY	FEE
Storage facility using:		
Containers	On-site, off-site, and satellite	$ 500
Tanks	On-site, off-site, and satellite	500
Waste pile	On-site, off-site, and satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using:		
Deep well injection	On-site and satellite	15,000
	Off-site	25,000
Landfill	On-site and satellite	25,000
	Off-site	40,000
Land application	On-site and satellite	2,500
	Off-site	5,000
Surface impoundment	On-site and satellite	10,000
	Off-site	20,000
Treatment facility using:		
Tanks	On-site, off-site, and satellite	700
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Incinerator	On-site and satellite	5,000
	Off-site	10,000
Other forms of treatment	On-site, off-site, and satellite	1,000

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in

this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe procedures for collecting the annual permit fee established by this division and may prescribe other requirements necessary to carry out this division.

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility installation and operation permit does not apply to either of the following:

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in

division (E)(3)(a) or (b) of this section, division (I)(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;

(5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, infectious wastes, or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the

easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair, replacement, or maintenance work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) No owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes, other than those subject to

division (A)(1)(c) of section 3734.021 of the Revised Code, that have not been treated to render them noninfectious. For the purposes of this division, certification by the owner or operator of the treatment facility where the wastes were treated on the shipping paper required by rules adopted under division (D)(2) of that section creates a rebuttable presumption that the wastes have been so treated.

(L) The director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

(N)(1) The rules adopted under division (A) of this section, other than those governing variances, do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(2) Division (C) of this section does not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The establishment and modification of those facilities are subject to sections 3734.75 to 3734.78 and section 3734.81 of the Revised Code, as applicable.

(3) The director may adopt, amend, suspend, or rescind rules under division (A) of this section creating an alternative system for authorizing the

establishment, operation, or modification of a solid waste compost facility in lieu of the requirement that a person seeking to establish, operate, or modify a solid waste compost facility apply for and receive a permit under division (C) of this section and section 3734.05 of the Revised Code and a license under division (A)(1) of that section. The rules may include requirements governing, without limitation, the classification of solid waste compost facilities, the submittal of operating records for solid waste compost facilities, and the creation of a registration or notification system in lieu of the issuance of permits and licenses for solid waste compost facilities. The rules shall specify the applicability of divisions (A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised Code to a solid waste compost facility.

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing solid waste facility shall procure a license under this division to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (A)(2) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of a solid waste facility, and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with this chapter and rules adopted under it. The terms and conditions may

establish the authorized maximum daily waste receipts for the facility. Limitations on maximum daily waste receipts shall be specified in cubic yards of volume for the purpose of regulating the design, construction, and operation of solid waste facilities. Terms and conditions included in a license or revision to a license by a board of health shall be consistent with, and pertain only to the subjects addressed in, the rules adopted under division (A) of section 3734.02 and division (D) of section 3734.12 of the Revised Code.

(2)(a) Except as provided in divisions (A)(2)(b), (8), and (9) of this section, each person proposing to open a new solid waste facility or to modify an existing solid waste facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code at least two hundred seventy days before proposed operation of the facility and shall concurrently make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the proposed facility is to be located.

(b) On and after the effective date of the rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, each person proposing to open a new solid waste transfer facility or to modify an existing solid waste transfer facility shall submit an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the environmental protection agency for required approval under those rules at least two hundred seventy days before commencing proposed operation of the facility and concurrently shall make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the facility is located or proposed.

(c) Each application for a permit under division (A)(2)(a) or (b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special fund of the health district

created in division (B) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (A)(1), (2), (3), ~~or~~ (4), or (5) of section 3734.06 of the Revised Code.

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than ~~thirty-five~~ forty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the

public meeting, any person may submit written or oral comments on or objections to the application. Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays, or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

(e) Except as provided in division (A)(2)(f) of this section, prior to taking an action, other than a proposed or final denial, upon an application submitted under division (A)(2)(a) of this section for a permit to open a new or modify an existing solid waste facility, the director shall hold a public information session and a public hearing on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the application is for a permit to modify an existing solid waste facility, the director may hold both the information session and the hearing on the same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the information session and public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the information session and hearing.

(f) The solid waste management policy committee of a county or joint solid waste management district may adopt a resolution requesting expeditious consideration of a specific application submitted under division (A)(2)(a) of this section for a permit to modify an existing solid waste facility within the district. The resolution shall make the finding that expedited consideration of the application without the public information session and public hearing under division (A)(2)(e) of this section is in the public interest and will not endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code. Upon receiving such a resolution, the director, at the director's discretion, may issue a final action upon the application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section.

(3) Except as provided in division (A)(10) of this section, and unless the owner or operator of any solid waste facility, other than a solid waste transfer facility or a compost facility that accepts exclusively source separated yard wastes, that commenced operation on or before July 1, 1968, has obtained an exemption from the requirements of division (A)(3) of this section in accordance with division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code in accordance with the following schedule:

(a) Not later than September 24, 1988, if the facility is located in the city of Garfield Heights or Parma in Cuyahoga county;

(b) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(c) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn or Cuyahoga Heights in Cuyahoga county;

(d) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights;

(e) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(f) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (A)(3)(a) to (e) of this section;

(g) Notwithstanding divisions (A)(3)(a) to (f) of this section, not later than December 31, 1990, if the facility is a solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated and if the facility disposes of more than one hundred thousand tons of solid wastes per year, provided that any such facility shall be subject to division (A)(5) of this section.

(4) Except as provided in divisions (A)(8), (9), and (10) of this section, unless the owner or operator of any solid waste facility for which a permit was issued after July 1, 1968, but before January 1, 1980, has obtained an exemption from the requirements of division (A)(4) of this section under division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under those rules.

(5) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(6) The director shall act upon an application submitted under division (A)(3) or (4) of this section and any updated engineering plans, specifications, and information submitted under division (A)(5) of this section within one hundred eighty days after receiving them. If the director denies any such permit application, the order denying the application or disapproving the plans shall include the requirements that the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order, cease accepting solid wastes for disposal or transfer at the facility, and commence

closure of the facility not later than one year after issuance of the order. If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of denial or disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director shall certify in the director's order that postponing the date for commencement of closure will not endanger ground water or any property surrounding the facility, allow methane gas migration to occur, or cause or contribute to any other type of environmental damage.

If an emergency need for disposal capacity that may affect public health and safety exists as a result of closure of a facility under division (A)(6) of this section, the director may issue an order designating another solid waste facility to accept the wastes that would have been disposed of at the facility to be closed.

(7) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section 3734.02 of the Revised Code or, unless otherwise provided in rules adopted under division (N)(3) of section 3734.02 of the Revised Code, to a solid waste compost facility if the director has adopted rules establishing an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility under that division.

(9) Divisions (A)(1) to (7) of this section do not apply to scrap tire

collection, storage, monocell, monofill, and recovery facilities. The approval of plans and specifications, as applicable, and the issuance of registration certificates, permits, and licenses for those facilities are subject to sections 3734.75 to 3734.78 of the Revised Code, as applicable, and section 3734.81 of the Revised Code.

(10) Divisions (A)(3) and (4) of this section do not apply to a solid waste incinerator that was placed into operation on or before October 12, 1994, and that is not authorized to accept and treat infectious wastes pursuant to division (B) of this section.

(B)(1) Each person who is engaged in the business of treating infectious wastes for profit at a treatment facility located off the premises where the wastes are generated that is in operation on August 10, 1988, and who proposes to continue operating the facility shall submit to the board of health of the health district in which the facility is located an application for a license to operate the facility.

Thereafter, no person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may

include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter and rules adopted under them.

(b) Each person proposing to open a new infectious waste treatment facility or to modify an existing infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to section 3734.021 of the Revised Code two hundred seventy days before proposed operation of the facility and concurrently shall make application for a license with the board of health of the health district in which the facility is or is proposed to be located. Not later than ninety days after receiving a completed application under division (B)(2)(b) of this section for a permit to open a new infectious waste treatment facility or modify an existing infectious waste treatment facility to expand its treatment capacity, or receiving a completed application under division (A)(2)(a) of this section for a permit to open a new solid waste incineration facility, or modify an existing solid waste incineration facility to also treat infectious wastes or to increase its infectious waste treatment capacity, that pertains to a facility for which a notation authorizing infectious waste treatment is included or proposed to be included in the solid waste incineration facility's license pursuant to division (B)(3) of this section, the director shall hold a public hearing on the application within the county in which the new or modified infectious waste or solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public hearing on the application, the director shall publish notice of the hearing in each newspaper that has general circulation and that is published in the county in which the facility is or is proposed to be located. If there is no newspaper that has general circulation and that is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public hearing and a general description of the proposed new or modified facility. At the public hearing, any person may submit written or oral comments on or objections to the approval or disapproval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the hearing.

(c) Each application for a permit under division (B)(2)(b) of this section

shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (B)(2)(a) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (C) of section 3734.06 of the Revised Code.

(d) The owner or operator of any infectious waste treatment facility that commenced operation on or before July 1, 1968, shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code in accordance with the following schedule:

(i) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(ii) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn, Cuyahoga Heights, or Parma in Cuyahoga county;

(iii) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Brooklyn, Cuyahoga Heights, and Parma;

(iv) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(v) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (B)(2)(d)(i) to (iv) of this section.

The owner or operator of an infectious waste treatment facility required to submit a permit application under division (B)(2)(d) of this section is not required to pay any permit application fee under division (B)(2)(c) of this section, or permit fee under division (Q) of section 3745.11 of the Revised Code, with respect thereto unless the owner or operator also proposes to

modify the facility.

(e) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(f) The director shall act upon an application submitted under division (B)(2)(d) of this section and any updated engineering plans, specifications, and information submitted under division (B)(2)(e) of this section within one hundred eighty days after receiving them. If the director denies any such permit application or disapproves any such updated engineering plans, specifications, and information, the director shall include in the order denying the application or disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility.

(3) Division (B) of this section does not apply to an infectious waste treatment facility that meets any of the following conditions:

(a) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the same premises where the generator's treatment facility is located or, if the generator is a hospital as defined in section 3727.01 of the Revised Code, infectious wastes that are described in division (A)(1)(g), (h), or (i) of section 3734.021 of the Revised Code;

(b) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(c) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(ii) Chapter 918. of the Revised Code;

(iii) Chapter 953. of the Revised Code.

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes.

On and after the effective date of the amendments to the rules adopted under division (C)(2) of section 3734.021 of the Revised Code that are required by Section 6 of Substitute House Bill No. 98 of the 120th General Assembly, the director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in the required amendments to those rules.

(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of the application within ten days after the submission or at such earlier time as the director may establish by rule. If the application is for a proposed new hazardous waste disposal or thermal treatment facility, the applicant also shall give actual notice of the general design and purpose of the facility to the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located at least ninety days before the permit application is submitted to the environmental protection agency.

In accordance with rules adopted under section 3734.12 of the Revised Code, prior to the submission of a complete application for a hazardous waste facility installation and operation permit, the applicant shall hold at least one meeting in the township or municipal corporation in which the facility is proposed to be located, whichever is geographically closer to the proposed location of the facility. The meeting shall be open to the public and shall be held to inform the community of the proposed hazardous waste management activities and to solicit questions from the community

concerning the activities.

(D)(1) Except as provided in section 3734.123 of the Revised Code, upon receipt of a complete application for a hazardous waste facility installation and operation permit under division (C) of this section, the director shall consider the application and accompanying information to determine whether the application complies with agency rules and the requirements of division (D)(2) of this section. After making a determination, the director shall issue either a draft permit or a notice of intent to deny the permit. The director, in accordance with rules adopted under section 3734.12 of the Revised Code or with rules adopted to implement Chapter 3745. of the Revised Code, shall provide public notice of the application and the draft permit or the notice of intent to deny the permit, provide an opportunity for public comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;

(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

(i) Fires or explosions from treatment, storage, or disposal methods;

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

(iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of

hazardous waste, that person has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704. and 6111. of the Revised Code, the applicable rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. For off-site facilities, as defined in section 3734.41 of the Revised Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33 (e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

(i) Two thousand feet of any residence, school, hospital, jail, or prison;

(ii) Any naturally occurring wetland;

(iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood.

Division (D)(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(2)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within

the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility will be used exclusively for the storage of hazardous waste generated within the park or recreation area in conjunction with the operation of the park or recreation area. Division (D)(2)(h) of this section does not apply to the facility of any applicant for modification of a permit unless the modification application proposes to increase the land area included in the facility or to increase the quantity of hazardous waste that will be treated, stored, or disposed of at the facility.

(3) Not later than one hundred eighty days after the end of the public comment period, the director, without prior hearing, shall issue or deny the permit in accordance with Chapter 3745. of the Revised Code. If the director approves an application for a hazardous waste facility installation and operation permit, the director shall issue the permit, upon such terms and conditions as the director finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section.

(E) No political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

(F) The director may issue a single hazardous waste facility installation and operation permit to a person who operates two or more adjoining facilities where hazardous waste is stored, treated, or disposed of if the application includes detail plans, specifications, and information on all facilities. For the purposes of this section, "adjoining" means sharing a common boundary, separated only by a public road, or in such proximity that the director determines that the issuance of a single permit will not create a hazard to the public health or safety or the environment.

(G) No person shall falsify or fail to keep or submit any plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director by this chapter or the rules

adopted under it.

(H)(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information as the director may require to the director no later than one hundred eighty days prior to the expiration date of the existing permit or upon a later date prior to the expiration of the existing permit if the permittee can demonstrate good cause for the late submittal. The director shall consider the application and accompanying information, inspection reports of the facility, results of performance tests, a report regarding the facility's compliance or noncompliance with the terms and conditions of its permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

(2) Within sixty days after the public meeting or close of the public comment period, the director, without prior hearing, shall issue or deny the renewal permit in accordance with Chapter 3745. of the Revised Code. The director shall not issue a renewal permit unless the director determines that the facility under the existing permit has a history of compliance with this chapter, rules adopted under it, the existing permit, or orders entered to enforce such requirements that demonstrates sufficient reliability, expertise, and competency to operate the facility henceforth under this chapter, rules adopted under it, and the renewal permit. If the director approves an application for a renewal permit, the director shall issue the permit subject to the payment of the annual permit fee required under division (E) of section 3734.02 of the Revised Code and upon such terms and conditions as the director finds are reasonable to ensure that continued operation, maintenance, closure, and post-closure care of the hazardous waste facility are in accordance with the rules adopted under section 3734.12 of the Revised Code.

(3) An installation and operation permit renewal application submitted to the director that also contains or would constitute an application for a

modification shall be acted upon by the director in accordance with division (I) of this section in the same manner as an application for a modification. In approving or disapproving the renewal portion of a permit renewal application containing an application for a modification, the director shall apply the criteria established under division (H)(2) of this section.

(4) An application for renewal or modification of a permit that does not contain an application for a modification as described in divisions (I)(3)(a) to (d) of this section shall not be subject to division (D)(2) of this section.

(I)(1) As used in this section, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent with or not authorized by its existing permit or authorization to operate. Modifications shall be classified as Class 1, 2, or 3 modifications in accordance with rules adopted under division (K) of this section. Modifications classified as Class 3 modifications, in accordance with rules adopted under that division, shall be further classified by the director as either Class 3 modifications that are to be approved or disapproved by the director under divisions (I)(3)(a) to (d) of this section or as Class 3 modifications that are to be approved or disapproved by the director under division (I)(5) of this section. Not later than thirty days after receiving a request for a modification under division (I)(4) of this section that is not listed in Appendix I to 40 C.F.R. 270.42 or in rules adopted under division (K) of this section, the director shall classify the modification and shall notify the owner or operator of the facility requesting the modification of the classification. Notwithstanding any other law to the contrary, a modification that involves the transfer of a hazardous waste facility installation and operation permit to a new owner or operator for any off-site facility as defined in section 3734.41 of the Revised Code shall be classified as a Class 3 modification. The transfer of a hazardous waste facility installation and operation permit to a new owner or operator for a facility that is not an off-site facility shall be classified as a Class 1 modification requiring prior approval of the director.

(2) Except as provided in section 3734.123 of the Revised Code, a hazardous waste facility installation and operation permit may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or

different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director shall approve or disapprove an application for a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5)

of this section.

(d) Authority to treat, store, or dispose of waste types listed or characterized as reactive or explosive, in rules adopted under section 3734.12 of the Revised Code, or any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit unless the requested authority is limited to wastes that no longer exhibit characteristics meeting the criteria for listing or characterization as reactive or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes as established in rules adopted under section 3734.12 of the Revised Code because of the requirements established in 40 C.F.R. 261(a) and (e), as amended, that is, the "mixture," "derived-from," or "contained-in" regulations.

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. Requests for modifications shall be acted upon by the director in accordance with this section and rules adopted under it.

(5) Class 1 modification applications that require prior approval of the director, as provided in division (I)(1) of this section or as determined in accordance with rules adopted under division (K) of this section, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director in accordance with rules adopted under division (K) of this section. The board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

As used in division (I) of this section:

(a) "Owner" means the person who owns a majority or controlling interest in a facility.

(b) "Operator" means the person who is responsible for the overall operation of a facility.

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification within three hundred

sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification is a final action that is appealable under that chapter. In approving or disapproving a request for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

(7) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation

and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with division (I)(5) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. The director shall approve or disapprove an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)(3) of this section, except that the director shall not disapprove an application for the thermal treatment activities on the basis of the criteria set forth in division (D)(2)(g) or (h) of this section.

(3) As used in division (J) of this section:

(a) "Modification application" means a request for a modification submitted in accordance with division (I) of this section.

(b) "Thermal treatment," "boiler," and "industrial furnace" have the same meanings as in rules adopted under section 3734.12 of the Revised Code.

(K) The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code in order to implement divisions (H) and (I) of this section. Except when in actual conflict with this section, rules governing the classification of and procedures for the modification of hazardous waste facility installation and operation permits shall be substantively and procedurally identical to the regulations governing hazardous waste facility permitting and permit modifications

adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.

Sec. 3734.06. (A)(1) Except as provided in ~~division~~ divisions (A)(2), (3), ~~and~~ (4), and (5) of this section and in section 3734.82 of the Revised Code, the annual fee for a solid waste facility license shall be in accordance with the following schedule:

AUTHORIZED MAXIMUM DAILY WASTE RECEIPT (TONS)	ANNUAL LICENSE FEE
100 or less	$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under divisions (A)(1) ~~and~~, (2), and (3) of this section, the authorized maximum daily waste receipt shall be the maximum amount of wastes the facility is authorized to receive daily that is established in the permit for the facility, and any modifications to that permit, issued under division (A)(2) or (3) of section 3734.05 of the Revised Code; the annual license for the facility, and any revisions to that license, issued under division (A)(1) of section 3734.05 of the Revised Code; the approved operating plan or operational report for which submission and approval are required by rules adopted by the director of environmental protection under section 3734.02 of the Revised Code; an order issued by the director as authorized by rule; or the updated engineering plans, specifications, and facility and operation information approved under division (A)(4) of section 3734.05 of the Revised Code. If no authorized maximum daily waste receipt is so established, the annual license fee is sixty thousand dollars under division (A)(1) of this section and thirty thousand dollars under ~~division~~ divisions (A)(2) and (3) of this section.

The authorized maximum daily waste receipt set forth in any such document shall be stated in terms of cubic yards of volume for the purpose of regulating the design, construction, and operation of a solid waste facility. For the purpose of determining applicable license fees under this section, the authorized maximum daily waste receipt so stated shall be converted from cubic yards to tons as the unit of measurement based upon a conversion factor of three cubic yards per ton for compacted wastes generally and one cubic yard per ton for baled wastes.

(2) The annual license fee for a facility that is an incinerator facility is

one-half the amount shown in division (A)(1) of this section. When a municipal corporation, county, or township owns and operates more than one incinerator within its boundaries, the municipal corporation, county, or township shall pay one fee for the licenses for all of its incinerators. The fee shall be determined on the basis of the aggregate maximum daily waste receipt for all the incinerators owned and operated by the municipal corporation, county, or township in an amount that is one-half the amount shown in division (A)(1) of this section.

(3) The annual fee for a solid waste compost facility license shall be in accordance with the following schedule:

AUTHORIZED MAXIMUM DAILY WASTE RECEIPT (TONS)	ANNUAL LICENSE FEE
12 or less	$ 300
13 to 25	600
26 to 50	1,200
51 to 75	1,800
76 to 100	2,500
101 to ~~200~~ 150	~~6,250~~ 3,750
151 to 200	5,000
201 to ~~500~~ 250	~~15,000~~ 6,250
251 to 300	7,500
301 to 400	10,000
401 to 500	12,500
501 or more	30,000

~~(3)~~(4) The annual license fee for a solid waste facility, regardless of its authorized maximum daily waste receipt, is five thousand dollars for a facility meeting either of the following qualifications:

(a) The facility is owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated~~;~~.

(b) The facility exclusively disposes of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

~~(4)~~(5) The annual license fee for a facility that is a transfer facility is seven hundred fifty dollars.

~~(5)~~(6) The same fees shall apply to private operators and to the state and

its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the solid waste provisions of this chapter and rules adopted under them, excluding the provisions governing scrap tires. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(B) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (A)(1), (2), ~~and~~ (3), and (4) of this section or the entire amount of any such fee that is less than two thousand five hundred dollars. The moneys retained shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce the solid waste provisions of this chapter and the rules adopted under them, excluding the provisions governing scrap tires. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund. The board of health shall retain the entire amount of each fee collected under division (A)~~(4)~~(5) of this section, which moneys shall be paid into the special fund of the health district.

(C)(1) Except as provided in divisions (C)(2) and (3) of this section, the annual fee for an infectious waste treatment facility license shall be in accordance with the following schedule:

AVERAGE DAILY WASTE RECEIPT (TONS)	ANNUAL LICENSE FEE
100 or less	$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under divisions (C)(1) and (2) of this section, the average daily waste receipt shall be the average amount of infectious wastes the facility is authorized to receive daily that is established in the permit for the facility, and any modifications to that permit, issued under division (B)(2)(b) or (d) of section 3734.05 of the Revised Code; or the annual license for the facility, and any revisions to that license, issued under division (B)(2)(a) of section 3734.05 of the Revised Code. If no average daily waste receipt is so established, the annual license fee is sixty thousand dollars under division (C)(1) of this section and thirty thousand dollars under division (C)(2) of this section.

(2) The annual license fee for an infectious waste treatment facility that is an incinerator is one-half the amount shown in division (C)(1) of this section.

(3) Fees levied under divisions (C)(1) and (2) of this section shall apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the infectious waste provisions of this chapter and rules adopted under them. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(4) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (C)(1) and (2) of this section. The moneys retained shall be paid into a special infectious waste fund, which is hereby created in each health district, and used solely to administer and enforce the infectious waste provisions of this chapter and the rules adopted under them. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund.

Sec. 3734.18. (A) As used in this section:

(1) "On-site facility" means a facility that treats or disposes of hazardous waste that is generated on the premises of the facility.

(2) "Off-site facility" means a facility that treats or disposes of hazardous waste that is generated off the premises of the facility.

(3) "Satellite facility" means any of the following:

(a) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(b) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(c) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(B) A treatment or disposal facility that is subject to the fees that are levied under this section may be both an on-site facility and an off-site facility. The determination of whether an on-site facility fee or an off-site facility fee is to be paid for a hazardous waste that is treated or disposed of at the facility shall be based on whether that hazardous waste was generated

on or off the premises of the facility.

(C) There are hereby levied fees on the disposal of hazardous waste to be collected according to the following schedule at each disposal facility to which a hazardous waste facility installation and operation permit or renewal of a permit has been issued under this chapter or that is operating in accordance with a permit by rule under rules adopted by the director of environmental protection:

(1) For disposal facilities that are off-site facilities, fees shall be levied at the rate of four dollars and fifty cents per ton for hazardous waste disposed of by deep well injection and nine dollars per ton for hazardous waste disposed of by land application or landfilling. The owner or operator of the facility, as a trustee for the state, shall collect the fees and forward them to the director in accordance with rules adopted under this section.

(2) For disposal facilities that are on-site or satellite facilities, fees shall be levied at the rate of two dollars per ton for hazardous waste disposed of by deep well injection and four dollars per ton for hazardous waste disposed of by land application or landfilling. The maximum annual disposal fee for an on-site disposal facility that disposes of one hundred thousand tons or less of hazardous waste in a year is twenty-five thousand dollars. The maximum annual disposal fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by land application or landfilling is fifty thousand dollars, and the maximum annual fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by deep well injection is one hundred thousand dollars. The maximum annual disposal fee for a satellite facility that disposes of one hundred thousand tons or less of hazardous waste in a year is thirty-seven thousand five hundred dollars, and the maximum annual disposal fee for a satellite facility that disposes of more than one hundred thousand tons of hazardous waste in a year is seventy-five thousand dollars, except that a satellite facility defined under division (A)(3)(b) of this section that receives hazardous waste from a single generation site is subject to the same maximum annual disposal fees as an on-site disposal facility. The owner or operator shall pay the fee to the director each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code or on the anniversary of the date of a permit by rule. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that it is late.

(D) There are hereby levied fees at the rate of two dollars per ton on

hazardous waste that is treated at treatment facilities that are not on-site or satellite facilities to which a hazardous waste facility installation and operation permit or renewal of a permit has been issued under this chapter, whose owner or operator is operating in accordance with a permit by rule under rules adopted by the director, or that are not subject to the hazardous waste facility installation and operation permit requirements under rules adopted by the director.

(E) There are hereby levied additional fees on the treatment and disposal of hazardous waste at the rate of ten per cent of the applicable fees prescribed in division (C) or (D) of this section for the purposes of paying the costs of municipal corporations and counties for conducting reviews of applications for hazardous waste facility installation and operation permits for proposed new or modified hazardous waste landfills within their boundaries, emergency response actions with respect to releases of hazardous waste from hazardous waste facilities within their boundaries, monitoring the operation of such hazardous waste facilities, and local waste management planning programs. The owner or operator of a facility located within a municipal corporation, as a trustee for the municipal corporation, shall collect the fees levied by this division and forward them to the treasurer of the municipal corporation or such officer as, by virtue of the charter, has the duties of the treasurer in accordance with rules adopted under this section. The owner or operator of a facility located in an unincorporated area, as a trustee of the county in which the facility is located, shall collect the fees levied by this division and forward them to the county treasurer of that county in accordance with rules adopted under this section. The owner or operator shall pay the fees levied by this division to the treasurer or such other officer of the municipal corporation or to the county treasurer each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code or on the anniversary of the date of a permit by rule or the date on which the facility became exempt from hazardous waste facility installation and operation permit requirements under rules adopted by the director. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that the payment is late.

Moneys received by a municipal corporation under this division shall be paid into a special fund of the municipal corporation and used exclusively for the purposes of conducting reviews of applications for hazardous waste facility installation and operation permits for new or modified hazardous

waste landfills located or proposed within the municipal corporation, conducting emergency response actions with respect to releases of hazardous waste from facilities located within the municipal corporation, monitoring operation of such hazardous waste facilities, and conducting waste management planning programs within the municipal corporation through employees of the municipal corporation or pursuant to contracts entered into with persons or political subdivisions. Moneys received by a board of county commissioners under this division shall be paid into a special fund of the county and used exclusively for those purposes within the unincorporated area of the county through employees of the county or pursuant to contracts entered into with persons or political subdivisions.

(F) As used in this section, "treatment" or "treated" does not include any method, technique, or process designed to recover energy or material resources from the waste or to render the waste amenable for recovery. The fees levied by division (D) of this section do not apply to hazardous waste that is treated and disposed of on the same premises or by the same person.

(G) The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe any dates not specified in this section and procedures for collecting and forwarding the fees prescribed by this section and may prescribe other requirements that are necessary to carry out this section.

The director shall deposit the moneys collected under divisions (C) and (D) of this section ~~into one or more minority banks, as "minority bank" is defined in division (F)(1) of section 135.04 of the Revised Code,~~ to the credit of the hazardous waste facility management fund, which is hereby created in the state treasury, except that the director shall deposit to the credit of the underground injection control fund created in section 6111.046 of the Revised Code moneys in excess of fifty thousand dollars that are collected during a fiscal year under division (C)(2) of this section from the fee levied on the disposal of hazardous waste by deep well injection at an on-site disposal facility that disposes of more than one hundred thousand tons of hazardous waste in a year.

The environmental protection agency may use moneys in the hazardous waste facility management fund for administration of the hazardous waste program established under this chapter and, in accordance with this section, may request approval by the controlling board <u>on an annual basis</u> for that use ~~on an annual basis. In addition, the agency may use and pledge moneys in that fund for repayment of and for interest on any loans made by the Ohio water development authority to the agency for the hazardous waste program established under this chapter without the necessity of requesting approval~~

~~by the controlling board, which use and pledge shall have priority over any other use of the moneys in the fund~~ and for the purposes specified in sections 3734.19 to 3734.27 of the Revised Code.

~~Until September 28, 1996, the director also may use moneys in the fund to pay the start-up costs of administering Chapter 3746. of the Revised Code.~~

If moneys in the fund that the agency uses in accordance with this chapter are reimbursed by grants or other moneys from the United States government, the grants or other moneys shall be placed in the fund.

Before the agency makes any expenditure from the fund other than for repayment of and interest on any loan made by the Ohio water development authority to the agency ~~in accordance with this section~~, the controlling board shall approve the expenditure.

Sec. 3734.19. (A) If the legislative or executive authority of a municipal corporation, county, or township has evidence to indicate that locations within its boundaries once served as hazardous waste facilities or that significant quantities of hazardous waste were disposed of in solid waste facilities within its boundaries, it may file a formal written request with the director of environmental protection, accompanied by supporting evidence, to survey the locations or facilities.

Upon receipt of a request and a review of the evidence submitted with the request, the director shall conduct an investigation to determine if hazardous waste was actually treated, stored, or disposed of at the locations or facilities and, if so, to determine the nature and approximate quantity and types of the waste treated, stored, or disposed of at the particular locations or facilities. In addition, the director shall determine whether the locations or facilities, because of their present condition and the nature and quantities of waste treated, stored, or disposed of therein, result or are likely to result in air pollution, pollution of the waters of the state, or soil contamination or constitute a present or imminent and substantial threat to public health or safety. The director shall report the findings of ~~his~~ the investigation to the municipal corporation, county, or township requesting the survey.

For the purpose of conducting investigations under this section, the director or ~~his~~ the director's authorized representative may enter upon any public or private property. The director or ~~his~~ the director's authorized representative may apply for, and any judge of a court of common pleas shall issue, an appropriate search warrant necessary to achieve the purposes of this section within the court's territorial jurisdiction. When conducting investigations under this section, the director shall cause no unnecessary damage to any property. The director may expend moneys from the

hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code for conducting investigations.

(B) As used in this section and in sections 3734.20, 3734.21, 3734.23, 3734.25, and 3734.26 of the Revised Code, "soil contamination" means the presence in or on the soil of any hazardous waste or hazardous waste residue resulting from the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing into or on the soil of hazardous waste or hazardous waste residue, or any material that when discharged, deposited, injected, dumped, spilled, leaked, emitted, or placed into or on the soil becomes a hazardous waste, in any quantity or having any characteristics that are or threaten to be injurious to public health or safety, plant or animal life, or the environment or that unreasonably interfere with the comfortable enjoyment of life or property.

Sec. 3734.20. (A) If the director of environmental protection has reason to believe that hazardous waste was treated, stored, or disposed of at any location within the state, the director may conduct such investigations and make such inquiries, including obtaining samples and examining and copying records, as are reasonable or necessary to determine if conditions at a hazardous waste facility, solid waste facility, or other location where the director has reason to believe hazardous waste was treated, stored, or disposed of constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. The director or the director's authorized representative may apply for, and any judge of a court of common pleas shall issue, an appropriate search warrant necessary to achieve the purposes of this section within the court's territorial jurisdiction. The director may expend moneys from the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code for conducting investigations under this section.

(B) If the director determines that conditions at a hazardous waste facility, solid waste facility, or other location where hazardous waste was treated, stored, or disposed of constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination, the director shall

initiate appropriate action under this chapter or Chapter 3704. or 6111. of the Revised Code or seek any other appropriate legal or equitable remedies to abate the pollution or contamination or to protect public health or safety.

If an order of the director to abate or prevent air or water pollution or soil contamination or to remedy a threat to public health or safety caused by conditions at such a facility issued pursuant to this chapter or Chapter 3704. or 6111. of the Revised Code is not wholly complied with within the time prescribed in the order, the director may, through officers or employees of the environmental protection agency or through contractors employed for that purpose in accordance with the bidding procedure established in division (C) of section 3734.23 of the Revised Code, enter upon the facility and perform those measures necessary to abate or prevent air or water pollution or soil contamination from the facility or to protect public health or safety, including, but not limited to, measures prescribed in division (B) of section 3734.23 of the Revised Code. The director shall keep an itemized record of the cost of the investigation and measures performed, including costs for labor, materials, and any contract services required. Upon completion of the investigation or measures, the director shall record the cost of performing those measures at the office of the county recorder of the county in which the facility is located. The cost so recorded constitutes a lien against the property on which the facility is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the cost. Any moneys so received shall be credited to the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund, as applicable.

When entering upon a facility under this division, the director shall perform or cause to be performed only those measures necessary to abate or prevent air or water pollution or soil contamination caused by conditions at the facility or to abate threats to public health or safety caused by conditions at the facility. For this purpose the director may expend moneys from ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment of and for the interest on such loans.

Sec. 3734.21. (A) The director of environmental protection may expend moneys credited to the hazardous waste facility management fund created in

section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code for the payment of the cost of measures necessary for the proper closure of hazardous waste facilities or any solid waste facilities containing significant quantities of hazardous waste, for the payment of costs of the development and construction of suitable hazardous waste facilities required by division (B) of section 3734.23 of the Revised Code to the extent the director determines that such facilities are not available, and for the payment of costs that are necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety. In addition, the director may expend and pledge moneys credited to ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for repayment of and for interest on any loan made by the Ohio water development authority to the environmental protection agency for the payment of such costs.

(B) Before beginning to clean up any facility under this section, the director shall develop a plan for the cleanup and an estimate of the cost thereof. The plan shall include only those measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation on any facility for the burial of hazardous waste to prevent the infiltration of water into cells where hazardous waste is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions of hazardous waste; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste from the facility and the treatment or disposal of the waste at a suitable hazardous waste facility. The plan or any part of the plan for the cleanup of the facility shall be carried out by entering into contracts therefor in accordance with the procedures established in division (C) of section 3734.23 of the Revised Code.

Sec. 3734.22. Before beginning to clean up any facility under section 3734.21 of the Revised Code, the director of environmental protection shall endeavor to enter into an agreement with the owner of the land on which the facility is located, or with the owner of the facility, specifying the measures to be performed and authorizing the director, employees of the agency, or

contractors retained by the director to enter upon the land and perform the specified measures.

Each agreement may contain provisions for the reimbursement of the state for the costs of the cleanup.

All reimbursements and payments shall be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code, as applicable.

The agreement may require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency in accordance with the bidding procedure established in division (C) of section 3734.23 of the Revised Code may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the agreement. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the agreement may require the owner to enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

Upon a breach of the reimbursement provisions of the agreement by the owner of the land or facility, or upon notification to the director by the owner that the owner is unable to perform the duties under the reimbursement provisions of the agreement, the director may record the unreimbursed portion of the costs of cleanup at the office of the county recorder of the county in which the facility is located. The costs so recorded constitute a lien against the property on which the facility is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the unreimbursed portion of the costs of cleanup. Any moneys so recovered shall be credited to the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund, as applicable.

Sec. 3734.23. (A) The director of environmental protection may acquire by purchase, gift, donation, contribution, or appropriation in accordance with sections 163.01 to 163.21 of the Revised Code any hazardous waste facility or any solid waste facility containing significant quantities of hazardous waste that, because of its condition and the types and quantities of hazardous waste contained in the facility, constitutes an imminent and substantial threat to public health or safety or results in air pollution, pollution of the waters of the state, or soil contamination. For this purpose

and for the purposes of division (B) of this section, the director may expend moneys from the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment of and for the interest on such loans. Any lands or facilities purchased or acquired under this section shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

(B) The director shall, with respect to any land or facility acquired under this section or cleaned up under section 3734.20 of the Revised Code, perform closure or other measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation on any facility for the burial of hazardous waste to prevent the infiltration of water into cells where hazardous waste is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions of hazardous waste; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste from the facility and the treatment or disposal of the waste at a suitable hazardous waste facility. After performing these measures, the director shall provide for the post-closure care, maintenance, and monitoring of facilities cleaned up under this section.

(C) Before proceeding to clean up any facility under this section or section 3734.20 or 3734.21 of the Revised Code, the director shall develop a plan for the cleanup of the facility and an estimate of the cost thereof. The director may carry out the plan or any part of the plan by contracting for the services, construction, and repair necessary therefor. The director shall award each such contract to the lowest responsible bidder after sealed bids therefor are received, opened, and published at the time fixed by the director and notice of the time and place at which the sealed bids will be received, opened, and published has been published by the director in a newspaper of general circulation in the county in which the facility to be cleaned up under the contract is located at least once within the ten days before the opening of

the bids. However, if after advertising for bids for the contract, no bids are received by the director at the time and place fixed for receiving them, the director may advertise again for bids, or the director may, if the director considers the public interest will best be served thereby, enter into a contract for the cleanup of the facility without further advertisement for bids. The director may reject any or all bids received and fix and publish again notice of the time and place at which bids for the contracts will be received, opened, and published.

(D) The director shall keep an itemized record of the costs of any acquisition under division (A) of this section and the costs of cleanup under division (B) of this section.

Sec. 3734.24. After the cleanup of a solid waste facility or a hazardous waste facility acquired and cleaned up under section 3734.23 of the Revised Code, the director of environmental protection may, if the facility is suitable for use by any other state department, agency, office, or institution and if the proposed use of the facility is compatible with the condition of the facility as cleaned up, transfer the facility to that state department, agency, office, or institution. The director shall continue to provide for the post-closure care, maintenance, and monitoring of any such cleaned-up facility as required by section 3734.23 of the Revised Code.

If the director determines that any facility so cleaned up is suitable, because of its condition as cleaned up, for restricted or unrestricted use, the director may, with the approval of the attorney general, sell the facility if the sale is advantageous to the state. Prior to selling the cleaned-up facility, the director shall, when necessary to protect public health or safety, enter into an environmental covenant in accordance with sections 5301.80 to 5301.92 of the Revised Code. When selling any such cleaned-up facility, the director shall retain the right to enter upon the facility, in person or by an authorized agent, to provide for the post-closure care, maintenance, and monitoring of the facility. The director shall provide for the post-closure care, maintenance, and monitoring of any such facility sold as required by section 3734.23 of the Revised Code.

With the approval of the attorney general, the director may grant easements or leases on any such cleaned-up facility if the director determines that the use of the facility under the easement or lease is compatible with its condition as cleaned up.

Any moneys derived from the sale of such cleaned-up facilities or from payments from easements or leases shall be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised

Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code, as applicable.

Sec. 3734.25. (A) The director of environmental protection may make grants of moneys from the hazardous waste facility management fund created in section 3734.18 of the Revised Code or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code for payment by the state of up to two-thirds of the reasonable and necessary expenses incurred by a municipal corporation, county, or township for the proper closure of or abatement of air or water pollution or soil contamination from a solid waste facility in which significant quantities of hazardous waste were disposed of and that the political subdivision owns and once operated.

(B) A municipal corporation, county, or township shall submit an application for a grant on forms provided by the director, together with detail plans and specifications indicating the measures to be performed, an itemized estimate of the project's cost, a description of the project's benefits, and such other information as the director prescribes. The plan for closure or abatement of air or water pollution or soil contamination may be prepared in consultation with the director or the board of health of the city or general health district in which the facility is located. The director may award the applicant a grant only if the director finds that the proposed measures will provide for the proper closure of the facility and will abate or prevent air or water pollution or soil contamination, including, but not limited to, those measures necessary or desirable to:

(1) In the case of a facility at which land burial of hazardous waste occurred, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface waters and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public

health or safety or to prevent or abate air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the prevention or elimination of air or water pollution or soil contamination from the facility. In making a grant, the director shall enter into a contract with the municipal corporation, county, or township that owns the facility to ensure that the moneys granted are used for the purposes of this section and that measures performed are properly done. The final payment under a grant may not be made until the director inspects and approves the completed cleanup.

The contract shall require the municipal corporation, county, or township to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the director may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the political subdivision and the director.

When necessary to protect public health or safety, the contract may require the municipal corporation, county, or township to enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

Sec. 3734.26. (A) The director of environmental protection may make grants of moneys from the hazardous waste facility management fund created in section 3734.18 of the Revised Code or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code to the owner, other than a political subdivision, of a solid waste facility in which significant quantities of hazardous waste were disposed of or a hazardous waste facility for up to fifty per cent of the cost of the reasonable and necessary expenses incurred for the proper closure of or abatement or prevention of air or water pollution or soil contamination from the facility and for developing the land on which it was located for use in industry, commerce, distribution, or research.

The director shall not make grants to the owner of any land on which such facilities are located if the owner at any time owned or operated the facility located thereon for profit or in conjunction with any profit-making enterprise located in this state or to any person who at any time owned or operated a facility concerning which the director has taken action under section 3734.20, 3734.22, or 3734.23 of the Revised Code. However, the director may make grants under this section to any subsequent owner of the

land, provided that the person has no affiliation with any person who owned or operated the facility located on the land for profit or in conjunction with any profit-making enterprise located in this state or who owned or operated a facility concerning which the director has taken action under section 3734.20, 3734.22, or 3734.23 of the Revised Code.

(B) The owner shall submit an application for a grant on forms furnished by the director, together with detail plans and specifications for the measures to be performed to close the facility properly or to abate or prevent air or water pollution or soil contamination from the facility, an itemized estimate of the project's cost, a description of the project's estimated benefits, and such other information as the director prescribes. The plan may be prepared in consultation with the director or with the board of health of the city or general health district in which the facility is located. The director may award the applicant a grant only after finding that the proposed measures will provide for the proper closure of the facility or will abate or prevent air or water pollution or soil contamination from the facility, including, but not limited to, those measures necessary or desirable to:

(1) In the case of a facility for the land burial of hazardous waste, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface water and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public health or safety or to abate or prevent air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the abatement or

prevention of air or water pollution or soil contamination from the facility. The amount of the grant shall not exceed one-half of the total, as determined by the director, of what constitutes reasonable and necessary expenses actually incurred for the proper closure of or abatement or prevention of air or water pollution or soil contamination from the facility.

In making a grant, the director shall enter into a contract for funding with each applicant awarded a grant to ensure that the moneys granted are used for the purpose of this section and that the measures performed are properly performed. The final payment under a grant may not be made until the director inspects and approves the completed cleanup and the plans for developing the land for use in industry, commerce, distribution, or research.

Each contract for funding shall contain provisions for the reimbursement of the state of a portion of the costs of the cleanup that is commensurate with the increase in the market value of the property attributable to the cleanup thereon, as determined by appraisals made before and after cleanup in the manner stated in the contract. For reimbursement of that portion, the contract may include provisions for:

(1) Payment to the state of the share of the income derived from the productive use of the land;

(2) Imposition of a lien in the amount of the increase in fair market value payable upon the transfer or conveyance to a new owner;

(3) Waiver of all reimbursement if the determination discloses an increase in value that is insubstantial in comparison to the benefits to the public from the abatement of threats to public health or safety or from the abatement or prevention of pollution or contamination, considering the applicant's share of the cleanup cost.

All reimbursements and payments shall be credited to the hazardous waste facility management fund or the hazardous waste clean-up fund ~~created in section 3734.28 of the Revised Code~~, as applicable.

(D) The contract shall require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the contract may require the owner to enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

(E) As used in this section, "commerce" includes, but is not limited to, agriculture, forestry, and housing.

Sec. 3734.27. Before making grants from the hazardous waste facility management fund created in section 3734.18 of the Revised Code or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, the director of environmental protection shall consider each project application submitted by a political subdivision under section 3734.25 of the Revised Code, each application submitted by the owner of a facility under section 3734.26 of the Revised Code, and each facility surveyed under section 3734.19 of the Revised Code and, based upon the feasibility, cost, and public benefits of restoring the particular land and the availability of federal or other financial assistance for restoration, establish priorities for awarding grants from the fund.

Sec. 3734.28. Except as otherwise provided in ~~section~~ sections 3734.281 and 3734.282 of the Revised Code, moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, including moneys recovered under division (B)(1) of this section, shall be paid into the state treasury to the credit of the hazardous waste clean-up fund, which is hereby created. In addition, ~~any moneys~~ both of the following shall be credited to the fund:

(A) Moneys recovered for costs paid from the fund for activities described in divisions (A)(1) and (2) of section 3745.12 of the Revised Code ~~shall be credited to the fund~~;

(B) Natural resource damage assessment costs recovered under any of the following:

(1) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et seq., as amended;

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701, et seq., as amended;

(3) The Federal Water Pollution Control Act as defined in section 6111.01 of the Revised Code;

(4) Any other applicable federal or state law. ~~The~~

The environmental protection agency shall use the moneys in the fund for the purposes set forth in division (D) of section 3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, divisions (A)(1) and (2) of section 3745.12, and Chapter 3746. of the Revised Code, including any related enforcement expenses. In addition, the agency shall use the moneys in the fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability

Act of 1980," as amended. If those moneys are reimbursed by grants or other moneys from the United States or any other person, the moneys shall be placed in the fund and not in the general revenue fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the responsibilities of the environmental protection agency for which money may be expended from the fund.

Sec. 3734.282. ~~All~~ Except for natural resource damage assessment costs recovered by the state that are required by section 3734.28 of the Revised Code to be credited to the hazardous waste clean-up fund created in that section, all money collected by the state for natural resources damages under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, the "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701 et seq., as amended, the ~~"Clean~~ Federal Water Pollution Control Act~~," 86 Stat. 862, 33 U.S.C. 1321,~~ as ~~amended~~ defined in section 6111.01 of the Revised Code, or any other applicable federal or state law shall be paid into the state treasury to the credit of the natural resource damages fund, which is hereby created. The director of environmental protection shall use money in the fund only in accordance with the purposes of and the limitations on natural resources damages set forth in the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended, the "Oil Pollution Act of 1990," as amended, the ~~"Clean~~ Federal Water Pollution Control Act~~," as amended~~, or another applicable federal or state law. All investment earnings of the fund shall be credited to the fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the director's responsibilities for which money may be expended from the fund.

Sec. 3734.57. (A) The following fees are hereby levied on the transfer or disposal of solid wastes in this state:

(1) One dollar per ton ~~on and after July 1, 2003,~~ through June 30, ~~2012~~ 2014, one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) An additional one dollar per ton ~~on and after July 1, 2003,~~ through June 30, ~~2012~~ 2014, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.

(3) An additional ~~one dollar~~ two dollars and fifty cents per ton ~~on and after July 1, 2005,~~ through June 30, ~~2012~~ 2014, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code;

(4) ~~An additional one dollar per ton on and after August 1, 2009, through June 30, 2012, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund.~~

~~(5)~~ An additional twenty-five cents per ton ~~on and after August 1, 2009,~~ through June 30, ~~2012~~ 2013, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported for disposal at a solid waste disposal facility located in this state or outside of this state, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream

through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return or may submit the return and fees electronically in a manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed

if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the request indicate that a refund or credit is warranted, the director shall grant a refund to the owner or operator or shall permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after the effective date of this amendment. For those purposes, "customer" means a person who contracts with, or utilizes the

solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes

within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of

the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal

corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are ~~disposed of at facilities that exclusively dispose of wastes that~~

~~are~~ generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, ~~that is not combined in any way with garbage at one or more~~ regardless of whether the disposal facility is located on the premises ~~owned by the generator~~ where the wastes are generated.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility

where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the fiscal officer of the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572,

3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management

plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations and the fiscal officers of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section.

Sec. 3734.577. Notwithstanding any section of the Revised Code to the contrary, no solid waste management district shall exempt a public sector commercial licensed hauler from a fee that is charged to private sector commercial licensed haulers by the solid waste management district.

Sec. 3734.85. (A) On and after the effective date of the rules adopted under sections 3734.70, 3734.71, 3734.72, and 3734.73 of the Revised Code, the director of environmental protection may take action under this section to abate accumulations of scrap tires. If the director determines that an accumulation of scrap tires constitutes a danger to the public health or safety or to the environment, the director shall issue an order under section 3734.13 of the Revised Code to the person responsible for the accumulation of scrap tires directing that person, within one hundred twenty days after the issuance of the order, to remove the accumulation of scrap tires from the premises on which it is located and transport the tires to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner.

If the director is unable to ascertain immediately the identity of the person responsible for causing the accumulation of scrap tires, the director shall examine the records of the applicable board of health and law

enforcement agencies to ascertain that person's identity. Before initiating any enforcement or removal actions under this division against the owner of the land on which the accumulation is located, the director shall initiate any such actions against the person that the director has identified as responsible for causing the accumulation of scrap tires. Failure of the director to make diligent efforts to ascertain the identity of the person responsible for causing the accumulation of scrap tires or to initiate an action against the person responsible for causing the accumulation shall not constitute an affirmative defense by a landowner to an enforcement action initiated by the director under this division requiring immediate removal of any accumulation of scrap tires.

Upon the written request of the recipient of an order issued under this division, the director may extend the time for compliance with the order if the request demonstrates that the recipient has acted in good faith to comply with the order. If the recipient of an order issued under this division fails to comply with the order within one hundred twenty days after the issuance of the order or, if the time for compliance with the order was so extended, within that time, the director shall take such actions as the director considers reasonable and necessary to remove and properly manage the scrap tires located on the land named in the order. The director, through employees of the environmental protection agency or a contractor, may enter upon the land on which the accumulation of scrap tires is located and remove and transport them to a scrap tire recovery facility for processing, to a scrap tire storage facility for storage, or to a scrap tire monocell or monofill facility for storage or disposal.

The director shall enter into contracts ~~with the owners or operators of scrap tire storage, monocell, monofill, or recovery facilities~~ for the storage, disposal, or processing of scrap tires removed through removal operations conducted under this section. ~~In doing so, the director shall give preference to scrap tire recovery facilities.~~

If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection

with the removal operation. The director shall keep an itemized record of those costs. Upon completion of the actions for which the costs were incurred, the director shall record the costs at the office of the county recorder of the county in which the accumulation of scrap tires was located. The costs so recorded constitute a lien on the property on which the accumulation of scrap tires was located until discharged. Upon the written request of the director, the attorney general shall bring a civil action against the person responsible for the accumulation of the scrap tires that were the subject of the removal operation to recover the costs for which the person is liable under this division. Any money so received or recovered shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

If, in a civil action brought under this division, an owner of real property is ordered to pay to the director the costs of a removal action that removed an accumulation of scrap tires from the person's land or if a lien is placed on the person's land for the costs of such a removal action, and, in either case, if the landowner was not the person responsible for causing the accumulation of scrap tires so removed, the landowner may bring a civil action against the person who was responsible for causing the accumulation to recover the amount of the removal costs that the court ordered the landowner to pay to the director or the amount of the removal costs certified to the county recorder as a lien on the landowner's property, whichever is applicable. If the landowner prevails in the civil action against the person who was responsible for causing the accumulation of scrap tires, the court, as it considers appropriate, may award to the landowner the reasonable attorney's fees incurred by the landowner for bringing the action, court costs, and other reasonable expenses incurred by the landowner in connection with the civil action. A landowner shall bring such a civil action within two years after making the final payment of the removal costs to the director pursuant to the judgment rendered against the landowner in the civil action brought under this division upon the director's request or within two years after the director certified the costs of the removal action to the county recorder, as appropriate. A person who, at the time that a removal action was conducted under this division, owned the land on which the removal action was performed may bring an action under this division to recover the costs of the removal action from the person responsible for causing the accumulation of scrap tires so removed regardless of whether the person owns the land at the time of bringing the action.

Subject to the limitations set forth in division (G) of section 3734.82 of the Revised Code, the director may use moneys in the scrap tire

management fund for conducting removal actions under this division. Any moneys recovered under this division shall be credited to the scrap tire management fund.

(B) The director shall initiate enforcement and removal actions under division (A) of this section in accordance with the following descending listing of priorities:

(1) Accumulations of scrap tires that the director finds constitute a fire hazard or threat to public health;

(2) Accumulations of scrap tires determined by the director to contain more than one million scrap tires;

(3) Accumulations of scrap tires in densely populated areas;

(4) Other accumulations of scrap tires that the director or board of health of the health district in which the accumulation is located determines constitute a public nuisance;

(5) Any other accumulations of scrap tires present on premises operating without a valid license issued under section 3734.05 or 3734.81 of the Revised Code.

(C) The director shall not take enforcement and removal actions under division (A) of this section against the owner or operator of, or the owner of the land on which is located, any of the following:

(1) A premises where not more than one hundred scrap tires are present at any time;

(2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria:

(a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location.

(b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation.

(3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored;

(4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;

(5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet;

(6) A premises where not more than two hundred fifty scrap tires are

stored or kept for agricultural use;

(7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments;

(8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code;

(9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires;

(10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section 3734.84 of the Revised Code has been given;

(11) A transporter registered under section 3734.83 of the Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination.

(D) Nothing in this section restricts any right any person may have under statute or common law to enforce or seek enforcement of any law applicable to the management of scrap tires, abate a nuisance, or seek any other appropriate relief.

(E) An owner of real property upon which there is located an accumulation of not more than two thousand scrap tires is not liable under division (A) of this section for the cost of the removal of the scrap tires, and no lien shall attach to the property under this section, if all of the following conditions are met:

(1) The tires were placed on the property after the owner acquired title to the property, or the tires were placed on the property before the owner acquired title to the property and the owner acquired title to the property by bequest or devise.

(2) The owner of the property did not have knowledge that the tires were being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of tires on the property.

(3) The owner of the property did not participate in or consent to the placing of the tires on the property.

(4) The owner of the property received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property.

(5) Title to the property was not transferred to the owner for the purpose of evading liability under division (A) of this section.

(6) The person responsible for placing the tires on the property, in doing so, was not acting as an agent for the owner of the property.

Sec. 3734.901. (A)(1) For the purpose of providing revenue to defray

the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued under those provisions; to abate accumulations of scrap tires; to make grants supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes and to support scrap tire amnesty and cleanup events; to make loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections 3734.90 to 3734.9014 of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. The proceeds of the fee shall be deposited in the state treasury to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code. The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, ~~2011~~ 2013.

(2) Beginning on ~~September 5, 2001~~ July 1, 2011, and ending on June 30, ~~2011~~ 2013, there is hereby levied an additional fee of fifty cents per tire on the sale of tires the proceeds of which shall be deposited in the state treasury to the credit of the ~~scrap tire management fund and be used exclusively for the purposes specified in division (G)(3) of that section until July 1, 2010, whereupon the proceeds shall be deposited in the state treasury to the credit of the~~ soil and water conservation district assistance fund created in section 1515.14 of the Revised Code.

(B) Only one sale of the same article shall be used in computing the amount of the fee due.

Sec. 3735.36. When a metropolitan housing authority has acquired the property necessary for any project, it shall proceed to make plans and specifications for carrying out such project, and shall advertise for bids for all work ~~which~~ that it desires to have done by contract, such advertisements to be published as provided in section 7.16 of the Revised Code or once a week for two consecutive weeks in a newspaper of general circulation in the political subdivision in which the project is to be developed. The contract shall be awarded to the lowest and best bidder.

Sec. 3735.66. The legislative authorities of municipal corporations and counties may survey the housing within their jurisdictions and, after the survey, may adopt resolutions describing the boundaries of community reinvestment areas which contain the conditions required for the finding under division (B) of section 3735.65 of the Revised Code. The findings resulting from the survey shall be incorporated in the resolution describing the boundaries of an area. The legislative authority may stipulate in the resolution that only new structures or remodeling classified as to use as

commercial, industrial, or residential, or some combination thereof, and otherwise satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation under that section. If the resolution does not include such a stipulation, all new structures and remodeling satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation regardless of classification. Whether or not the resolution includes such a stipulation, the classification of the structures or remodeling eligible for exemption in the area shall at all times be consistent with zoning restrictions applicable to the area. For the purposes of sections 3735.65 to 3735.70 of the Revised Code, whether a structure or remodeling composed of multiple units is classified as commercial or residential shall be determined by resolution or ordinance of the legislative authority or, in the absence of such a determination, by the classification of the use of the structure or remodeling under the applicable zoning regulations.

If construction or remodeling classified as residential is eligible for exemption from taxation, the resolution shall specify a percentage, not to exceed one hundred per cent, of the assessed valuation of such property to be exempted. The percentage specified shall apply to all residential construction or remodeling for which exemption is granted.

The resolution adopted pursuant to this section shall be published in a newspaper of general circulation in the municipal corporation, if the resolution is adopted by the legislative authority of a municipal corporation, or in a newspaper of general circulation in the county, if the resolution is adopted by the legislative authority of the county, once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, immediately following its adoption.

Each legislative authority adopting a resolution pursuant to this section shall designate a housing officer. In addition, each such legislative authority, not later than fifteen days after the adoption of the resolution, shall petition the director of development for the director to confirm the findings described in the resolution. The petition shall be accompanied by a copy of the resolution and by a map of the community reinvestment area in sufficient detail to denote the specific boundaries of the area and to indicate zoning restrictions applicable to the area. The director shall determine whether the findings contained in the resolution are valid, and whether the classification of structures or remodeling eligible for exemption under the resolution is consistent with zoning restrictions applicable to the area as indicated on the map. Within thirty days of receiving the petition, the director shall forward the director's determination to the legislative

authority. The legislative authority or housing officer shall not grant any exemption from taxation under section 3735.67 of the Revised Code until the director forwards the director's determination to the legislative authority. The director shall assign to each community reinvestment area a unique designation by which the area shall be identified for purposes of sections 3735.65 to 3735.70 of the Revised Code.

If zoning restrictions in any part of a community reinvestment area are changed at any time after the legislative authority petitions the director under this section, the legislative authority shall notify the director and shall submit a map of the area indicating the new zoning restrictions in the area.

Sec. 3737.73. (A) No principal or person in charge of a public or private school or educational institution having an average daily attendance of twenty or more pupils, and no person in charge of any children's home or orphanage housing twenty or more minor persons, shall willfully neglect to instruct and train such children by means of drills or rapid dismissals, so that such children in a sudden emergency may leave the building in the shortest possible time without confusion. The principal or person in charge of a school or educational institution shall conduct drills or rapid dismissals at least nine times during the school year, which shall be at the times and frequency prescribed in rules adopted by the fire marshal. However, no drill or rapid dismissal under this division need be conducted in any month that a school safety drill required under division (D) of this section is conducted as long as a total of nine drills or rapid dismissals under this division are conducted in the school year. The principal or person in charge of a children's home or orphanage shall conduct drills or rapid dismissals at least once each month while the home is in operation. In the case of schools, no principal or person in charge of a school shall willfully neglect to keep the doors and exits of such building unlocked during school hours. The fire marshal may order the immediate installation of necessary fire gongs or signals in such schools, institutions, or children's homes and enforce this division and divisions (B) and (C)(3) of this section.

(B) In conjunction with the drills or rapid dismissals required by division (A) of this section, principals or persons in charge of public or private primary and secondary schools, or educational institutions, shall instruct pupils in safety precautions to be taken in case of a tornado alert or warning. Such principals or persons in charge of such schools or institutions shall designate, in accordance with standards prescribed by the fire marshal, appropriate locations to be used to shelter pupils in case of a tornado, tornado alert, or warning.

(C)(1) The fire marshal or the fire marshal's designee shall annually

inspect each school, institution, home, or orphanage subject to division (A) of this section to determine compliance with that division, and each school or institution subject to division (B) of this section to ascertain whether the locations comply with the standards prescribed under that division. Nothing in this section shall require a school or institution to construct or improve a facility or location for use as a shelter area.

(2) The fire marshal or the fire marshal's designee shall issue a warning to any person found in violation of division (A) or (B) of this section. The warning shall indicate the specific violation and a date by which such violation shall be corrected.

(3) No person shall fail to correct violations by the date indicated on a warning issued under division (C)(2) of this section.

(D)(1) On or before April 1, 2007, and on or before each first day of December thereafter, the principal or person in charge of each public or private school or educational institution shall conduct a school safety drill to provide pupils with instruction in the procedures to follow in situations where pupils must be secured in the school building, such as a threat to the school involving an act of terrorism; a person possessing a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Revised Code, on school property; or other act of violence.

(2)(a) The principal or person in charge of each public or private school or educational institution shall provide to the police chief or other similar chief law enforcement officer of the municipal corporation, township, or township <u>or joint</u> police district in which the school or institution is located, or, in absence of any such person, the county sheriff of the county in which the school or institution is located advance written notice of each school safety drill required under division (D)(1) of this section and shall keep a written record of the date and time of each drill conducted. The advance notice shall be provided not later than seventy-two hours prior to the date the drill will be conducted and shall include the date and time the drill will be conducted and the address of the school or educational institution. The notice shall be provided by mail, facsimile, or electronic submission.

(b) Not later than April 5, 2007, and not later than the fifth day of December each year thereafter, the principal or person in charge of each public or private school or educational institution shall provide written certification by mail of the date and time each school safety drill required under division (D)(1) of this section was conducted to the police chief or other similar chief law enforcement officer of the municipal corporation, township, or township <u>or joint</u> police district in which the school or institution is located, or, in the absence of any such person, the county

sheriff of the county in which the school or institution is located. If such certification is not provided, the principal or person in charge of the school or institution shall be considered to have failed to conduct the drill and shall be subject to division (D)(4) of this section.

(3) The principal or person in charge of each public or private school or educational institution shall hold annual training sessions for employees of the school or institution regarding the conduct of school safety drills.

(4) The police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district, or, in the absence of any such person, the county sheriff shall issue a warning to any person found in violation of division (D)(1) of this section. Each warning issued for a violation of division (D)(1) of this section shall require the principal or person in charge of the school or institution to correct the violation by conducting the school safety drill not later than the thirtieth day after the date the warning is issued. The violation shall not be considered corrected unless, not later than forty days after the date the warning is issued, the principal or person in charge of the school or institution provides written certification of the date and time the drill was conducted to the police chief or other similar chief law enforcement officer or county sheriff who issued the warning.

(5) No person shall fail to correct violations by the date indicated on a warning issued under division (D)(4) of this section.

Sec. 3737.83. The fire marshal shall, as part of the state fire code, adopt rules to:

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment;

(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment;

(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the fire marshal shall adopt.

(D) Establish minimum standards of flammability for consumer goods in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the fire marshal shall be identical to the minimum federal standards.

In any case where the federal government or any department or agency

thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the fire marshal, standards previously adopted by the fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards.

With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code.

(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child day-care centers and in type A family day-care homes, as defined in section 5104.01 of the Revised Code.

(F) Establish minimum standards for fire prevention and safety an adult group home seeking licensure as an adult care facility must meet under section ~~3722.02~~ 5119.71 of the Revised Code. The fire marshal shall adopt the rules under this division in consultation with the directors of mental health and aging and interested parties designated by the directors of mental health and aging.

Sec. 3737.841. As used in this section and section 3737.842 of the Revised Code:

(A) "Public occupancy" means all of the following:

(1) Any state correctional institution as defined in section 2967.01 of the Revised Code and any county, multicounty, municipal, or municipal-county jail or workhouse;

(2) Any hospital as defined in section 3727.01 of the Revised Code, any hospital licensed by the department of mental health under section 5119.20 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department of mental health under Chapter 5119. of the Revised Code;

(3) Any nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code and any adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code;

(4) Any child day-care center and any type A family day-care home as defined in section 5104.01 of the Revised Code;

(5) Any public auditorium or stadium;

(6) Public assembly areas of hotels and motels containing more than ten articles of seating furniture.

(B) "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess for sale, or dispose of in any other commercial manner.

(C) Except as provided in division (D) of this section, "seating furniture" means any article of furniture, including children's furniture, that can be used as a support for an individual, or ~~his~~ an individual's limbs or feet, when sitting or resting in an upright or reclining position and that either:

(1) Is made with loose or attached cushions or pillows;

(2) Is stuffed or filled in whole or in part with any filling material;

(3) Is or can be stuffed or filled in whole or in part with any substance or material, concealed by fabric or any other covering.

"Seating furniture" includes the cushions or pillows belonging to or forming a part of the furniture, the structural unit, and the filling material and its container or covering.

(D) "Seating furniture" does not include, except if intended for use by children or in facilities designed for the care or treatment of humans, any of the following:

(1) Cushions or pads intended solely for outdoor use;

(2) Any article with a smooth surface that contains no more than one-half inch of filling material, if that article does not have an upholstered horizontal surface meeting an upholstered vertical surface;

(3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, gymnasium mats or pads, and sidehorses.

(E) "Filling material" means cotton, wool, kapok, feathers, down, hair, liquid, or any other natural or ~~manmade~~ artificial material or substance that is used or can be used as stuffing in seating furniture.

Sec. 3737.87. As used in sections 3737.87 to 3737.98 of the Revised Code:

(A) "Accidental release" means any sudden or nonsudden release of petroleum that was neither expected nor intended by the owner or operator of the applicable underground storage tank system and that results in the need for corrective action or compensation for bodily injury or property damage.

(B) "Corrective action" means any action necessary to protect human health and the environment in the event of a release of petroleum into the environment, including, without limitation, any action necessary to monitor, assess, and evaluate the release. In the instance of a suspected release, ~~the term~~ "corrective action" includes, without limitation, an investigation to confirm or disprove the occurrence of the release. In the instance of a confirmed release, ~~the term~~ "corrective action" includes, without limitation, the initial corrective action taken under section 3737.88 or 3737.882 of the

Revised Code and rules adopted or orders issued under those sections and any action taken consistent with a remedial action to clean up contaminated ground water, surface water, soils, and subsurface material and to address the residual effects of a release after the initial corrective action is taken.

(C) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, is a public depository of state funds under section 135.03 of the Revised Code, and agrees to participate in the petroleum underground storage tank linked deposit program provided for in sections 3737.95 to 3737.98 of the Revised Code.

(D) "Eligible owner" means any person that owns six or fewer petroleum underground storage tanks comprising a petroleum underground storage tank or underground storage tank system.

(E) "Installer" means a person who supervises the installation of, performance of major repairs on site to, abandonment of, or removal of underground storage tank systems.

(F) "Major repair" means the restoration of a tank or an underground storage tank system component that has caused a release of a product from the underground storage tank system, the upgrading of a tank or an underground storage tank system component, or the modification of a tank or an underground storage tank system component. "Major repair" does not include routine maintenance for normal operational upkeep to prevent an underground storage tank system from releasing a product.

(G) "Operator" means the person in daily control of, or having responsibility for the daily operation of, an underground storage tank system.

(H) "Owner" means:

(1) In the instance of an underground storage tank system in use on November 8, 1984, or brought into use after that date, the person who owns the underground storage tank system;

(2) In the instance of an underground storage tank system in use before November 8, 1984, that was no longer in use on that date, the person who owned the underground storage tank system immediately before the discontinuation of its use.

~~The term~~ "Owner" includes any person who holds, or, in the instance of an underground storage tank system in use before November 8, 1984, but no longer in use on that date, any person who held immediately before the discontinuation of its use, a legal, equitable, or possessory interest of any kind in an underground storage tank system or in the property on which the underground storage tank system is located, including, without limitation, a trust, vendor, vendee, lessor, or lessee. ~~The term~~ "Owner" does not include

any person who, without participating in the management of an underground storage tank system and without otherwise being engaged in petroleum production, refining, or marketing, holds indicia of ownership in an underground storage tank system primarily to protect the person's security interest in it.

(I) "Person," in addition to the meaning in section 3737.01 of the Revised Code, means the United States and any department, agency, or instrumentality thereof.

(J) "Petroleum" means petroleum, including crude oil or any fraction thereof, that is a liquid at the temperature of sixty degrees Fahrenheit and the pressure of fourteen and seven-tenths pounds per square inch absolute. ~~The term~~ "Petroleum" includes, without limitation, motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(K) "Petroleum underground storage tank linked deposit" means a certificate of deposit placed by the treasurer of state with an eligible lending institution pursuant to sections 3737.95 to 3737.98 of the Revised Code.

(L) "Regulated substance" means petroleum or any substance identified or listed as a hazardous substance in rules adopted under division (D) of section 3737.88 of the Revised Code.

(M) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of from an underground storage tank system into ground or surface water or subsurface soils or otherwise into the environment.

(N) Notwithstanding division (F) of section 3737.01 of the Revised Code, "responsible person" means the person who is the owner or operator of an underground storage tank system.

(O) "Tank" means a stationary device designed to contain an accumulation of regulated substances that is constructed of ~~manmade~~ manufactured materials.

(P) "Underground storage tank" means one or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of regulated substances the volume of which, including the volume of the underground pipes connected thereto, is ten per cent or more beneath the surface of the ground.

~~The term~~ "Underground storage tank" does not include any of the following or any pipes connected to any of the following:

(1) Pipeline facilities, including gathering lines, regulated under the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. 1671, as amended, or the "Hazardous Liquid Pipeline Safety Act of 1979," 93 Stat.

1003, 49 U.S.C.A. 2001, as amended;

(2) Farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;

(3) Tanks used for storing heating fuel for consumptive use on the premises where stored;

(4) Surface impoundments, pits, ponds, or lagoons;

(5) Storm or waste water collection systems;

(6) Flow-through process tanks;

(7) Storage tanks located in underground areas, including, without limitation, basements, cellars, mine workings, drifts, shafts, or tunnels, when the tanks are located on or above the surface of the floor;

(8) Septic tanks;

(9) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

(Q) "Underground storage tank system" means an underground storage tank and the connected underground piping, underground ancillary equipment, and containment system, if any.

(R) "Revenues" means all fees, premiums, and charges paid by owners and operators of petroleum underground storage tanks to the petroleum underground storage tank release compensation board created in section 3737.90 of the Revised Code; proceeds received by the board from any insurance, condemnation, or guaranty; the proceeds of petroleum underground storage tank revenue bonds; and the income and profits from the investment of any such revenues.

(S) "Revenue bonds," unless the context indicates a different meaning or intent, means petroleum underground storage tank revenue bonds and petroleum underground storage tank revenue refunding bonds that are issued by the petroleum underground storage tank release compensation board pursuant to sections 3737.90 to 3737.948 of the Revised Code.

(T) "Class C release" means a release of petroleum occurring or identified from an underground storage tank system subject to sections 3737.87 to 3737.89 of the Revised Code for which the responsible person for the release is specifically determined by the fire marshal not to be a viable person capable of undertaking or completing the corrective actions required under those sections for the release. "Class C release" also includes any release designated as a "class C release" in accordance with rules adopted under section 3737.88 of the Revised Code.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground ~~petroleum~~

storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the ~~program~~ programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those rules, enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and perform such other duties, as are consistent with those programs. The fire marshal, by rule, may delegate the authority to conduct inspections of underground storage tanks to certified fire safety inspectors.

(2) In the place of any rules regarding release containment and release detection for underground storage tanks adopted under division (A)(1) of this section, the fire marshal, by rule, shall designate areas as being sensitive for the protection of human health and the environment and adopt alternative rules regarding release containment and release detection methods for new and upgraded underground storage tank systems located in those areas. In designating such areas, the fire marshal shall take into consideration such factors as soil conditions, hydrogeology, water use, and the location of public and private water supplies. Not later than July 11, 1990, the fire marshal shall file the rules required under this division with the secretary of state, director of the legislative service commission, and joint committee on agency rule review in accordance with divisions (B) and (H) of section 119.03 of the Revised Code.

(3) Notwithstanding sections 3737.87 to 3737.89 of the Revised Code, a person who is not a responsible person may conduct a voluntary action in accordance with Chapter 3746. of the Revised Code and rules adopted under it for a class C release. The director of environmental protection, pursuant to section 3746.12 of the Revised Code, may issue a covenant not to sue to any person who properly completes a voluntary action with respect to a class C release in accordance with Chapter 3746. of the Revised Code and rules adopted under it.

(B) Before adopting any rule under this section or section 3737.881 or 3737.882 of the Revised Code, the fire marshal shall file written notice of the proposed rule with the chairperson of the state fire commission, and, within sixty days after notice is filed, the commission may file responses to or comments on and may recommend alternative or supplementary rules to the fire marshal. At the end of the sixty-day period or upon the filing of responses, comments, or recommendations by the commission, the fire marshal may adopt the rule filed with the commission or any alternative or supplementary rule recommended by the commission.

(C) The fire commission may recommend courses of action to be taken by the fire marshal in carrying out the fire marshal's duties under this section. The commission shall file its recommendations in the office of the fire marshal, and, within sixty days after the recommendations are filed, the fire marshal shall file with the chairperson of the commission comments on, and proposed action in response to, the recommendations.

(D) For the purpose of sections 3737.87 to 3737.89 of the Revised Code, the fire marshal shall adopt, and may amend and rescind, rules identifying or listing hazardous substances. The rules shall be consistent with and equivalent in scope, coverage, and content to regulations identifying or listing hazardous substances adopted under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that the fire marshal shall not identify or list as a hazardous substance any hazardous waste identified or listed in rules adopted under division (A) of section 3734.12 of the Revised Code.

(E) ~~Notwithstanding any provision of the laws of this state to the contrary~~ Except as provided in division (A)(3) of this section, the fire marshal ~~has~~ shall have exclusive jurisdiction to regulate the storage, treatment, and disposal of petroleum contaminated soil generated from corrective actions undertaken in response to releases of petroleum from underground storage tank systems. The fire marshal may adopt, amend, or rescind such rules as the fire marshal considers to be necessary or appropriate to regulate the storage, treatment, or disposal of petroleum contaminated soil so generated.

(F) The fire marshal shall adopt, amend, and rescind rules under sections 3737.88 to 3737.882 of the Revised Code in accordance with Chapter 119. of the Revised Code.

Sec. 3743.06. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.05 of the Revised Code, licensed manufacturers of fireworks shall operate their fireworks plants in accordance with the following:

(A) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a fireworks plant shall be posted on the premises in a manner determined by the fire marshal.

(B) Reasonable precautions shall be taken to protect the premises of a fireworks plant from trespass, loss, theft, or destruction. Only persons employed by the manufacturer, authorized governmental personnel, and persons who have obtained permission from a member of the manufacturer's office to be on the premises, are to be allowed to enter and remain on the

premises.

(C) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a fireworks plant is prohibited, except that a manufacturer may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no manufacturing, handling, sales, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(D) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a manufacturer.

(E) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of the fireworks plant, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(F) A manufacturer shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to the premises of its fireworks plant.

(G) Each fireworks plant shall have at least one class 1 magazine that is approved by the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and that is otherwise in conformity with federal law. This division does not apply to fireworks plants existing on or before August 3, 1931.

(H) Awnings, tents, and canopies shall not be used as facilities for the sale or storage of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(I) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks, nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

(J) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal, that the facility is closed to all public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business as approved by the fire marshal, the licensed manufacturer shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(K) If any fireworks item is removed from its original package or is manufactured with any fuse other than a safety fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

(L) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

(1) A deputy sheriff;

(2) A law enforcement officer of a municipal corporation, township, or township or joint ~~township~~ police district;

(3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(M) All doors of all buildings on the licensed premises shall swing outward.

(N) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.19. In addition to conforming to the rules of the fire marshal

adopted pursuant to section 3743.18 of the Revised Code, licensed wholesalers of fireworks shall conduct their business operations in accordance with the following:

(A) A wholesaler shall conduct its business operations from the location described in its application for licensure or in a notification submitted under division (B) of section 3743.17 of the Revised Code.

(B) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a wholesaler shall be posted on the premises as determined by the fire marshal.

(C) Reasonable precautions shall be taken to protect the premises of a wholesaler from trespass, loss, theft, or destruction.

(D) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a wholesaler is prohibited, except that a wholesaler may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no sales, handling, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(E) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a wholesaler.

(F) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of a wholesaler, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(G) A wholesaler shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to its premises.

(H) Each building used in the sale of fireworks shall be kept open to the public for at least four hours each day between the hours of eight a.m. and five p.m., five days of each week, every week of the year. Upon application from a licensed wholesaler, the fire marshal may waive any of the requirements of this division.

(I) Awnings, tents, or canopies shall not be used as facilities for the storage or sale of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(J) 1.4G fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to

which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall. If the licensee installs and properly maintains an early suppression fast response sprinkler system or equivalent fire suppression system as described in the fire code adopted by the fire marshal in accordance with section 3737.82 of the Revised Code throughout the structure, a fire barrier wall may be substituted for a fire wall between the areas to which the public has access and the storage portions of the structure.

(K) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal under division (I) of this section, that the facility is closed to public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business, the licensed wholesaler shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(L) If any fireworks item is removed from its original package or is manufactured with any fuse other than a fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

(M) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

(1) A deputy sheriff;

(2) A law enforcement officer of a municipal corporation, township, or township or joint ~~township~~ police district;

(3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(N) All doors of all buildings on the licensed premises shall swing outward.

(O) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.52. (A) The license of an exhibitor of fireworks is effective for one year from the date of its issuance by the fire marshal. If an exhibitor of fireworks wishes to continue as an exhibitor after its then effective license expires, it shall apply for a new license pursuant to section 3743.50 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed exhibitor at least two months before the expiration date.

(B) The license of an exhibitor of fireworks authorizes the exhibitor to conduct public fireworks exhibitions in this state if it complies with sections 3743.50 to 3743.55 of the Revised Code and with the rules adopted by the fire marshal pursuant to section 3743.53 of the Revised Code.

The license is not transferable or assignable, and is subject to revocation as provided in section 3743.70 or division (D) of section 3743.99 of the Revised Code or pursuant to Chapter 119. of the Revised Code if the exhibitor fails to comply with sections 3743.50 to 3743.55 of the Revised Code or the rules adopted by the fire marshal pursuant to section 3743.53 of the Revised Code.

If the license of an exhibitor is revoked, the exhibitor shall cease conducting public fireworks exhibitions immediately. Subject to division (D) of section 3743.99 of the Revised Code, the exhibitor may not reapply for licensure as an exhibitor of fireworks until two years expire from the date of revocation. The fire marshal shall remove from the list of licensed exhibitors the exhibitor's name, and shall notify fire chiefs, fire prevention officers, and police chiefs or other similar chief law enforcement officers of municipal corporations, townships, or township <u>or joint</u> police districts in this state of the revocation.

(C) Each licensed exhibitor of fireworks or a designee of the exhibitor,

whose identity is provided to the fire marshal by the exhibitor, shall attend a continuing education program consisting of not less than six hours of instruction once every three years. The fire marshal shall develop the program, and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed exhibitor or the exhibitor's designee who attends a program as required under this division, within one year after attending the program, and on an annual basis during the following two years, shall conduct in-service training for other employees of the licensee regarding the information obtained in the program. A licensed exhibitor shall provide the fire marshal with certified proof of full compliance with all applicable annual training requirements of the United States department of transportation and of the occupational safety and health administration. A licensed exhibitor shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event. An individual exhibitor who has no employees shall not fulfill continuing education requirements through a designee.

Sec. 3743.53. (A) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code that establish qualifications that all applicants for licensure as an exhibitor of fireworks shall satisfy. These rules shall be designed to provide a reasonable degree of assurance that individuals conducting public fireworks exhibitions in this state are proficient in handling and discharging fireworks, are capable of handling the responsibilities associated with exhibitions as prescribed by rule of the fire marshal pursuant to divisions (B) and (E) of this section or as prescribed by sections 3743.50 to 3743.55 of the Revised Code, and will conduct fireworks exhibitions in a manner that emphasizes the safety and security of the public. The rules shall be consistent with sections 3743.50 to 3743.55 of the Revised Code and may include, in addition to other requirements prescribed by the fire marshal, a requirement that the applicant for licensure successfully complete a written examination or otherwise successfully demonstrate its proficiency in the handling and discharging of fireworks in a safe manner and its ability to handle the responsibilities associated with exhibitions.

(B) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code that govern the nature and conduct of public fireworks exhibitions by licensed exhibitors of fireworks. These rules shall be designed to promote the safety and security of persons viewing a fireworks exhibition, to promote the safety of persons who, although not viewing an exhibition, could be affected by fireworks used at it, and to promote the safety and security of exhibitors and their assistants.

The rules shall be consistent with sections 3743.50 to 3743.55 of the Revised Code; except as otherwise provided in this section, shall be substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards; and shall apply to, but not be limited to, the following subject matters:

(1) The construction of shells used in a fireworks exhibition;

(2) Except as the storage and securing of fireworks is addressed by the rules adopted under division (E) of this section, the storage, securing, and supervision of fireworks pending their use in, and during the course of, a fireworks exhibition, and inspections by exhibitors of fireworks to be used in an exhibition prior to their use. These rules shall regulate, among other relevant matters, the storage of fireworks in manners that will effectively eliminate or reduce the likelihood of the fireworks becoming wet or being exposed to flame, and appropriate distances between storage sites and the sites at which fireworks will be discharged.

(3) The installation and nature of mortars used in a fireworks exhibition, and inspections by exhibitors of mortars prior to their use;

(4) Minimum distances between storage sites, discharge sites, spectator viewing sites, parking areas, and potential landing areas of fireworks, and minimum distances between discharge sites, potential landing areas, and residential or other types of buildings or structures;

(5) The nature of discharge sites and potential landing sites;

(6) Fire protection, the use and location of monitors for crowd control, the use of fences and rope barriers for crowd control, illumination, smoking and the use of open flame, and posting of warning signs concerning smoking or the use of open flame in connection with fireworks exhibitions. These rules may provide some authority to local officials in determining adequate fire protection, and numbers and locations of monitors.

(7) Procedures to be followed in the discharging of fireworks;

(8) Weather and crowd-related conditions under which fireworks may and may not be discharged, including circumstances under which exhibitions should be postponed;

(9) Inspections of premises following a fireworks exhibition for purposes of locating and disposing of defective or unexploded fireworks. Inspections shall be required immediately following an exhibition, and, if an exhibition is conducted at night, also at sunrise the following morning.

(C) All mortars used in a fireworks exhibition that are greater than or equal to eight inches in diameter shall be equipped with electronic ignition equipment in accordance with chapter 1123 of the most recent edition of the national fire protection association standards.

(D) Only persons who are employees of licensed exhibitors of fireworks and who are registered with the fire marshal under section 3743.56 of the Revised Code shall be permitted within the discharge perimeter of an exhibition.

(E)(1) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code and consistent with division (E)(3) of this section that establish both of the following:

(a) Uniform standards for the stability and securing of fireworks storage racks used at a fireworks exhibition;

(b) A detailed checklist that a fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall complete, while conducting the inspection required under division (C) of section 3743.54 of the Revised Code at the premises at which a fireworks exhibition will take place, to ensure that the exhibition will comply with all applicable requirements of this chapter, and all applicable rules adopted under this chapter, that regulate the conduct of a fireworks exhibition.

(2) Each licensed exhibitor of fireworks shall comply with the rules that the fire marshal adopts under division (E)(1)(a) of this section.

(3) Prior to the fire marshal's adoption of the rules referred to in divisions (E)(1)(a) and (b) of this section, the director of commerce shall appoint a committee consisting of the fire marshal, three representatives of the fireworks industry, and three representatives of the fire service industry to assist the fire marshal in adopting those rules. The fire marshal shall adopt initial rules under those divisions by not later than May 1, 2001.

(F) A fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall conduct the inspection referred to in division (E)(1)(b) of this section, complete the checklist referred to in division (E)(1)(b) of this section while conducting the inspection, and provide a copy of the completed checklist to the fire marshal.

(G) A designee, if any, designated by a police chief or other similar chief law enforcement officer under this section or section 3743.54 of the Revised Code shall be a law enforcement officer serving in the same law enforcement agency as the police chief or other similar chief law enforcement officer.

Sec. 3743.54. (A) A licensed exhibitor of fireworks may acquire fireworks for use at a public fireworks exhibition only from a licensed manufacturer of fireworks or licensed wholesaler of fireworks, and only in accordance with the procedures specified in this section and section 3743.55 of the Revised Code.

(B)(1) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to whichever of the following persons is appropriate under the circumstances:

(a) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in a municipal corporation, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular municipal corporation.

(b) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in an unincorporated area, the approval shall be obtained from the fire chief of the particular township or township fire district, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular township, or township or joint police district.

(c) If fire protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief of the political subdivision providing the fire protection services and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision in which the premises on which the exhibition will take place are located. If police services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision providing the police services and from the fire chief of the political subdivision in which the premises on which the exhibition will take place are located. If both fire and police protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivisions providing the police and fire protection services.

(d) If there is no municipal corporation, township, or township fire district fire department, no municipal corporation, township, or township or joint police district police department, and no contract for police or fire protection services between political subdivisions covering the premises on which the exhibition will take place, the approval shall be obtained from the fire prevention officer, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, having jurisdiction over the premises.

(2) The approval required by division (B)(1) of this section shall be evidenced by the fire chief or fire prevention officer and by the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, signing a permit for the exhibition. The fire marshal shall prescribe the form of exhibition permits and distribute copies of the form to fire chiefs, to fire prevention officers, and to police chiefs or other similar chief law enforcement officers of municipal corporations, townships, or township or joint police districts, or their designees, in this state. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the fire marshal or, if it is available, from a fire chief, a fire prevention officer, a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district, or a designee of such a police chief or other similar chief law enforcement officer.

(C) Before a permit is signed and issued to a licensed exhibitor of fireworks, the fire chief or fire prevention officer, in consultation with the police chief or other similar chief law enforcement officer or with the designee of the police chief or other similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show the applicant's license as an exhibitor of fireworks to the fire chief or fire prevention officer.

The fire chief or fire prevention officer, and the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the fire marshal pursuant to divisions (B) and (E) of section 3743.53 of the Revised Code and that the applicant is, in fact, a licensed exhibitor of fireworks. The fire chief or fire prevention officer, in consultation with the police chief or other similar chief law

enforcement officer or with the designee of the police chief or other similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

(D) If the legislative authorities of their political subdivisions have prescribed a fee for the issuance of a permit for a public fireworks exhibition, fire chiefs or fire prevention officers, and police chiefs, other similar chief law enforcement officers, or their designee, shall not issue a permit until the exhibitor pays the requisite fee.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars, with surety satisfactory to the fire chief or fire prevention officer and to the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars for liability arising from injury, death, or loss to persons or property emanating from the fireworks exhibition. The legislative authority of a political subdivision in which a public fireworks exhibition will take place may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. Fire chiefs or fire prevention officers, and police chiefs, other similar chief law enforcement officers, or their designee, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by the political subdivision in which the fireworks exhibition will take place.

(E)(1) Each permit for a fireworks exhibition issued by a fire chief or fire prevention officer, and by the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, shall contain a distinct number, designate the municipal corporation, township, ~~or~~ township fire or police district, or joint police district of the fire chief, fire prevention officer, police chief or other similar chief law enforcement officer, or designee of the police chief or other similar chief law enforcement officer, and identify the certified fire safety inspector, fire chief, or fire prevention officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the fire chief or fire prevention officer, and by the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, issuing it to the fire marshal, who shall keep a record of the permits

received. A permit is not transferable or assignable.

(2) Each fire chief, fire prevention officer, police chief or other similar chief law enforcement officer, and designee of a police chief or other similar chief law enforcement officer shall keep a record of issued permits for fireworks exhibitions. In this list, the fire chief, fire prevention officer, police chief or other similar chief law enforcement officer, and designee of a police chief or other similar chief law enforcement officer shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.

(F) The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified fire safety inspector, fire chief, or fire prevention officer be present before, during, and after the exhibition, and shall require the certified fire safety inspector, fire chief, or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter.

(G) Notwithstanding any provision of the Revised Code to the contrary, the state fire marshal is hereby authorized to create additional license categories for fireworks exhibitors and to create additional permit requirements for fireworks exhibitions for the indoor use of fireworks and other uses of pyrotechnics, including the use of pyrotechnic materials that do not meet the definition of fireworks as described in section 3743.01 of the Revised Code. Such licenses and permits and the fees for such licenses and permits shall be described in rules adopted by the fire marshal under Chapter 119. of the Revised Code. Such rules may provide for different standards for exhibitor licensure and the permitting and conducting of a fireworks exhibition than the requirements of this chapter.

Prior to the state fire marshal's adoption of the rules described in this division, the director of commerce shall appoint a committee consisting of the state fire marshal or the marshal's designee, three representatives of the fireworks industry, and three representatives of the fire service to assist the state fire marshal in adopting these rules. Unless an extension is granted by the director of commerce, the state fire marshal shall adopt initial rules under this section not later than July 1, 2010.

Sec. 3743.64. (A) No person shall conduct a fireworks exhibition in this state or act as an exhibitor of fireworks in this state unless the person is a licensed exhibitor of fireworks.

(B) No person shall conduct a fireworks exhibition in this state or act as

an exhibitor of fireworks in this state after the person's license as an exhibitor of fireworks has expired, been denied renewal, or been revoked, unless a new license has been obtained.

(C) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the fire marshal pursuant to divisions (B) and (E) of section 3743.53 of the Revised Code or to comply with divisions (C) and (D) of that section.

(D) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to section 3743.54 of the Revised Code or if a permit so secured is revoked by a fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, pursuant to that section.

(E) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with sections 3743.54 and 3743.55 of the Revised Code.

(F) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises on which the exhibition is being conducted.

(G) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the fire marshal under section 3743.56 of the Revised Code.

(H) Except as provided in division (C) of section 3743.541 of the Revised Code, no person shall knowingly, or knowingly permit another person to, dismantle, reposition, or otherwise disturb any fireworks, associated equipment or materials, or other items within a fireworks incident site, or any evidence related to a fireworks incident, at any time after that person has reason to believe a fireworks incident has occurred, before the state fire marshal, the state fire marshal's designee, a member of the state fire marshal's staff, or other appropriate state or local law enforcement authorities permit in accordance with section 3743.541 of the Revised Code the dismantling, repositioning, or other disturbance of the fireworks, equipment, materials, or items within the fireworks incident site or of any evidence related to the fireworks incident.

Sec. 3745.015. There is hereby created in the state treasury the environmental protection fund consisting of money credited to the fund

under ~~divisions~~ division (A)(3) ~~and (4)~~ of section 3734.57 of the Revised Code. The environmental protection agency shall use money in the fund to pay the agency's costs associated with administering and enforcing, or otherwise conducting activities under, this chapter and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of the Revised Code.

Sec. 3745.016. There is hereby created in the state treasury the federally supported cleanup and response fund consisting of money credited to the fund from federal grants, gifts, and contributions to support the investigation and remediation of contaminated property. The environmental protection agency shall use money in the fund to support the investigation and remediation of contaminated property.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Each person who is issued a permit to install prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	$ 200
10 or more, but less than 100	400
100 or more, but less than 300	800
300 or more, but less than 500	1500
500 or more, but less than 1000	2500
1000 or more, but less than 5000	4000
5000 or more	6000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.

(2) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	$ 100
101 to 500	400

501 to 2000	750
2001 to 20,000	1000
more than 20,000	2500

(3)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	$ 200
1001 to 5000	400
5001 to 10,000	600
10,001 to 50,000	800
more than 50,000	1000

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

1211 Bituminous coal and lignite mining;

1213 Bituminous coal and lignite mining services;

1411 Dimension stone;

1422 Crushed and broken limestone;

1427 Crushed and broken stone, not elsewhere classified;

1442 Construction sand and gravel;

1446 Industrial sand;

3281 Cut stone and stone products;

3295 Minerals and earth, ground or otherwise treated.

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 1000	$ 200
10,001 to 50,000	300
50,001 to 100,000	400
100,001 to 200,000	500
200,001 to 400,000	600
400,001 or more	700

(4) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	$ 100
20,001 to 40,000	150
40,001 to 100,000	200
100,001 to 250,000	250
250,001 to 500,000	350
500,001 to 1,000,000	500
1,000,001 or greater	750

(5) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility	Permit to install $ 100

(6) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install $ 100

(7) Registration status

For each source covered by registration status	Permit to install $ 75

(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not apply to that

portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program.

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and

obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2012~~ 2014, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	$ 170
10 or more, but less than 20	340
20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020
100 or more	3,350

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be

collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000

300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)	Permit to install
0 or more, but less than 10	$ 25
10 or more, but less than 25	150
25 or more, but less than 50	300
50 or more, but less than 100	500
100 or more, but less than 250	1000
250 or more	2000

(3) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	$ 100
101 to 500	500
501 to 2000	1000
2001 to 20,000	1500
more than 20,000	3750

(4)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	$ 200
1001 to 5000	500
5001 to 10,000	750
10,001 to 50,000	1000
more than 50,000	1250

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section

3704.03 of the Revised Code shall pay the fees set forth in division (F)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1987, as revised:

Major group 10, metal mining;

Major group 12, coal mining;

Major group 14, mining and quarrying of nonmetallic minerals;

Industry group 204, grain mill products;

2873 Nitrogen fertilizers;

2874 Phosphatic fertilizers;

3281 Cut stone and stone products;

3295 Minerals and earth, ground or otherwise treated;

4221 Grain elevators (storage only);

5159 Farm related raw materials;

5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(4)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 10,000	$ 200
10,001 to 50,000	400
50,001 to 100,000	500
100,001 to 200,000	600
200,001 to 400,000	750
400,001 or more	900

(5) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	$ 100
20,001 to 40,000	150
40,001 to 100,000	250
100,001 to 500,000	400
500,001 or greater	750

(6) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility (includes all units at the facility)	Permit to install
	$ 100

(7) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install $ 100

(8) Registration status

For each source covered by registration status	Permit to install $ 75

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	$75
Asbestos removal	$3/unit
Asbestos cleanup	$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under

any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty cents per ton of each fee assessed under division (C) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be deposited into the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2012~~ 2014, and one

hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2012~~ 2014, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2012~~ 2014, and five thousand dollars on and after July 1, ~~2012~~ 2014. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2010~~ 2012, and January 30, ~~2011~~ 2013, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge

permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, ~~2010~~ 2012, and January 30, ~~2011~~ 2013
5,000 to 49,999	$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550
20,000,001 to 50,000,000	25,900
50,000,001 to 100,000,000	41,400
100,000,001 or more	62,100

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, ~~2010~~ 2012, and January 30, ~~2011~~ 2013
5,000 to 49,999	$ 250
50,000 to 250,000	1,200

250,001 to 1,000,000	2,950
1,000,001 to 5,000,000	5,850
5,000,001 to 10,000,000	8,800
10,000,001 to 20,000,000	11,700
20,000,001 to 100,000,000	14,050
100,000,001 to 250,000,000	16,400
250,000,001 or more	18,700

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2010~~ 2012, and not later than January 30, ~~2011~~ 2013. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2010~~ 2012, and not later than January 30, ~~2011~~ 2013. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(8) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and

rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2012~~ 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Number of service connections	Fee amount
Not more than 49	$ 112
50 to 99	176
Number of service connections	**Average cost per connection**
100 to 2,499	$ 1.92
2,500 to 4,999	1.48
5,000 to 7,499	1.42
7,500 to 9,999	1.34
10,000 to 14,999	1.16
15,000 to 24,999	1.10
25,000 to 49,999	1.04
50,000 to 99,999	.92
100,000 to 149,999	.86
150,000 to 199,999	.80

200,000 or more	.76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Population served	Fee amount
Fewer than 150	$ 112
150 to 299	176
300 to 749	384
750 to 1,499	628
1,500 to 2,999	1,268
3,000 to 7,499	2,816
7,500 to 14,999	5,510
15,000 to 22,499	9,048
22,500 to 29,999	12,430
30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals ~~receiving water from~~ having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Number of wells or sources, other than surface water, supplying system	Fee amount
1	$112
2	112
3	176
4	278

5	568
System designated as using a surface water source	792

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, ~~2012~~ 2014, and fifteen thousand dollars on and after July 1, ~~2012~~ 2014. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2012~~ 2014, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	
MMO-MUG	$2,000
MF	2,100
MMO-MUG and MF	2,550
organic chemical	5,400
trace metals	5,400
standard chemistry	2,800
limited chemistry	1,550

On and after July 1, ~~2012~~ 2014, the following fee, on a per survey basis,

shall be charged any such person:

microbiological	$ 1,650
organic chemicals	3,500
trace metals	3,500
standard chemistry	1,800
limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2012~~ 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

(a) "MF" means microfiltration.

(b) "MMO" means minimal medium ONPG.

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, ~~2012~~ 2014, and twenty-five dollars on and after December 1, ~~2012~~ 2014. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, ~~2012~~ 2014:

Class A operator	$35
Class I operator	60
Class II operator	75
Class III operator	85
Class IV operator	100

On and after December 1, ~~2012~~ 2014, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	$25
Class I operator	$45
Class II operator	55
Class III operator	65
Class IV operator	75

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	$25
Class I operator	35
Class II operator	45
Class III operator	55
Class IV operator	65

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

Class A operator	$45
Class I operator	55
Class II operator	65
Class III operator	75
Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or

treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~2012~~ 2014, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2012~~ 2014. ~~Through~~ Except as provided in division (S)(3) of this section, through June 30, ~~2012~~ 2014, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2012~~ 2014, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of

this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code and under division (S)(3) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(3) A person applying for coverage under a national pollutant discharge elimination system general discharge permit for household sewage treatment systems shall pay the following fees:

(a) A nonrefundable fee of two hundred dollars at the time of application for initial permit coverage;

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which fees are prescribed in divisions (B)(7) and (L)(1)(b) of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to

Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and

environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the

sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or (b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the

director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected

persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes

of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3746.02. (A) Nothing in this chapter applies to any of the following:

(1) Property for which a voluntary action under this chapter is precluded by federal law or regulations adopted under federal law, including, without limitation, any of the following federal laws or regulations adopted thereunder:

(a) The "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended;

(b) The "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended;

(d) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended;

(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended.

(2) Those portions of property where closure of a hazardous waste

facility or solid waste facility is required under Chapter 3734. of the Revised Code or rules adopted under it;

(3) ~~Property or~~ Except for a class C release as defined in section 3737.87 of the Revised Code, properties regardless of ownership that are subject to remediation rules adopted under the authority of the division of fire marshal in the department of commerce, including remediation rules adopted under sections 3737.88, 3737.882, and 3737.889 of the Revised Code;

(4) Property that is subject to Chapter 1509. of the Revised Code;

(5) Any other property if the director of environmental protection has issued a letter notifying the owner or operator of the property that ~~he~~ the director will issue an enforcement order under Chapter 3704., 3734., or 6111. of the Revised Code, a release or threatened release of a hazardous substance or petroleum from or at the property poses a substantial threat to public health or safety or the environment, and the person subject to the order does not present sufficient evidence to the director that ~~he~~ the person has entered into the voluntary action program under this chapter and is proceeding expeditiously to address that threat. For the purposes of this division, the evidence constituting sufficient evidence of entry into the voluntary action program under this chapter shall be defined by the director by rules adopted under section 3746.04 of the Revised Code. Until such time as the director has adopted those rules, the director, at a minimum, shall consider the existence of a contract with a certified professional to appropriately respond to the threat named in the director's letter informing the person of ~~his~~ the director's intent to issue an enforcement order and the availability of financial resources to complete the contract to be sufficient evidence of entry into the program.

(B) The application of any provision of division (A) of this section to a portion of property does not preclude participation in the voluntary action program under this chapter in connection with other portions of the property where those provisions do not apply.

(C) As used in this section, "property" means any parcel of real property, or portion thereof, and any improvements thereto.

Sec. 3750.081. (A) Notwithstanding any provision in this chapter to the contrary, an owner or operator of a facility that is regulated under Chapter 1509. of the Revised Code who has filed a log in accordance with section 1509.10 of the Revised Code and a production statement in accordance with section 1509.11 of the Revised Code shall be deemed to have satisfied all of the inventory, notification, listing, and other submission and filing requirements established under this chapter, except for the release reporting

requirements established under section 3750.06 of the Revised Code.

(B) The emergency response commission and every local emergency planning committee and fire department in this state shall establish a means by which to access, view, and retrieve information, through the use of the internet or a computer disk, from the electronic database maintained by the division of ~~mineral~~ oil and gas resources management in the department of natural resources in accordance with section 1509.23 of the Revised Code. With respect to facilities regulated under Chapter 1509. of the Revised Code, the database shall be the means of providing and receiving the information described in division (A) of this section.

Sec. 3767.32. (A) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by ~~him~~ the person, or in or on waters of the state unless one of the following applies:

(1) The person is directed to do so by a public official as part of a litter collection drive;

(2) Except as provided in division (B) of this section, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;

(3) The person is issued a permit or license covering the litter pursuant to Chapter 3734. or 6111. of the Revised Code.

(B) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by ~~him~~ the person unless one of the following applies:

(1) The litter was generated or located on the property on which the litter receptacle is located;

(2) The person is directed to do so by a public official as part of a litter collection drive;

(3) The person is directed to do so by a person whom ~~he~~ the person reasonably believes to have the privilege to use the litter receptacle;

(4) The litter consists of any of the following:

(a) The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;

(b) The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;

(c) Beverage containers and food sacks, wrappings, and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;

(d) Beverage containers, food sacks, wrappings, containers, and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

(C)(1) As used in division (B)(1) of this section, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee, but does not include any private property to which the public otherwise does not have a right of access.

(2) As used in division (B)(4) of this section, "casual passerby" means a person who does not have depositing litter in a litter receptacle as ~~his~~ the person's primary reason for traveling to or by the property on which the litter receptacle is located.

(D) As used in this section:

(1) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature.

(2) "Deposit" means to throw, drop, discard, or place.

(3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can, or similar container in which litter is deposited for removal.

(E) This section may be enforced by any sheriff, deputy sheriff, police officer of a municipal corporation, police constable or officer of a township, or township or joint police district, wildlife officer, park officer, forest officer, preserve officer, conservancy district police officer, inspector of nuisances of a county, or any other law enforcement officer within ~~his~~ the law enforcement officer's jurisdiction.

Sec. 3769.08. (A) Any person holding a permit to conduct a horse-racing meeting may provide a place in the race meeting grounds or enclosure at which the permit holder may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the live racing programs and simulcast racing programs conducted by the permit holder.

The pari-mutuel method of wagering upon the live racing programs and simulcast racing programs held at or conducted within such race track, and at the time of such horse-racing meeting, or at other times authorized by the state racing commission, shall not be unlawful. No other place, except that provided and designated by the permit holder and except as provided in section 3769.26 of the Revised Code, nor any other method or system of betting or wagering, except the pari-mutuel system, shall be used or permitted by the permit holder; nor, except as provided in section 3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel system of wagering

be conducted by the permit holder on any races except the races at the race track, grounds, or enclosure for which the person holds a permit. Each permit holder may retain as a commission an amount not to exceed eighteen per cent of the total of all moneys wagered.

The pari-mutuel wagering authorized by this section is subject to sections 3769.25 to 3769.28 of the Revised Code.

(B) At the close of each racing day, each permit holder authorized to conduct thoroughbred racing, out of the amount retained on that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs on that day and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

(1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;

(2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in section 3769.089 of the Revised Code, each permit holder authorized to conduct thoroughbred racing shall use for purse money a sum equal to fifty per cent of the pari-mutuel revenues retained by the permit holder as a commission after payment of the state tax. This fifty per cent payment shall be in addition to the purse distribution from breakage specified in this section.

Subject to division (M) of this section, from the moneys paid to the tax commissioner by thoroughbred racing permit holders, one-half of one per cent of the total of all moneys so wagered on a racing day shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code, one and one-eighth per cent of the total of all moneys so wagered on a racing day shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code, and one-quarter of one per cent of the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. The required payment to the state racing commission operating fund does not apply to county and independent fairs and agricultural societies. The remaining moneys may be retained by the permit

holder, except as provided in this section with respect to the odd cents redistribution. Amounts paid into the ~~PASSPORT~~ nursing home franchise permit fee fund pursuant to this section and section 3769.26 of the Revised Code shall be used solely for the support of the PASSPORT program as determined in appropriations made by the general assembly. If the PASSPORT program is abolished, the amount that would have been paid to the ~~PASSPORT~~ nursing home franchise permit fee fund under this chapter shall be paid to the general revenue fund of the state. As used in this chapter, "PASSPORT program" means the PASSPORT program created under section 173.40 of the Revised Code.

The total amount paid to the Ohio thoroughbred race fund under this section and division (A) of section 3769.087 of the Revised Code shall not exceed by more than six per cent the total amount paid to this fund under this section and that section during the immediately preceding calendar year.

Each year, the total amount calculated for payment into the Ohio fairs fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code shall be an amount calculated using the percentages specified in this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code.

A permit holder may contract with a thoroughbred horsemen's organization for the organization to act as a representative of all thoroughbred owners and trainers participating in a horse-racing meeting conducted by the permit holder. A "thoroughbred horsemen's organization" is any corporation or association that represents, through membership or otherwise, more than one-half of the aggregate of all thoroughbred owners and trainers who were licensed and actively participated in racing within this state during the preceding calendar year. Except as otherwise provided in this paragraph, any moneys received by a thoroughbred horsemen's organization shall be used exclusively for the benefit of thoroughbred owners and trainers racing in this state through the administrative purposes of the organization, benevolent activities on behalf of the horsemen, promotion of the horsemen's rights and interests, and promotion of equine research. A thoroughbred horsemen's organization may expend not more than an aggregate of five per cent of its annual gross receipts, or a larger amount as approved by the organization, for dues, assessments, and other payments to all other local, national, or international organizations having as their primary purposes the promotion of thoroughbred horse racing, thoroughbred horsemen's rights, and equine research.

(C) Except as otherwise provided in division (B) of this section, at the close of each racing day, each permit holder authorized to conduct harness

or quarter horse racing, out of the amount retained that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

(1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;

(2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in division (B) and subject to division (M) of this section, from the moneys paid to the tax commissioner by permit holders authorized to conduct harness or quarter horse racing, one-half of one per cent of all moneys wagered on that racing day shall be paid into the Ohio fairs fund; from the moneys paid to the tax commissioner by permit holders authorized to conduct harness racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio standardbred development fund; and from the moneys paid to the tax commissioner by permit holders authorized to conduct quarter horse racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio quarter horse development fund.

(D) In addition, subject to division (M) of this section, beginning on January 1, 1996, from the money paid to the tax commissioner as a tax under this section and division (A) of section 3769.087 of the Revised Code by harness horse permit holders, one-half of one per cent of the amount wagered on a racing day shall be paid into the Ohio standardbred development fund. Beginning January 1, 1998, the payment to the Ohio standardbred development fund required under this division does not apply to county agricultural societies or independent agricultural societies.

The total amount paid to the Ohio standardbred development fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code and the total amount paid to the Ohio quarter horse development fund under this division and division (A) of that section shall not exceed by more than six per cent the total amount paid into the fund under this division, division (C) of this section, and division (A) of

section 3769.087 of the Revised Code in the immediately preceding calendar year.

(E) Subject to division (M) of this section, from the money paid as a tax under this chapter by harness and quarter horse permit holders, one-quarter of one per cent of the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. This division does not apply to county and independent fairs and agricultural societies.

(F) Except as otherwise provided in section 3769.089 of the Revised Code, each permit holder authorized to conduct harness racing shall pay to the harness horsemen's purse pool a sum equal to fifty per cent of the pari-mutuel revenues retained by the permit holder as a commission after payment of the state tax. This fifty per cent payment is to be in addition to the purse distribution from breakage specified in this section.

(G) In addition, each permit holder authorized to conduct harness racing shall be allowed to retain the odd cents of all redistribution to be made on all mutual contributions exceeding a sum equal to the next lowest multiple of ten.

Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for purse money for Ohio sired, bred, and owned colts, for purse money for Ohio bred horses, and for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a harness horsemen's health and retirement fund, twenty-five per cent of that portion of that total sum of odd cents shall be paid at the close of each racing day by the permit holder to that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that twenty-five per cent shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county in which the permit holder operates race meetings. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(H) In addition, each permit holder authorized to conduct thoroughbred racing shall be allowed to retain the odd cents of all redistribution to be made on all mutuel contributions exceeding a sum equal to the next lowest multiple of ten. Twenty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a thoroughbred horsemen's health and retirement fund, forty-five per cent of that portion of that total sum of odd

cents shall be paid at the close of each racing day by the permit holder to that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that forty-five per cent shall be paid by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county in which the permit holder operates race meetings, at the close of each racing day. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(I) In addition, each permit holder authorized to conduct quarter horse racing shall be allowed to retain the odd cents of all redistribution to be made on all mutuel contributions exceeding a sum equal to the next lowest multiple of ten, subject to a tax of twenty-five per cent on that portion of the total sum of such odd cents that is in excess of two thousand dollars during a calendar year, which tax shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county within which the permit holder operates race meetings. Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for increased purse money for horse races. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(J)(1) To encourage the improvement of racing facilities for the benefit of the public, breeders, and horse owners, and to increase the revenue to the state from the increase in pari-mutuel wagering resulting from those improvements, the taxes paid by a permit holder to the state as provided for in this chapter shall be reduced by three-fourths of one per cent of the total amount wagered for those permit holders who make capital improvements to existing race tracks or construct new race tracks. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the taxes levied under divisions (B) and (C) of this section and section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code, as applicable, divided by the calculated amount each fund should receive under divisions (B) and (C) of this section and section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code and the reduction provided for in this division. If the resulting percentage is less than one, that percentage shall be multiplied by the amount of the reduction provided for in this division. Otherwise, the permit holder shall receive the full reduction provided for in this division. The amount of the allowable reduction not received shall be carried forward and applied against future tax liability. After any reductions expire, any reduction carried forward shall be treated as a reduction as provided for in this division.

If more than one permit holder is authorized to conduct racing at the facility that is being built or improved, the cost of the new race track or capital improvement shall be allocated between or among all the permit holders in the ratio that the permit holders' number of racing days bears to the total number of racing days conducted at the facility.

A reduction for a new race track or a capital improvement shall start from the day racing is first conducted following the date actual construction of the new race track or each capital improvement is completed and the construction cost has been approved by the racing commission, unless otherwise provided in this section. A reduction for a new race track or a capital improvement shall continue for a period of twenty-five years for new race tracks and for fifteen years for capital improvements if the construction of the capital improvement or new race track commenced prior to March 29, 1988, and for a period of ten years for new race tracks or capital improvements if the construction of the capital improvement or new race track commenced on or after March 29, 1988, but before ~~the effective date of this amendment~~ June 6, 2001, or until the total tax reduction reaches seventy per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder, whichever occurs first. A reduction for a new race track or a capital improvement approved after ~~the effective date of this amendment~~ June 6, 2001, shall continue until the total tax reduction reaches one hundred per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder.

A reduction granted for a new race track or a capital improvement, the application for which was approved by the racing commission after March 29, 1988, but before ~~the effective date of this amendment~~ June 6, 2001, shall not commence nor shall the ten-year period begin to run until all prior tax reductions with respect to the same race track have ended. The total tax reduction because of capital improvements shall not during any one year exceed for all permit holders using any one track three-fourths of one per cent of the total amount wagered, regardless of the number of capital improvements made. Several capital improvements to a race track may be consolidated in an application if the racing commission approved the application prior to March 29, 1988. No permit holder may receive a tax reduction for a capital improvement approved by the racing commission on or after March 29, 1988, at a race track until all tax reductions have ended for all prior capital improvements approved by the racing commission under this section or section 3769.20 of the Revised Code at that race track. If there are two or more permit holders operating meetings at the same track, they may consolidate their applications. The racing commission shall notify

the tax commissioner when the reduction of tax begins and when it ends.

Each fiscal year the racing commission shall submit a report to the tax commissioner, the office of budget and management, and the legislative service commission. The report shall identify each capital improvement project undertaken under this division and in progress at each race track, indicate the total cost of each project, state the tax reduction that resulted from each project during the immediately preceding fiscal year, estimate the tax reduction that will result from each project during the current fiscal year, state the total tax reduction that resulted from all such projects at all race tracks during the immediately preceding fiscal year, and estimate the total tax reduction that will result from all such projects at all race tracks during the current fiscal year.

(2) In order to qualify for the reduction in tax, a permit holder shall apply to the racing commission in such form as the commission may require and shall provide full details of the new race track or capital improvement, including a schedule for its construction and completion, and set forth the costs and expenses incurred in connection with it. The racing commission shall not approve an application unless the permit holder shows that a contract for the new race track or capital improvement has been let under an unrestricted competitive bidding procedure, unless the contract is exempted by the controlling board because of its unusual nature. In determining whether to approve an application, the racing commission shall consider whether the new race track or capital improvement will promote the safety, convenience, and comfort of the racing public and horse owners and generally tend towards the improvement of racing in this state.

(3) If a new race track or capital improvement is approved by the racing commission and construction has started, the tax reduction may be authorized by the commission upon presentation of copies of paid bills in excess of one hundred thousand dollars or ten per cent of the approved cost, whichever is greater. After the initial authorization, the permit holder shall present copies of paid bills. If the permit holder is in substantial compliance with the schedule for construction and completion of the new race track or capital improvement, the racing commission may authorize the continuation of the tax reduction upon the presentation of the additional paid bills. The total amount of the tax reduction authorized shall not exceed the percentage of the approved cost of the new race track or capital improvement specified in division (J)(1) of this section. The racing commission may terminate any tax reduction immediately if a permit holder fails to complete the new race track or capital improvement, or to substantially comply with the schedule for construction and completion of the new race track or capital

improvement. If a permit holder fails to complete a new race track or capital improvement, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced. The normal tax paid by the permit holder shall be increased by three-fourths of one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced.

(4) As used in this section:

(a) "Capital improvement" means an addition, replacement, or remodeling of a structural unit of a race track facility costing at least one hundred thousand dollars, including, but not limited to, the construction of barns used exclusively for the race track facility, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator equipment and appurtenances to that equipment purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the racing surface and appurtenances, the installation of permanent new heating or air conditioning, roof replacement or restoration, installations of a permanent nature forming a part of the track structure, and construction of buildings that are located on a permit holder's premises. "Capital improvement" does not include the cost of replacement of equipment that is not permanently installed, ordinary repairs, painting, and maintenance required to keep a race track facility in ordinary operating condition.

(b) "New race track" includes the reconstruction of a race track damaged by fire or other cause that has been declared by the racing commission, as a result of the damage, to be an inadequate facility for the safe operation of horse racing.

(c) "Approved cost" includes all debt service and interest costs that are associated with a capital improvement or new race track and that the racing commission approves for a tax reduction under division (J) of this section.

(5) The racing commission shall not approve an application for a tax reduction under this section if it has reasonable cause to believe that the actions or negligence of the permit holder substantially contributed to the damage suffered by the track due to fire or other cause. The racing commission shall obtain any data or information available from a fire marshal, law enforcement official, or insurance company concerning any fire or other damage suffered by a track, prior to approving an application for a tax reduction.

(6) The approved cost to which a tax reduction applies shall be determined by generally accepted accounting principles and verified by an audit of the permit holder's records upon completion of the project by the racing commission, or by an independent certified public accountant

selected by the permit holder and approved by the commission.

(K) No other license or excise tax or fee, except as provided in sections 3769.01 to 3769.14 of the Revised Code, shall be assessed or collected from such licensee by any county, township, district, municipal corporation, or other body having power to assess or collect a tax or fee. That portion of the tax paid under this section by permit holders for racing conducted at and during the course of an agricultural exposition or fair, and that portion of the tax that would have been paid by eligible permit holders into the ~~PASSPORT~~ nursing home franchise permit fee fund as a result of racing conducted at and during the course of an agricultural exposition or fair, shall be deposited into the state treasury to the credit of the horse racing tax fund, which is hereby created for the use of the agricultural societies of the several counties in which the taxes originate. The state racing commission shall determine eligible permit holders for purposes of the preceding sentence, taking into account the breed of horse, the racing dates, the geographic proximity to the fair, and the best interests of Ohio racing. On the first day of any month on which there is money in the fund, the tax commissioner shall provide for payment to the treasurer of each agricultural society the amount of the taxes collected under this section upon racing conducted at and during the course of any exposition or fair conducted by the society.

(L) From the tax paid under this section by harness track permit holders, the tax commissioner shall pay into the Ohio thoroughbred race fund a sum equal to a percentage of the amount wagered upon which the tax is paid. The percentage shall be determined by the tax commissioner and shall be rounded to the nearest one-hundredth. The percentage shall be such that, when multiplied by the amount wagered upon which tax was paid by the harness track permit holders in the most recent year for which final figures are available, it results in a sum that substantially equals the same amount of tax paid by the tax commissioner during that year into the Ohio fairs fund from taxes paid by thoroughbred permit holders. This division does not apply to county and independent fairs and agricultural societies.

(M) Twenty-five per cent of the taxes levied on thoroughbred racing permit holders, harness racing permit holders, and quarter horse racing permit holders under this section, division (A) of section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code shall be paid into the ~~PASSPORT~~ nursing home franchise permit fee fund. The tax commissioner shall pay any money remaining, after the payment into the ~~PASSPORT~~ nursing home franchise permit fee fund and the reductions provided for in division (J) of this section and in section 3769.20 of the Revised Code, into the Ohio fairs fund, Ohio thoroughbred race fund,

Ohio standardbred development fund, Ohio quarter horse fund, and state racing commission operating fund as prescribed in this section and division (A) of section 3769.087 of the Revised Code. The tax commissioner shall thereafter use and apply the balance of the money paid as a tax by any permit holder to cover any shortage in the accounts of such funds resulting from an insufficient payment as a tax by any other permit holder. The moneys received by the tax commissioner shall be deposited weekly and paid by the tax commissioner into the funds to cover the total aggregate amount due from all permit holders to the funds, as calculated under this section and division (A) of section 3769.087 of the Revised Code, as applicable. If, after the payment into the ~~PASSPORT~~ nursing home franchise permit fee fund, sufficient funds are not available from the tax deposited by the tax commissioner to pay the required amounts into the Ohio fairs fund, Ohio standardbred development fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and the state racing commission operating fund, the tax commissioner shall prorate on a proportional basis the amount paid to each of the funds. Any shortage to the funds as a result of a proration shall be applied against future deposits for the same calendar year when funds are available. After this application, the tax commissioner shall pay any remaining money paid as a tax by all permit holders into the ~~PASSPORT~~ nursing home franchise permit fee fund. This division does not apply to permit holders conducting racing at the course of an agricultural exposition or fair as described in division (K) of this section.

Sec. 3769.20. (A) To encourage the renovation of existing racing facilities for the benefit of the public, breeders, and horse owners and to increase the revenue to the state from the increase in pari-mutuel wagering resulting from such improvement, the taxes paid by a permit holder to the state, in excess of the amount paid into the ~~PASSPORT~~ nursing home franchise permit fee fund, shall be reduced by one per cent of the total amount wagered for those permit holders who carry out a major capital improvement project. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the amount of the taxes levied under divisions (B) and (C) of section 3769.08, section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code, as applicable, divided by the calculated amount each fund should receive under divisions (B) and (C) of section 3769.08, section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code and the reduction provided for in this section. If the resulting percentage is less than one, that percentage shall be multiplied by the amount of the reduction provided for in this section. Otherwise, the permit holder shall receive the full reduction provided for in

this section. The amount of the allowable reduction not received shall be carried forward and added to any other reduction balance and applied against future tax liability. After any reductions expire, any reduction carried forward shall be treated as a reduction as provided for in this section. If the amount of allowable reduction exceeds the amount of taxes derived from a permit holder, the amount of the allowable reduction not used may be carried forward and applied against future tax liability.

If more than one permit holder is authorized to conduct racing at the facility that is being improved, the cost of the major capital improvement project shall be allocated between or among all the permit holders in the ratio that each permit holder's number of racing days bears to the total number of racing days conducted at the facility.

A reduction for a major capital improvement project shall start from the day racing is first conducted following the date on which the major capital improvement project is completed and the construction cost has been approved by the state racing commission, except as otherwise provided in division (E) of this section, and shall continue until the total tax reduction equals the cost of the major capital improvement project plus debt service applicable to the project. In no event, however, shall any tax reduction, excluding any reduction balances, be permitted under this section after December 31, ~~2014~~ 2017. The total tax reduction because of the major capital improvement project shall not during any one year exceed for all permit holders using any one track one per cent of the total amount wagered. The racing commission shall notify the tax commissioner when the reduction of tax begins and when it ends.

(B) Each fiscal year, the racing commission shall submit a report to the tax commissioner, the office of budget and management, and the legislative service commission. The report shall identify each capital improvement project undertaken under this section and in progress at each race track, indicate the total cost of each project, state the tax reduction that resulted from each project during the immediately preceding fiscal year, estimate the tax reduction that will result from each project during the current fiscal year, state the total tax reduction that resulted from all such projects at all race tracks during the immediately preceding fiscal year, and estimate the total tax reduction that will result from all such projects at all race tracks during the current fiscal year.

(C) The tax reduction granted pursuant to this section shall be in addition to any tax reductions for capital improvements and new race tracks provided for in section 3769.08 of the Revised Code and approved by the racing commission.

(D) In order to qualify for the reduction in tax, a permit holder shall apply to the racing commission in such form as the commission may require and shall provide full details of the major capital improvement project, including plans and specifications, a schedule for the project's construction and completion, and a breakdown of proposed costs. In addition, the permit holder shall have commenced construction of the major capital improvement project or shall have had the application for the project approved by the racing commission prior to March 29, 1988. The racing commission shall not approve an application unless the permit holder shows that a contract for the major capital improvement project has been let under an unrestricted competitive bidding procedure, unless the contract is exempted by the controlling board because of its unusual nature. In determining whether to approve an application, the racing commission shall consider whether the major capital improvement project will promote the safety, convenience, and comfort of the racing public and horse owners and generally tend toward the improvement of racing in this state.

(E) If the major capital improvement project is approved by the racing commission and construction has started, the tax reduction may be authorized by the commission upon presentation of copies of paid bills in excess of five hundred thousand dollars. After the initial authorization, the permit holder shall present copies of paid bills in the amount of not less than five hundred thousand dollars. If the permit holder is in substantial compliance with the schedule for construction and completion of the major capital improvement project, the racing commission may authorize the continuance of the tax reduction upon the presentation of the additional paid bills in increments of five hundred thousand dollars. The racing commission may terminate the tax reduction if a permit holder fails to complete the major capital improvement project or fails to comply substantially with the schedule for construction and completion of the major capital improvement project. If the time for completion of the major capital improvement project is delayed by acts of God, strikes, or the unavailability of labor or materials, the time for completion as set forth in the schedule shall be extended by the period of the delay. If a permit holder fails to complete the major capital improvement project, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced, unless the permit holder has spent at least six million dollars on the project. The normal tax paid by the permit holder under section 3769.08 of the Revised Code shall be increased by one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced. Any action taken by the racing commission pursuant to this section in

terminating the tax adjustment or requiring repayment of the amount of tax reduced shall be subject to Chapter 119. of the Revised Code.

(F) As used in this section, "major capital improvement project" means the renovation, reconstruction, or remodeling, costing at least six million dollars, of a race track facility, including, but not limited to, the construction of barns used exclusively for that race track facility, backstretch facilities for horsemen, paddock facilities, pari-mutuel and totalizator equipment and appurtenances to that equipment purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the racing surface and appurtenances, grandstand enclosure, installation of permanent new heating or air conditioning, roof replacement, and installations of a permanent nature forming a part of the track structure.

(G) The cost and expenses to which the tax reduction granted under this section applies shall be determined by generally accepted accounting principles and be verified by an audit of the permit holder's records, upon completion of the major capital improvement project, either by the racing commission or by an independent certified public accountant selected by the permit holder and approved by the commission.

(H) This section and section 3769.201 of the Revised Code govern any tax reduction granted to a permit holder for the cost to the permit holder of any cleanup, repair, or improvement required as a result of damage caused by the 1997 Ohio river flood to the place, track, or enclosure for which the permit is issued.

Sec. 3769.26. (A)(1) Except as otherwise provided in division (B) of this section, each track in existence on September 27, 1994, regardless of the number of permit holders authorized to conduct race meetings at the track, may establish, with the approval of the state racing commission and the appropriate local legislative authority, not more than two satellite facilities at which it may conduct pari-mutuel wagering on horse races conducted either inside or outside this state and simulcast by a simulcast host to the satellite facilities.

(2) Prior to a track's establishing satellite facilities under this section, the permit holders at that track shall agree among themselves regarding their respective rights and obligations with respect to those satellite facilities.

(3)(a) Any track that desires to establish a satellite facility shall provide written notification of its intent to the state racing commission and to the appropriate local legislative authority that is required to approve the satellite facility, together with detailed plans and specifications for the satellite facility. The commission shall deliver copies of this notification to all other tracks in this state, and the commission shall, within forty-five days after

receiving the notification, hold a hearing on the track's intent to establish a satellite facility. At this hearing the commission shall consider the evidence presented and determine whether the request for establishment of a satellite facility shall be approved.

The commission shall not approve a track's request to establish a satellite facility if the owner of the premises where the satellite facility is proposed to be located or if the proposed operator of the satellite facility has been convicted of or has pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator of a satellite facility. As used in division (A)(3)(a) of this section, "gambling offense" has the same meaning as in section 2915.01 of the Revised Code and "operator" means the individual who is responsible for the day-to-day operations of a satellite facility. The commission shall conduct a background investigation on each person who is the owner of a premises where a satellite facility is proposed to be located or who is proposed to be the operator or an employee of a satellite facility. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the specific information the commission shall collect in conducting such a background investigation.

No track shall knowingly contract with a person as the owner of the premises where a satellite facility is located, or knowingly employ a person as the operator or an employee of a satellite facility, who has been convicted of or pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator or an employee of a satellite facility. The commission may impose a fine in an amount not to exceed ten thousand dollars on any track that violates any of these prohibitions.

(b) Each track that receives the notification described in division (A)(3)(a) of this section shall notify the commission and the track that desires to establish the satellite facility, within thirty days after receiving the notification from the commission, indicating whether or not it desires to participate in the joint ownership of the facility. Ownership shall be distributed equally among the tracks that choose to participate in the joint ownership of the facility unless the participating tracks agree to and contract otherwise. Tracks that fail to respond to the commission and the track that desires to establish the satellite facility within this thirty-day period regarding the ownership of the particular satellite facility are not eligible to participate in its ownership.

(B) If, within three years after September 27, 1994, a track in existence on September 27, 1994, does not establish both of the satellite facilities it is authorized to establish under division (A) of this section, another track, with the approval of the racing commission, may establish in accordance with this section a number of additional satellite facilities that does not exceed the number of satellite facilities that the first track did not establish. However, no more than fourteen satellite facilities may be established in this state.

(C) Except as otherwise provided in this division, each permit holder in this state shall allow the races that it conducts, and the races conducted outside this state that it receives as a simulcast host, to be simulcast to all satellite facilities operating in this state and shall take all action necessary to supply its simulcast and wagering information to these satellite facilities. A permit holder at a track where the average daily amount wagered for all race meetings during calendar year 1990 did not exceed two hundred fifty thousand dollars may elect not to simulcast its races to the satellite facilities. If a permit holder at such a track chooses to simulcast its races to satellite facilities, it shall allow its races to be simulcast to all satellite facilities operating in this state. Except as otherwise provided in this division, each satellite facility shall receive simulcasts of and conduct pari-mutuel wagering on all live racing programs being conducted at any track in this state and on all agreed simulcast racing programs, as provided in division (D) of section 3769.089 of the Revised Code, conducted in other states that are received by simulcast in this state, without regard to the breed of horse competing in the race or the time of day of the race.

No satellite facility may receive simulcasts of horse races during the same hours that a county fair or independent fair located within the same county as the satellite facility is conducting pari-mutuel wagering on horse races at that county or independent fair.

Except as otherwise provided in this division, the commission shall not approve the establishment of a satellite facility within a radius of fifty miles of any track. The commission may approve the establishment of a satellite facility at a location within a radius of at least thirty-five but not more than fifty miles from one or more tracks if all of the holders of permits issued for those tracks consent in writing to the establishment of the satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of thirty-five miles of more than one race track if all holders of permits issued for those tracks consent in writing to the establishment of the satellite facility and, if the tracks are located completely within one county and the proposed satellite facility will be located within

that county, if both the legislative authority of the municipal corporation in that county with the largest population, and the appropriate legislative authority that is required to approve the satellite facility under division (A)(1) of this section, approve the establishment of the new satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of less than twenty miles from an existing satellite facility if the owner of the existing satellite facility consents in writing to the establishment of the new satellite facility.

A satellite facility shall not receive simulcasts of horse races conducted outside this state on any day when no simulcast host is operating.

(D) Each simulcast host is responsible for paying all costs associated with the up-link for simulcasts. Each satellite facility is responsible for paying all costs associated with the reception of simulcasts and the operation of the satellite facility.

(E) All money wagered at the simulcast host, and all money wagered at all satellite facilities on races simulcast from the simulcast host, shall be included in a common pari-mutuel pool at the simulcast host. Except as otherwise provided in division (F)(6) of this section, the payment shall be the same for all winning tickets whether a wager is placed at a simulcast host or a satellite facility. Wagers placed at a satellite facility shall conform in denomination, character, terms, conditions, and in all other respects to wagers placed at the simulcast host for the same race.

(F)(1) As used in division (F) of this section, "effective rate" means the effective gross tax percentage applicable at the simulcast host, determined in accordance with sections 3769.08 and 3769.087 of the Revised Code, after combining the money wagered at the simulcast host with the money wagered at satellite facilities on races simulcast from the host track.

(2) For the purposes of calculating the amount of taxes to be paid and the amount of commissions to be retained by permit holders, fifty per cent of the amount wagered at satellite facilities on a live racing program simulcast from a simulcast host shall be allocated to the permit holder's live race wagering at that simulcast host that conducts the live racing program, and fifty per cent of the amount wagered at satellite facilities on simulcast racing programs conducted outside this state shall be allocated to, and apportioned equally among, the permit holders acting as simulcast hosts for the out-of-state simulcast racing programs. The remainder of the amount wagered at a satellite facility on races simulcast from a simulcast host shall be allocated to the satellite facility. In computing the tax due on the amount allocated to the satellite facility, if there is more than one simulcast host for out-of-state simulcast racing programs, the effective rate applied by the

satellite facility shall be the tax rate applicable to the simulcast host that pays the highest effective rate under section 3769.08 of the Revised Code on such simulcast racing programs.

(3) The portion of the amount wagered that is allocated to a simulcast host under division (F)(2) of this section shall be treated, for the purposes of calculating the amount of taxes to be paid and commissions to be retained, as having been wagered at the simulcast host on a live racing program or on a simulcast racing program. The permit holder at the simulcast host shall pay, by check, draft, or money order to the state tax commissioner, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, except that the tax shall be calculated using the effective rate, and the permit holder may retain as a commission the percentage of the amount wagered as specified in those sections. From the tax collected, the tax commissioner shall make distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable.

(4) From the portion of the amount wagered that is allocated to a satellite facility under division (F)(2) of this section, the satellite facility may retain as a commission the amount specified in section 3769.08 or 3769.087 of the Revised Code, as applicable. The portion of the amount wagered that is allocated to a satellite facility shall be subject to tax at the effective rate as follows:

(a) One per cent of such amount allocated to the satellite facility shall be paid as a tax each racing day to the tax commissioner for deposit into the ~~PASSPORT~~ nursing home franchise permit fee fund.

(b) The remaining balance of the taxes calculated at the effective rate, after payment of the tax specified in division (F)(4)(a) of this section, shall be retained by the satellite facility to pay for those costs associated with the reception of the simulcasts.

(5) From the commission retained by a satellite facility after the deduction of the tax paid at the effective rate under division (F)(4) of this section, the satellite facility shall retain an amount equal to two and three-eighths per cent of the amount wagered that day on simulcast racing programs and the balance shall be divided as follows:

(a) One-half shall be paid to the owner of the satellite facility;

(b) One-half shall be paid to the state racing commission for deposit into the Ohio combined simulcast horse racing purse fund.

(6) In addition to the commission retained under this section, a satellite facility shall retain two and one-half per cent of the amount that would otherwise be paid on each winning wager unless the retention of this amount

would either cause or add to a minus pool. As used in division (F)(6) of this section, "minus pool" means a wagering pool in which a winning wager is paid off at less than one hundred ten per cent of the amount of the wager. The amount retained shall be paid each racing day to the tax commissioner for deposit into the ~~PASSPORT~~ nursing home franchise permit fee fund.

(7) At the close of each day, each satellite facility shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent the required fee to be paid by the simulcast host to the tracks, racing associations, or state regulatory agencies located outside this state for simulcasts into this state computed and based on one-half of the amount wagered at the satellite facility that day on interstate simulcast racing programs.

(G) No license, fee, or excise tax, other than as specified in division (F)(6) of this section, shall be assessed upon or collected from a satellite facility, the owners of a satellite facility, or the holders of permits issued for a track that has established a satellite facility by any county, township, municipal corporation, district, or other body having the authority to assess or collect a tax or fee.

(H) In no case shall that portion of the commissions designated for purses from satellite facilities be less than that portion of those commissions designated for purses at the simulcast host.

(I) It is the intention of the general assembly in enacting this section not to adversely affect the amounts paid into the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code. Therefore, each track that acts as a simulcast host under this section shall calculate, on a semi-annual basis during calendar years 1994, 1995, and 1996, its average daily contribution to the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code on those days on which the track conducted live horse racing. If this average daily contribution to the fund is less than the average daily contribution from the same track to the fund during the same six-month period of calendar year 1992, there shall be contributed to the fund an amount equal to the average daily shortfall multiplied by the number of days of live racing conducted during the six-month period in calendar year 1994, 1995, or 1996, as applicable. The amount of such contribution shall be allocated among the simulcast host, the purse program at the simulcast host, and the satellite facilities for which the track served as the simulcast host, on a pro rata basis in proportion to the amounts contributed by them to the fund during such six-month period in calendar year 1994, 1995, or 1996, as applicable.

Sec. 3770.03. (A) The state lottery commission shall promulgate rules

under which a statewide lottery may be conducted, which includes, and since the original enactment of this section has included, the authority for the commission to operate video lottery terminal games. Any reference in this chapter to tickets shall not be construed to in any way limit the authority of the commission to operate video lottery terminal games. Nothing in this chapter shall restrict the authority of the commission to promulgate rules related to the operation of games utilizing video lottery terminals as described in section 3770.21 of the Revised Code. The rules shall be promulgated pursuant to Chapter 119. of the Revised Code, except that instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section. Subjects covered in these rules shall include, but need not be limited to, the following:

(1) The type of lottery to be conducted;

(2) The prices of tickets in the lottery;

(3) The type of notices that shall appear on lottery tickets, including one that shall appear if the word "education" is used in any advertising for a statewide lottery, which must include information as to the percentage that lottery profits contribute to all education funding in the state;

(4) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(B) The commission shall promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery and statewide joint lottery games may be conducted. Subjects covered in these rules shall include, but not be limited to, the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. These rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected,

including authorization for the director to impose penalties for failure by lottery sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending their licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery sales agent, or other circumstances related to the public safety, convenience, or trust, require immediate action, the director may suspend a license without affording an opportunity for a prior hearing under section 119.07 of the Revised Code.

(5) Special game rules to implement any agreements signed by the governor that the director enters into with other lottery jurisdictions under division (J) of section 3770.02 of the Revised Code to conduct statewide joint lottery games. The rules shall require that the entire net proceeds of those games that remain, after associated operating expenses, prize disbursements, lottery sales agent bonuses, commissions, and reimbursements, and any other expenses necessary to comply with the agreements or the rules are deducted from the gross proceeds of those games, be transferred to the lottery profits education fund under division (B) of section 3770.06 of the Revised Code.

(6) Any other subjects the commission determines are necessary for the operation of video lottery terminal games, including the establishment of any fees, fines, or payment schedules.

(C) Chapter 2915. of the Revised Code does not apply to, affect, or prohibit lotteries conducted pursuant to this chapter.

(D) The commission may promulgate rules, in addition to those described in divisions (A) and (B) of this section, that establish standards governing the display of advertising and celebrity images on lottery tickets and on other items that are used in the conduct of, or to promote, the statewide lottery and statewide joint lottery games. Any revenue derived from the sale of advertising displayed on lottery tickets and on those other items shall be considered, for purposes of section 3770.06 of the Revised Code, to be related proceeds in connection with the statewide lottery or gross proceeds from statewide joint lottery games, as applicable.

(E)(1) The commission shall meet with the director at least once each month and shall convene other meetings at the request of the chairperson or any five of the members. No action taken by the commission shall be binding unless at least five of the members present vote in favor of the

action. A written record shall be made of the proceedings of each meeting and shall be transmitted forthwith to the governor, the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader.

(2) The director shall present to the commission a report each month, showing the total revenues, prize disbursements, and operating expenses of the state lottery for the preceding month. As soon as practicable after the end of each fiscal year, the commission shall prepare and transmit to the governor and the general assembly a report of lottery revenues, prize disbursements, and operating expenses for the preceding fiscal year and any recommendations for legislation considered necessary by the commission.

Sec. 3770.031. The notice that the state lottery commission determines shall appear on lottery tickets under division (A)(3) of section 3770.03 of the Revised Code to provide information as to what percentage that lottery profits contribute to all education funding in the state also shall appear on any television advertising for the Ohio lottery and on the first page of the web site for the Ohio lottery.

Sec. 3770.05. (A) As used in this section, "person" means any person, association, corporation, partnership, club, trust, estate, society, receiver, trustee, person acting in a fiduciary or representative capacity, instrumentality of the state or any of its political subdivisions, or any other combination of individuals meeting the requirements set forth in this section or established by rule or order of the state lottery commission.

(B) The director of the state lottery commission may license any person as a lottery sales agent. No license shall be issued to any person or group of persons to engage in the sale of lottery tickets as the person's or group's sole occupation or business.

Before issuing any license to a lottery sales agent, the director shall consider all of the following:

(1) The financial responsibility and security of the applicant and the applicant's business or activity;

(2) The accessibility of the applicant's place of business or activity to the public;

(3) The sufficiency of existing licensed agents to serve the public interest;

(4) The volume of expected sales by the applicant;

(5) Any other factors pertaining to the public interest, convenience, or trust.

(C) Except as otherwise provided in division (F) of this section, the director of the state lottery commission shall refuse to grant, or shall

suspend or revoke, a license if the applicant or licensee:

(1) Has been convicted of a felony or has been convicted of a crime involving moral turpitude;

(2) Has been convicted of an offense that involves illegal gambling;

(3) Has been found guilty of fraud or misrepresentation in any connection;

(4) Has been found to have violated any rule or order of the commission; or

(5) Has been convicted of illegal trafficking in supplemental nutrition assistance program benefits.

(D) Except as otherwise provided in division (F) of this section, the director of the state lottery commission shall refuse to grant, or shall suspend or revoke, a license if the applicant or licensee is a corporation and any of the following applies:

(1) Any of the corporation's directors, officers, or controlling shareholders has been found guilty of any of the activities specified in divisions (C)(1) to (5) of this section;

(2) It appears to the director of the state lottery commission that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder of the corporation, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust;

(3) The corporation is not the owner or lessee of the business at which it would conduct a lottery sales agency pursuant to the license applied for;

(4) Any person, firm, association, or corporation other than the applicant or licensee shares or will share in the profits of the applicant or licensee, other than receiving dividends or distributions as a shareholder, or participates or will participate in the management of the affairs of the applicant or licensee.

(E)(1) The director of the state lottery commission shall refuse to grant a license to an applicant for a lottery sales agent license and shall revoke a lottery sales agent license if the applicant or licensee is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(2) The director shall refuse to grant a license to an applicant for a lottery sales agent license that is a corporation and shall revoke the lottery sales agent license of a corporation if the corporation is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(F) The director of the state lottery commission shall request the bureau

of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any applicant for a lottery sales agent license, and may periodically request the criminal records of any person to whom a lottery sales agent license has been issued. At or prior to the time of making such a request, the director shall require an applicant or licensee to obtain fingerprint impressions on fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause those fingerprint cards to be forwarded to the bureau of criminal identification and investigation, to the federal bureau of investigation, or to both bureaus. The commission shall assume the cost of obtaining the fingerprint cards.

The director shall pay to each agency supplying criminal records for each investigation a reasonable fee, as determined by the agency.

The commission may adopt uniform rules specifying time periods after which the persons described in divisions (C)(1) to (5) and (D)(1) to (4) of this section may be issued a license and establishing requirements for those persons to seek a court order to have records sealed in accordance with law.

(G)(1) Each applicant for a lottery sales agent license shall do both of the following:

(a) Pay fees to the state lottery commission, ~~at the time the application is submitted, a fee in an amount that the director of the state lottery commission determines~~ if required by rule adopted by the director under Chapter 119. of the Revised Code and ~~that~~ the controlling board approves the fees;

(b) Prior to approval of the application, obtain a surety bond in an amount the director determines by rule adopted under Chapter 119. of the Revised Code or, alternatively, with the director's approval, deposit the same amount into a dedicated account for the benefit of the state lottery. The director also may approve the obtaining of a surety bond to cover part of the amount required, together with a dedicated account deposit to cover the remainder of the amount required.

A surety bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter. A dedicated account deposit shall be conducted in accordance with policies and procedures the director establishes.

A surety bond, dedicated account, or both, as applicable, may be used to pay for the lottery sales agent's failure to make prompt and accurate payments for lottery ticket sales, for missing or stolen lottery tickets, ~~or~~ for

damage to equipment or materials issued to the lottery sales agent, or to pay for expenses the commission incurs in connection with the lottery sales agent's license.

(2) A lottery sales agent license is effective for one year.

A licensed lottery sales agent, on or before the date established by the director, shall renew the agent's license and provide at that time evidence to the director that the surety bond, dedicated account deposit, or both, required under division (G)(1)(b) of this section has been renewed or is active, whichever applies.

Before the commission renews a lottery sales agent license, the lottery sales agent shall submit a renewal fee to the commission ~~in an amount that the director determines~~, if one is required by rule adopted by the director under Chapter 119. of the Revised Code and ~~that~~ the controlling board approves the renewal fee. The renewal fee shall not exceed the actual cost of administering the license renewal and processing changes reflected in the renewal application. The renewal of the license is effective for up to one year.

(3) A lottery sales agent license shall be complete, accurate, and current at all times during the term of the license. Any changes to an original license application or a renewal application may subject the applicant or lottery sales agent, as applicable, to paying an administrative fee that shall be in an amount that the director determines by rule adopted under Chapter 119. of the Revised Code, that the controlling board approves, and that shall not exceed the actual cost of administering and processing the changes to an application.

(4) The relationship between the commission and a lottery sales agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation.

(H) Pending a final resolution of any question arising under this section, the director of the state lottery commission may issue a temporary lottery sales agent license, subject to the terms and conditions the director considers appropriate.

(I) If a lottery sales agent's rental payments for the lottery sales agent's premises are determined, in whole or in part, by the amount of retail sales the lottery sales agent makes, and if the rental agreement does not expressly provide that the amount of those retail sales includes the amounts the lottery sales agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the lottery sales

agent receives from the retail sales the lottery sales agent makes, for the purpose of computing the lottery sales agent's rental payments.

Sec. 3772.032. (A) The permanent joint committee on gaming and wagering is established. The committee consists of six members. The speaker of the house of representatives shall appoint to the committee three members of the house of representatives and the president of the senate shall appoint to the committee three members of the senate. Not more than two members appointed from each chamber may be members of the same political party. The chairperson shall be from the opposite ~~party~~ house as the chairperson of the joint committee on agency rule review. If the chairperson is to be from the house of representatives, the speaker of the house of representatives shall designate a member as the chairperson and the president of the senate shall designate a member as the vice-chairperson. If the chairperson is to be from the senate, the president of the senate shall designate a member as the chairperson and the speaker of the house of representatives shall designate a member as the vice-chairperson.

(B) The committee shall:

(1) Review all constitutional amendments, laws, and rules governing the operation and administration of casino gaming and all authorized gaming and wagering activities and recommend to the general assembly and commission any changes it may find desirable with respect to the language, structure, and organization of those amendments, laws, or rules;

(2) Make an annual report to the governor and to the general assembly with respect ~~of~~ to the operation and administration of casino gaming;

(3) Review all changes of fees and penalties as provided in this chapter and rules adopted thereunder; and

(4) Study all proposed changes to the constitution and laws of this state and to the rules adopted by the commission governing the operation and administration of casino gaming, and report to the general assembly on their adequacy and desirability as a matter of public policy.

(C) Any study, or any expense incurred, in furtherance of the committee's objectives shall be paid for from, or out of, the casino control commission fund or other appropriation provided by law. The members shall receive no additional compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

Sec. 3772.062. (A) The executive director of the commission shall enter into an agreement with the department of alcohol and drug addiction services under which the department provides a program of gambling and addiction services on behalf of the commission.

(B) The executive director of the commission, in conjunction with the

department of alcohol and drug addiction services and the state lottery commission, shall establish, operate, and publicize an in-state, toll-free telephone number Ohio residents may call to obtain basic information about problem gambling, the gambling addiction services available to problem gamblers, and how a problem gambler may obtain help. The telephone number shall be staffed twenty-four hours per day, seven days a week, to respond to inquiries and provide that information. The costs of establishing, operating, and publicizing the telephone number shall be paid for with money in the problem casino gambling and addictions fund.

Sec. 3781.183. If the board of building standards adopts rules under sections 3781.06 to 3781.18 of the Revised Code concerning the requirements an adult group home seeking licensure as an adult care facility must meet under section ~~3722.02~~ 5119.71 of the Revised Code, the board shall adopt the rules in consultation with the directors of mental health and of aging and any interested party designated by the directors of mental health and of aging.

Sec. 3791.043. If the board of building standards adopts rules under section 3791.04 of the Revised Code concerning the requirements an adult group home seeking licensure as an adult care facility must meet under section ~~3722.02~~ 5119.71 of the Revised Code, the board shall adopt the rules in consultation with the directors of mental health and aging and any interested party designated by the directors of mental health and aging.

Sec. 3793.04. The department of alcohol and drug addiction services shall develop, administer, and revise as necessary a comprehensive statewide alcohol and drug addiction services plan for the implementation of this chapter. The plan shall emphasize abstinence from the use of alcohol and drugs of abuse as the primary goal of alcohol and drug addiction services. The council on alcohol and drug addiction services shall advise the department in the development and implementation of the plan.

The plan shall provide for the allocation and distribution of ~~state and federal~~ funds appropriated to the department by the general assembly for ~~service~~ services furnished by alcohol and drug addiction programs under contract with boards of alcohol, drug addiction, and mental health services ~~and for distribution of the funds to such boards~~. The ~~plan~~ department shall exclude from the allocation and distribution any funds that are transferred to the department of job and family services to pay the nonfederal share of alcohol and drug addiction services covered by the medicaid program.

The plan shall specify the methodology that the department will use for determining how the funds will be allocated and distributed. A portion of the funds shall be allocated on the basis of the ratio of the population of each

alcohol, drug addiction, and mental health service district to the total population of the state as determined from the most recent federal census or the most recent official estimate made by the United States census bureau.

The plan shall ensure that alcohol and drug addiction services of a high quality are accessible to, and responsive to the needs of, all persons, especially those who are members of underserved groups, including, but not limited to, African Americans, Hispanics, native Americans, Asians, juvenile and adult offenders, women, and persons with special services needs due to age or disability. The plan shall include a program to promote and protect the rights of those who receive services.

To aid in formulating the plan and in evaluating the effectiveness and results of alcohol and drug addiction services, the department, in consultation with the department of mental health, shall establish and maintain an information system or systems. The department of alcohol and drug addiction services shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by alcohol and drug addiction programs for inclusion in the system. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

In consultation with boards, programs, and persons receiving services, the department shall establish guidelines for the use of ~~state and federal~~ funds allocated and distributed under this section and for the boards' development of plans for services required by sections 340.033 and 3793.05 of the Revised Code.

In any fiscal year, the department shall spend, or allocate to boards, for methadone maintenance programs or any similar programs not more than eight per cent of the total amount appropriated to the department for the fiscal year.

Sec. 3793.06. (A) ~~The department of alcohol and drug addiction services shall evaluate and certify all~~ Each alcohol and drug addiction ~~programs in the state. Each~~ program shall apply to the department of alcohol and drug addiction services for certification. No program shall be eligible to receive state or federal funds unless it has been certified by the department.

(B) No person shall represent in any manner that a program is certified by the department if the program is not certified at the time the representation is made.

(C) Pursuant to Chapter 119. of the Revised Code and in consultation with members or representatives of boards of alcohol, drug addiction, and

mental health services, programs, individuals who receive alcohol and drug addiction services, and the department of mental health, the department shall adopt rules that establish all of the following:

(1) Minimum standards for the operation of programs, including, but not limited to, the following:

(a) Requirements regarding physical facilities of programs;

(b) Requirements with regard to health, safety, adequacy, and cultural specificity and sensitivity;

(c) Requirements regarding the rights of recipients of services and procedures to protect these rights.

(2) Standards for evaluating programs;

(3) Standards and procedures for granting full or conditional certification to a program;

(4) Standards and procedures for revoking the certification of a program that does not continue to meet the minimum standards established pursuant to this section.

(D) Rules adopted under division (C) of this section shall specify the limitations to be placed on a program that is granted conditional certification.

(E) The department may visit and evaluate any program to determine whether it meets the minimum standards for certification ~~established pursuant to division (C) of this section~~. In the case of a program that has a contract with or proposes to contract with a board of alcohol, drug addiction, and mental health services, the department shall conduct the visit and evaluation in cooperation with the board. ~~If~~

(F) Subject to section 3793.061 of the Revised Code, the department shall determine whether an applicant's program meets the minimum standards for certification. If the department determines that the program meets the minimum standards, it shall certify or recertify the program.

~~(F)~~ (G) If the department determines that a program that has a contract with a board or proposes to contract with a board does not meet the minimum standards for certification, it shall identify the areas in which the program does not meet the standards, specify what action is necessary to meet the standards, and offer technical assistance to the board to enable it to assist the program in meeting the standards. The department shall give the program a reasonable time within which to demonstrate that the program meets the minimum standards or to bring the program into compliance with the standards. If the department concludes that the program continues to fail to meet minimum standards, it shall deny certification and may request that the board reallocate the funds that the board is allocating to that program to

another program that is certified. If the board does not reallocate the funds within a reasonable time, the department may withhold from the board the funds that the board is allocating to the program and allocate the funds directly to a recovery program certified by the department.

The department shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this division. The rules shall specify the notice and hearing procedures to be followed prior to denial of certification or reallocation of funds.

~~(G)~~(H) The department may withhold from a board all or part of the state and federal funds allocated for a program certified under this section in the event of failure of that program to comply with this chapter, Chapter 340. of the Revised Code, rules adopted by the department, or other provisions of state or federal law, including federal regulations.

If the department proposes to withhold funds, it shall identify the areas of the program's noncompliance and the action necessary to achieve compliance and shall offer technical assistance to the board to enable it to assist the program to achieve compliance. The department shall allow a reasonable time within which the board or program shall demonstrate that the program is in compliance or the program shall bring itself into compliance. Before withholding funds, the department shall hold a hearing on the question of whether the program is in, or can be brought into, compliance. If, based on the hearing and other evidence, the department determines that compliance has not been, or cannot be, achieved, the department may withhold the funds and allocate all or part of the withheld funds to a certified program that is in compliance. That program shall use the funds to provide the services of the program that is not in compliance, until such time as it is in compliance.

The department shall establish rules pursuant to Chapter 119. of the Revised Code to implement this division.

~~(H)~~(I) The department shall maintain a current list of alcohol and drug addiction programs certified by the department under division (A) of this section and shall provide a copy of the current list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list of certified alcohol and drug addiction programs shall identify each certified program by its name, its address, and the county in which it is located.

Sec. 3793.061. (A) In lieu of a determination by the department of alcohol and drug addiction services of whether an alcohol and drug addiction program satisfies the standards for certification under section 3793.06 of the Revised Code, the department shall accept appropriate

accreditation of an applicant's alcohol and other drug addiction services, integrated mental health and alcohol and other drug addiction services, or integrated alcohol and other drug addiction and physical health services being provided in this state from any of the following national accrediting organizations as evidence that the applicant satisfies the standards for certification:

(1) The joint commission;

(2) The commission on accreditation of rehabilitation facilities;

(3) The council on accreditation.

(B) If the department determines that an applicant's accreditation is current, is appropriate for the program for which the applicant is seeking certification, and the applicant meets any other requirements established under this section or in rules adopted under this section, the department shall certify or recertify the program. Except as provided in division (C)(2) of this section, the department shall issue the certification or recertification without further evaluation of the program.

(C) For purposes of this section, all of the following apply:

(1) The department may review the accrediting organizations listed in division (A) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the department considers appropriate for alcohol and other drug addiction services, physical health services, or both. The department may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

(2) The department may visit or otherwise evaluate an alcohol and drug addiction program at any time based on cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the department.

(3) The department shall require an alcohol and drug addiction program to notify the department not later than ten days after any change in the program's accreditation status. The program may notify the department by providing a copy of the relevant document the program received from the accrediting organization.

(4) The department shall require an alcohol and drug addiction program to submit to the department reports of major unusual incidents.

(5) The department may require an alcohol and drug addiction program to submit to the department cost reports pertaining to the program.

(D) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. In adopting the rules, the department shall do all of the following:

(1) Specify the documentation that must be submitted as evidence of holding appropriate accreditation;

(2) Establish a process by which the department may review the accreditation standards and processes used by the national accrediting organizations listed in division (A) of this section;

(3) Specify the circumstances under which reports of major unusual incidents and program cost reports must be submitted to the department;

(4) Specify the circumstances under which the department may visit or otherwise evaluate an alcohol and drug addiction program for cause;

(5) Establish a process by which the department, based on deficiencies identified as a result of visiting or evaluating an alcohol drug addiction program under division (C)(2) of this section, may take any of a range of corrective actions, with the most stringent being revocation of the program's certification.

Sec. 3793.21. (A) As used in this section, "administrative function" means a function related to one or more of the following:

(1) Continuous quality improvement;

(2) Utilization review;

(3) Resource development;

(4) Fiscal administration;

(5) General administration;

(6) Any other function related to administration that is required by Chapter 340. of the Revised Code.

(B) Each board of alcohol, drug addiction, and mental health services shall submit an annual report to the department of alcohol and drug addiction services specifying how the board used ~~state and federal~~ the funds allocated and distributed to the board~~, according to the methodology the department specifies~~ under section 3793.04 of the Revised Code~~,~~ for administrative functions in the year preceding the report's submission. The director of alcohol and drug addiction shall establish the date by which the report must be submitted each year.

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code do not apply to the following:

(A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code;

(B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators;

(C) A third-party payer for coverage provided under the medicare

advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(D) A third-party payer for coverage provided under the medicaid program operated under Title XIX of the "Social Security Act," except that if a federal waiver applied for under section 5111.178 of the Revised Code is granted or the director of job and family services determines that this provision can be implemented without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code apply to claims submitted electronically or non-electronically that are made with respect to coverage of medicaid recipients by health insuring corporations licensed under Chapter 1751. of the Revised Code, instead of the prompt payment requirements of 42 C.F.R. 447.46;

(E) A third-party payer for coverage provided under the tricare program offered by the United States department of defense.

~~(F) A third-party payer for coverage provided under the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.~~

Sec. 3901.56. An insurer may offer a wellness or health improvement program that provides rewards or incentives, including merchandise; gift cards; debit cards; premium discounts or rebates; contributions to a health savings account; modifications to copayment, deductible, or coinsurance amounts; or any combination of these incentives, to encourage participation or to reward participation in the program.

A wellness or health improvement program offered by an insurer under this section shall not be construed to violate division (E) of section 1751.31 or division (G) of section 3901.21 of the Revised Code if the program is disclosed in the policy or plan.

The insured may be required to provide verification, such as a statement from their physician, that a medical condition makes it unreasonably difficult or medically inadvisable for the individual to participate in the wellness or health improvement program.

Nothing in this section shall prohibit an insurer from offering incentives or rewards to members for adherence to wellness or health improvement programs if otherwise allowed by federal law.

Nothing under division (C)(1) of section 3923.571 or section 3924.25 of the Revised Code shall be construed as prohibiting an insurer from offering a wellness or health improvement program or restricting the amount an employee is charged for coverage under a group policy after the application of any premium discounts or rebates, or modifying otherwise applicable copayments or deductibles for adherence to wellness or health improvement

programs.

For purposes of this section, "insurer" means a life insurance company, sickness and accident insurer, multiple employer welfare arrangement, public employee benefit plan, or health insuring corporation.

Sec. 3903.01. As used in sections 3903.01 to 3903.59 of the Revised Code:

(A) "Admitted assets" means investment in assets which will be admitted by the superintendent of insurance pursuant to the law of this state.

(B) "Affiliate" has the same meaning as "affiliate of" or "affiliated with," as defined in section 3901.32 of the Revised Code.

(C) "Assets" means all property, real and personal, of every nature and kind whatsoever or any interest therein.

~~(C)~~(D) "Ancillary state" means any state other than a domiciliary state.

~~(D)~~(E) "Commodity contract" means any of the following:

(1) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended, or a board of trade outside the United States;

(2) An agreement that is subject to regulation under section 19 of the "Commodity Exchange Act," 7 U.S.C. 23, as amended, and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;

(3) An agreement or transaction that is subject to regulation under section 4c(b) of the "Commodity Exchange Act," 7 U.S.C. 6c(b), as amended, and that is commonly known to the commodities trade as a commodity option;

(4) Any combination of agreements or transactions described in division (E) of this section;

(5) Any option to enter into an agreement or transaction described in division (E) of this section.

(F) "Creditor" means a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed, or contingent.

~~(E)~~(G) "Delinquency proceeding" means any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving the insurer, and any summary proceeding under section 3903.09 or 3903.10 of the Revised Code. "Formal delinquency proceeding" means any liquidation or rehabilitation proceeding.

~~(F)~~(H) "Doing business" includes any of the following acts, whether

effected by mail or otherwise:

(1) The issuance or delivery of contracts of insurance to persons resident in this state;

(2) The solicitation of applications for such contracts, or other negotiations preliminary to the execution of such contracts;

(3) The collection of premiums, membership fees, assessments, or other consideration for such contracts;

(4) The transaction of matters subsequent to execution of such contracts and arising out of them;

(5) Operating under a license or certificate of authority, as an insurer, issued by the department of insurance.

~~(G)~~(I) "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry.

~~(H)~~(J) "Fair consideration" is given for property or obligation when either of the following apply:

(1) When in exchange for such property or obligation, as a fair equivalent therefor, and in good faith, property is conveyed, services are rendered, an obligation is incurred, or an antecedent debt is satisfied;

(2) When such property or obligation is received in good faith to secure a present advance or antecedent debt in an amount not disproportionately small as compared to the value of the property or obligation obtained.

~~(I)~~(K) "Foreign country" means any other jurisdiction not in any state.

~~(J)~~(L) "Forward contract" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended.

(M) "Guaranty association" means the Ohio insurance guaranty association created by section 3955.06 of the Revised Code and any other similar entity hereafter created by the general assembly for the payment of claims of insolvent insurers. "Foreign guaranty association" means any similar entities now in existence in or hereafter created by the legislature of any other state.

~~(K)~~(N) "Insolvency" or "insolvent" means:

(1) For an insurer issuing only assessable fire insurance policies either of the following:

(a) The inability to pay any obligation within thirty days after it becomes payable;

(b) If an assessment is made within thirty days after such date, the inability to pay the obligation thirty days following the date specified in the first assessment notice issued after the date of loss.

(2) For any other insurer, that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of either of the following:

(a) Any capital and surplus required by law for its organization;

(b) The total par or stated value of its authorized and issued capital stock.

(3) As to any insurer licensed to do business in this state as of the effective date of sections 3903.01 to 3903.59 of the Revised Code that does not meet the standard established under division ~~(K)~~(N)(2) of this section, the term "insolvency" or "insolvent" means, for a period not to exceed three years from the effective date of sections 3903.01 to 3903.59 of the Revised Code, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the superintendent under provisions of Title XXXIX of the Revised Code.

(4) For purposes of divisions ~~(K)~~(N)(2) to (4) of this section, "liabilities" includes, but is not limited to, reserves required by statute or by rules of the superintendent or specific requirements imposed by the superintendent upon a subject company at the time of admission or subsequent thereto.

~~(L)~~(O) "Insurer" means any person who has done, purports to do, is doing, or is licensed to do an insurance business, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision, or conservation by, any insurance commissioner, superintendent, or equivalent official. For purposes of sections 3903.01 to 3903.59 of the Revised Code, any other persons included under section 3903.03 of the Revised Code are deemed to be insurers.

~~(M)~~(P) "Netting agreement" means:

(1) A contract or agreement, including a master agreement, and any terms and conditions incorporated by reference in such a contract or agreement, that provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with a qualified financial contract, or any present or future payment or delivery obligations or entitlements under a qualified financial contract, including liquidation or close-out values relating to those obligations or entitlements;

(2) A master agreement, together with all schedules, confirmations, definitions, and addenda to the agreement and transactions under the agreement, which shall be treated as one netting agreement, and any bridge agreement for one or more master agreements;

(3) Any security agreement or arrangement, credit support document, or guarantee or reimbursement obligation related to any contract or agreement

described in division (P) of this section.

Any contract or agreement described in division (P) of this section relating to agreements or transactions that are not qualified financial contracts shall be deemed to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts.

(Q) "Preferred claim" means any claim with respect to which the terms of sections 3903.01 to 3903.59 of the Revised Code accord priority of payment from the assets of the insurer.

~~(N)~~(R) "Qualified financial contract" means any commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, and any similar agreement that the superintendent may determine by rule or order to be a qualified financial contract for purposes of this chapter.

(S) "Reciprocal state" means any state other than this state in which in substance and effect division (A) of section 3903.18, and sections 3903.52, 3903.53, and 3903.55 to 3903.57 of the Revised Code are in force, in which provisions are in force requiring that the superintendent or equivalent official be the receiver, liquidator, rehabilitator, or conservator of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers.

~~(O)~~(T) "Repurchase agreement" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended.

(U) "Secured claim" means any claim secured by mortgage, trust deed, security agreement, pledge, deposit as security, escrow, or otherwise, but not including special deposit claims or claims against assets. The term also includes claims which have become liens upon specific assets by reason of judicial process.

~~(P)~~(V) "Securities contract" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended.

(W) "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any claim secured by assets.

~~(Q)~~(X) "State" has the meaning set forth in division (G) of section 1.59 of the Revised Code.

~~(R)~~(Y) "Superintendent" or "superintendent of insurance" means the superintendent of insurance of this state, or, when the context requires, the superintendent or commissioner of insurance, or equivalent official, of another state.

~~(S)~~(Z) "Swap agreement" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended.

(AA) "Transfer" includes the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest in property, or with the possession of property or of fixing a lien upon property or upon an interest in property, absolutely or conditionally, voluntarily, or by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.

Sec. 3903.301. (A) Notwithstanding any other provision under sections 3903.01 to 3903.59 of the Revised Code, no person shall be stayed or prohibited from exercising any of the following rights:

(1) A contractual right to cause the termination, liquidation, acceleration, or close out of obligations under, or in connection with, a netting agreement or qualified financial contract with an insurer because of either of the following:

(a) The insolvency, financial condition, or default of the insurer at any time;

(b) The commencement of a formal delinquency proceeding under sections 3903.01 to 3903.59 of the Revised Code.

(2) Any right under a pledge, security, collateral, reimbursement, or guarantee agreement or arrangement or any similar security arrangement or credit enhancement relating to a netting agreement or qualified financial contract;

(3) Subject to section 3903.30 of the Revised Code, any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a qualified financial contract in which the counterparty or its guarantor is organized under the laws of the United States, a state, or a foreign jurisdiction that the securities valuation office of the national association of insurance commissioners approves as eligible for netting.

(B) If a counterparty to a netting agreement or qualified financial contract with an insurer that is subject to a proceeding under sections 3903.01 to 3903.59 of the Revised Code terminates, liquidates, accelerates, or closes out the agreement or contract, damages shall be measured as of the date or dates of the termination, liquidation, acceleration, or close out. The amount of a claim for damages shall be actual direct compensatory damages.

(C) Upon termination of a netting agreement or qualified financial

contract, any net or settlement amount that a nondefaulting party owes to an insurer against which an application or petition has been filed under sections 3903.01 to 3903.59 of the Revised Code shall be transferred to, or on the order of, the receiver for the insurer.

This division applies regardless of whether the insurer is the defaulting party and applies notwithstanding any walkaway clause in the netting agreement or qualified financial contract.

For purposes of this division, a limited two-way payment or first method provision in a netting agreement or qualified financial contract with a defaulting insurer shall be deemed to be a full two-way payment or second method provision as against the defaulting insurer.

Any property or amount transferred under this division shall be a general asset of the insurer except to the extent it is subject to a secondary lien or encumbrance, or to rights of netting or setoff.

(D) In transferring a netting agreement or qualified financial contract of an insurer that is subject to a proceeding under sections 3903.01 to 3903.59 of the Revised Code, the receiver shall do either of the following:

(1) Transfer to one party, other than an insurer subject to a proceeding under sections 3903.01 to 3903.59 of the Revised Code, all netting agreements and qualified financial contracts between a counterparty, or any affiliate of the counterparty, and the insurer that is the subject of the proceeding. The transfer shall include all rights and obligations of each party under each netting agreement and qualified financial contract, and all property, including any guarantees or other credit enhancement, securing any claims of the parties under each agreement or contract.

(2) Transfer none of the netting agreements or qualified financial contracts, including the rights, obligations, and property associated with those agreements and contracts as described in division (D)(1) of this section, with respect to the counterparty and any affiliate of the counterparty.

(E) If a receiver transfers a netting agreement or qualified financial contract, the receiver shall use its best efforts to notify any person who is a party to the transferred agreement or contract of the transfer by noon, of the receiver's local time, on the business day following the transfer.

(F)(1) Notwithstanding any other provision of sections 3903.01 to 3903.59 of the Revised Code and except as otherwise provided in division (F)(2) of this section, a receiver shall not avoid a transfer of money or other property that is made before the commencement of a formal delinquency proceeding under sections 3903.01 to 3903.59 of the Revised Code and that arises under or in connection with either of the following:

(a) A netting agreement or qualified financial contract;

(b) Any pledge, security, collateral, or guarantee agreement or other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract.

(2) A receiver may avoid a transfer under sections 3903.26 to 3903.28 of the Revised Code if the transfer was made with actual intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

(G)(1) In exercising any right of disaffirmance or repudiation with respect to a netting agreement or qualified financial contract to which an insurer is a party, the receiver for the insurer shall do either of the following:

(a) Disaffirm or repudiate all netting agreements and qualified financial contracts between the insurer and a counterparty or any affiliate of the counterparty;

(b) Disaffirm or repudiate none of those netting agreements or qualified financial contracts with respect to the counterparty or any affiliate of the counterparty.

(2) Notwithstanding any other provision of sections 3903.01 to 3903.59 of the Revised Code, if a counterparty's claim against the estate of the insurer arising from the receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract has not been previously affirmed in the liquidation or immediately preceding conservation or rehabilitation case, that claim shall be considered as if it had arisen before the filing date of the petition for liquidation. If a conservation or rehabilitation proceeding is converted to a liquidation proceeding, that claim shall be considered as if it had arisen before the filing date of the petition for conservation or rehabilitation. The amount of the claim shall be the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation.

(H) All rights of a counterparty under sections 3903.01 to 3903.59 of the Revised Code shall apply to netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts if the assets of each separate account are available only to counterparties to netting agreements and qualified financial contracts entered into on behalf of that separate account.

(I) This section shall not apply to the affiliates of an insurer that is the subject of a formal delinquency proceeding under sections 3903.01 to 3903.59 of the Revised Code.

(J) As used in this section:

(1) "Actual direct compensatory damages" includes normal and

reasonable costs of cover or other reasonable measures of damages utilized in the derivatives, securities, or other market for the contract and agreement claims. "Actual direct compensatory damages" does not include punitive or exemplary damages, damages for lost profit or lost opportunity, or damages for pain and suffering.

(2) "Business day" means any day, excluding Saturday, Sunday, and any day on which the New York stock exchange or the federal reserve bank of New York is closed.

(3) "Contractual right" includes any of the following:

(a) Any right set forth in a rule or bylaw of a derivatives clearing organization, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(9)(A), as amended; a multilateral clearing organization; a national securities exchange; a national securities association; a securities clearing agency; a contract market designated under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a derivatives transaction execution facility, including a swap execution facility, registered under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a security-based swap execution facility registered under the "Securities Exchange Act of 1934," 15 U.S.C. 78a et seq., as amended; or a board of trade, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(2);

(b) Any right set forth in a resolution of the governing board of any entity listed in division (J)(3)(a) of this section;

(c) Any right, regardless of whether evidenced in writing, arising under statutory law, common law, or law merchant, or by reason of normal business practice.

(4) "Receiver" means a receiver, conservator, rehabilitator, or liquidator, as applicable.

(5) "Walkaway clause" means a provision under which a party to a netting agreement or qualified financial contract that, after calculation of a value of a party's position or an amount due to or from one of the parties in accordance with its terms upon termination, liquidation, or acceleration of the netting agreement or qualified financial contract is not obligated to pay or does not have a payment obligation extinguished under the agreement or contract, in whole or in part, solely because the party is a nondefaulting party.

Sec. 3923.28. (A) Every policy of group sickness and accident insurance providing hospital, surgical, or medical expense coverage for other than specific diseases or accidents only, and delivered, issued for delivery, or renewed in this state on or after January 1, 1979, and that provides coverage for mental or emotional disorders, shall provide benefits for services on an

outpatient basis for each eligible person under the policy who resides in this state for mental or emotional disorders, or for evaluations, that are at least equal to five hundred fifty dollars in any calendar year or twelve-month period. The services shall be legally performed by or under the clinical supervision of a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under Chapter 4723. of the Revised Code whose nursing specialty is mental health, whether performed in an office, in a hospital, or in a community mental health facility so long as the hospital or community mental health facility is approved by the joint commission on accreditation of healthcare organizations, the council on accreditation for children and family services, or the rehabilitation accreditation commission~~, or, until two years after June 6, 2001, certified by the department of mental health as being in compliance with standards established under division (H) of section 5119.01 of the Revised Code~~.

(B) Outpatient benefits offered under division (A) of this section shall be subject to reasonable contract limitations and may be subject to reasonable deductibles and co-insurance costs. Persons entitled to such benefit under more than one service or insurance contract may be limited to a single five-hundred-fifty-dollar outpatient benefit for services under all contracts.

(C) In order to qualify for participation under division (A) of this section, every facility specified in such division shall have in effect a plan for utilization review and a plan for peer review and every person specified in such division shall have in effect a plan for peer review. Such plans shall have the purpose of ensuring high quality patient care and effective and efficient utilization of available health facilities and services.

(D) Nothing in this section shall be construed to require an insurer to pay benefits which are greater than usual, customary, and reasonable.

(E)(1) Services performed under the clinical supervision of a health care professional identified in division (A) of this section, in order to be reimbursable under the coverage required in division (A) of this section, shall meet both of the following requirements:

(a) The services shall be performed in accordance with a treatment plan that describes the expected duration, frequency, and type of services to be performed;

(b) The plan shall be reviewed and approved by the health care

professional every three months.

(2) Payment of benefits for services reimbursable under division (E)(1) of this section shall not be restricted to services described in the treatment plan or conditioned upon standards of clinical supervision that are more restrictive than standards of a health care professional described in division (A) of this section, which at least equal the requirements of division (E)(1) of this section.

(F) The benefits provided by this section for mental and emotional disorders shall not be reduced by the cost of benefits provided pursuant to section 3923.281 of the Revised Code for diagnostic and treatment services for biologically based mental illnesses. This section does not apply to benefits for diagnostic and treatment services for biologically based mental illnesses.

Sec. 3923.281. (A) As used in this section:

(1) "Biologically based mental illness" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

(2) "Policy of sickness and accident insurance" has the same meaning as in section 3923.01 of the Revised Code, but excludes any hospital indemnity, medicare supplement, long-term care, disability income, one-time-limited-duration policy of not longer than six months, supplemental benefit, or other policy that provides coverage for specific diseases or accidents only; any policy that provides coverage for workers' compensation claims compensable pursuant to Chapters 4121. and 4123. of the Revised Code; and any policy that provides coverage to beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, as provided by the Ohio department of job and family services under Chapter 5111. of the Revised Code~~; and any policy that provides coverage to beneficiaries enrolled in the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code~~.

(B) Notwithstanding section 3901.71 of the Revised Code, and subject to division (E) of this section, every policy of sickness and accident insurance shall provide benefits for the diagnosis and treatment of biologically based mental illnesses on the same terms and conditions as, and shall provide benefits no less extensive than, those provided under the policy of sickness and accident insurance for the treatment and diagnosis of

all other physical diseases and disorders, if both of the following apply:

(1) The biologically based mental illness is clinically diagnosed by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under Chapter 4723. of the Revised Code whose nursing specialty is mental health.

(2) The prescribed treatment is not experimental or investigational, having proven its clinical effectiveness in accordance with generally accepted medical standards.

(C) Division (B) of this section applies to all coverages and terms and conditions of the policy of sickness and accident insurance, including, but not limited to, coverage of inpatient hospital services, outpatient services, and medication; maximum lifetime benefits; copayments; and individual and family deductibles.

(D) Nothing in this section shall be construed as prohibiting a sickness and accident insurance company from taking any of the following actions:

(1) Negotiating separately with mental health care providers with regard to reimbursement rates and the delivery of health care services;

(2) Offering policies that provide benefits solely for the diagnosis and treatment of biologically based mental illnesses;

(3) Managing the provision of benefits for the diagnosis or treatment of biologically based mental illnesses through the use of pre-admission screening, by requiring beneficiaries to obtain authorization prior to treatment, or through the use of any other mechanism designed to limit coverage to that treatment determined to be necessary;

(4) Enforcing the terms and conditions of a policy of sickness and accident insurance.

(E) An insurer that offers any policy of sickness and accident insurance is not required to provide benefits for the diagnosis and treatment of biologically based mental illnesses pursuant to division (B) of this section if all of the following apply:

(1) The insurer submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other physical diseases and disorders to

increase by more than one per cent per year.

(2) The insurer submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase described in division (E)(1) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders.

(3) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (E)(1) and (2) of this section:

(a) Incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other physical diseases and disorders to increase by more than one per cent per year.

(b) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders.

Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.

Sec. 3923.30. Every person, the state and any of its instrumentalities, any county, township, school district, or other political subdivisions and any of its instrumentalities, and any municipal corporation and any of its instrumentalities, which provides payment for health care benefits for any of its employees resident in this state, which benefits are not provided by contract with an insurer qualified to provide sickness and accident insurance, or a health insuring corporation, shall include the following benefits in its plan of health care benefits commencing on or after January 1, 1979:

(A) If such plan of health care benefits provides payment for the treatment of mental or nervous disorders, then such plan shall provide benefits for services on an outpatient basis for each eligible employee and dependent for mental or emotional disorders, or for evaluations, that are at least equal to the following:

(1) Payments not less than five hundred fifty dollars in a twelve-month period, for services legally performed by or under the clinical supervision of a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed

under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under Chapter 4723. of the Revised Code whose nursing specialty is mental health, whether performed in an office, in a hospital, or in a community mental health facility so long as the hospital or community mental health facility is approved by the joint commission on accreditation of healthcare organizations, the council on accreditation for children and family services, or the rehabilitation accreditation commission~~, or, until two years after June 6, 2001, certified by the department of mental health as being in compliance with standards established under division (H) of section 5119.01 of the Revised Code~~;

(2) Such benefit shall be subject to reasonable limitations, and may be subject to reasonable deductibles and co-insurance costs.

(3) In order to qualify for participation under this division, every facility specified in this division shall have in effect a plan for utilization review and a plan for peer review and every person specified in this division shall have in effect a plan for peer review. Such plans shall have the purpose of ensuring high quality patient care and effective and efficient utilization of available health facilities and services.

(4) Such payment for benefits shall not be greater than usual, customary, and reasonable.

(5)(a) Services performed by or under the clinical supervision of a health care professional identified in division (A)(1) of this section, in order to be reimbursable under the coverage required in division (A) of this section, shall meet both of the following requirements:

(i) The services shall be performed in accordance with a treatment plan that describes the expected duration, frequency, and type of services to be performed;

(ii) The plan shall be reviewed and approved by the health care professional every three months.

(b) Payment of benefits for services reimbursable under division (A)(5)(a) of the section shall not be restricted to services described in the treatment plan or conditioned upon standards of a licensed physician or licensed psychologist, which at least equal the requirements of division (A)(5)(a) of this section.

(B) Payment for benefits for alcoholism treatment for outpatient, inpatient, and intermediate primary care for each eligible employee and dependent that are at least equal to the following:

(1) Payments not less than five hundred fifty dollars in a twelve-month period for services legally performed by or under the clinical supervision of a health care professional identified in division (A)(1) of this section,

whether performed in an office, or in a hospital or a community mental health facility or alcoholism treatment facility so long as the hospital, community mental health facility, or alcoholism treatment facility is approved by the joint commission on accreditation of hospitals or certified by the department of health;

(2) The benefits provided under this division shall be subject to reasonable limitations and may be subject to reasonable deductibles and co-insurance costs.

(3) A health care professional shall every three months certify a patient's need for continued services performed by such facilities.

(4) In order to qualify for participation under this division, every facility specified in this division shall have in effect a plan for utilization review and a plan for peer review and every person specified in this division shall have in effect a plan for peer review. Such plans shall have the purpose of ensuring high quality patient care and efficient utilization of available health facilities and services. Such person or facilities shall also have in effect a program of rehabilitation or a program of rehabilitation and detoxification.

(5) Nothing in this section shall be construed to require reimbursement for benefits which is greater than usual, customary, and reasonable.

(C) The benefits provided by division (A) of this section for mental and emotional disorders shall not be reduced by the cost of benefits provided pursuant to section 3923.282 of the Revised Code for diagnostic and treatment services for biologically based mental illness. This section does not apply to benefits for diagnostic and treatment services for biologically based mental illnesses.

Sec. 3924.10. (A) The board of directors of the Ohio health reinsurance program may make recommendations to the superintendent of insurance, and the superintendent may adopt or amend by rule adopted in accordance with Chapter 119. of the Revised Code, the OHC basic, standard, and carrier reimbursement plans which, when offered by a carrier, are eligible for reinsurance under the program. The superintendent shall establish the form and level of coverage to be made available by carriers in their OHC plans. The plans shall include benefit levels, deductibles, coinsurance factors, exclusions, and limitations for the plans. The forms and levels of coverage shall specify which components of health benefit plans offered by a carrier may be reinsured. The OHC plans are subject to division (C) of section 3924.02 of the Revised Code and to the provisions in Chapters 1751., 1753., 3923., and any other chapter of the Revised Code that require coverage or the offer of coverage of a health care service or benefit.

(B) Prior to adopting any rule that makes changes to the OHC basic or

standard plan, the superintendent shall conduct an actuarial analysis of the cost impact of the proposed rule. ~~The superintendent may consider recommendations of the Ohio health care coverage and quality council established under section 3923.90 of the Revised Code.~~ The plans may include cost containment features including any of the following:

(1) Utilization review of health care services, including review of the medical necessity of hospital and physician services;

(2) Case management benefit alternatives;

(3) Selective contracting with hospitals, physicians, and other health care providers;

(4) Reasonable benefit differentials applicable to participating and nonparticipating providers;

(5) Employee assistance program options that provide preventive and early intervention mental health and substance abuse services;

(6) Other provisions for the cost-effective management of the plans.

(C) OHC plans established for use by health insuring corporations shall be consistent with the basic method of operation of such corporations.

(D) Each carrier shall certify to the superintendent of insurance, in the form and manner prescribed by the superintendent, that the OHC plans filed by the carrier are in substantial compliance with the provisions of the OHC plans designed or adopted under this section. Upon receipt by the superintendent of the certification, the carrier may use the certified plans.

(E) Each carrier shall, on and after sixty days after the date that the program becomes operational and as a condition of transacting business in this state, renew coverage provided to any individual or group under its OHC plans.

(F) The OHC plans in effect as of June 1, 2009, shall remain in effect until those plans are amended or new plans are adopted in accordance with this section.

Sec. 3937.41. (A) As used in this section:

(1) "Ambulance" has the same meaning as in section 4765.01 of the Revised Code and also includes private ambulance companies under contract to a municipal corporation, township, or county.

(2) "Emergency vehicle" means any of the following:

(a) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a municipal, township, or county department or public utility corporation and that is identified as such as required by law, the director of public safety, or local authorities;

(b) Any motor vehicle, as defined in section 4511.01 of the Revised Code, when commandeered by a police officer;

(c) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a qualified nonprofit corporation police department established pursuant to section 1702.80 of the Revised Code and that is identified as an emergency vehicle;

(d) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a proprietary police department or security department of a hospital operated by a public hospital agency or a nonprofit hospital agency that employs police officers under section 4973.17 of the Revised Code, and that is identified as an emergency vehicle.

(3) "Firefighter" means any regular, paid, member of a lawfully constituted fire department of a municipal corporation or township.

(4) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal police officer, police officer of a township or joint ~~township~~ police district, state highway patrol trooper, or member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code;

(b) A police officer employed by a qualified nonprofit police department pursuant to section 1702.80 of the Revised Code, or police officer employed by a proprietary police department or security department of a hospital operated by a public hospital agency or nonprofit hospital agency pursuant to section 4973.17 of the Revised Code;

(c) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(d) A veterans' home police officer appointed under section 5907.02 of the Revised Code;

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

(5) "Motor vehicle accident" means any accident involving a motor vehicle which results in bodily injury to any person, or damage to the property of any person.

(6) "Investigator" means an investigator of the bureau of criminal identification and investigation as defined in section 2903.11 of the Revised Code.

(B) No insurer shall consider the circumstance that an applicant or policyholder has been involved in a motor vehicle accident while in the pursuit of the applicant's or policyholder's official duties as a law

enforcement officer, firefighter, investigator, or operator of an emergency vehicle or ambulance, while operating a vehicle engaged in mowing or snow and ice removal as a county, township, or department of transportation employee, or while operating a vehicle while engaged in the pursuit of the applicant's or policyholder's official duties as a member of the motor carrier enforcement unit of the state highway patrol under section 5503.34 of the Revised Code, as a basis for doing either of the following:

(1) Refusing to issue or deliver a policy of insurance upon a private automobile, or increasing the rate to be charged for such a policy;

(2) Increasing the premium rate, canceling, or failing to renew an existing policy of insurance upon a private automobile.

(C) Any applicant or policyholder affected by an action of an insurer in violation of this section may appeal to the superintendent of insurance. After a hearing held upon not less than ten days' notice to the applicant or policyholder and to the insurer and if the superintendent determines that the insurer has violated this section, the superintendent may direct the issuance of a policy, decrease the premium rate on a policy, or reinstate insurance coverage.

(D) The employer of the law enforcement officer, firefighter, investigator, or operator of an emergency vehicle or ambulance, operator of a vehicle engaged in mowing or snow and ice removal, or operator of a vehicle who is a member of the motor carrier enforcement unit, except as otherwise provided in division (F) of this section, shall certify to the state highway patrol or law enforcement agency that investigates the accident whether the officer, firefighter, investigator, or operator of an emergency vehicle or ambulance, operator of a vehicle engaged in mowing or snow and ice removal, or operator of a vehicle who is a member of the motor carrier enforcement unit, was engaged in the performance of the person's official duties as such employee at the time of the accident. The employer shall designate an official authorized to make the certifications. The state highway patrol or law enforcement agency shall include the certification in any report of the accident forwarded to the department of public safety pursuant to sections 5502.11 and 5502.12 of the Revised Code and shall forward the certification to the department if received after the report of the accident has been forwarded to the department. The registrar of motor vehicles shall not include an accident in a certified abstract of information under division (A) of section 4509.05 of the Revised Code, if the person involved has been so certified as having been engaged in the performance of the person's official duties at the time of the accident.

(E) Division (B) of this section does not apply to an insurer whose

policy covers the motor vehicle at the time the motor vehicle is involved in an accident described in division (B) of this section.

(F) Division (B) of this section does not apply if an applicant or policyholder, on the basis of the applicant's or policyholder's involvement in an accident described in that division, is convicted of or pleads guilty or no contest to a violation of section 4511.19 of the Revised Code or a municipal OVI ordinance as defined in section 4511.181 of the Revised Code.

Sec. 3963.01. As used in this chapter:

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity.

(B) "Basic health care services" has the same meaning as in division (A) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

(C) "Contracting entity" means any person that has a primary business purpose of contracting with participating providers for the delivery of health care services.

(D) "Credentialing" means the process of assessing and validating the qualifications of a provider applying to be approved by a contracting entity to provide basic health care services, specialty health care services, or supplemental health care services to enrollees.

(E) "Edit" means adjusting one or more procedure codes billed by a participating provider on a claim for payment or a practice that results in any of the following:

(1) Payment for some, but not all of the procedure codes originally billed by a participating provider;

(2) Payment for a different procedure code than the procedure code originally billed by a participating provider;

(3) A reduced payment as a result of services provided to an enrollee that are claimed under more than one procedure code on the same service date.

(F) "Electronic claims transport" means to accept and digitize claims or to accept claims already digitized, to place those claims into a format that complies with the electronic transaction standards issued by the United States department of health and human services pursuant to the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as those electronic standards are applicable to the parties and as those electronic standards are updated from time to time, and to electronically transmit those claims to the appropriate contracting entity,

payer, or third-party administrator.

(G) "Enrollee" means any person eligible for health care benefits under a health benefit plan, including an eligible recipient of medicaid under Chapter 5111. of the Revised Code, and includes all of the following terms:

(1) "Enrollee" and "subscriber" as defined by section 1751.01 of the Revised Code;

(2) "Member" as defined by section 1739.01 of the Revised Code;

(3) "Insured" and "plan member" pursuant to Chapter 3923. of the Revised Code;

(4) "Beneficiary" as defined by section 3901.38 of the Revised Code.

(H) "Health care contract" means a contract entered into, materially amended, or renewed between a contracting entity and a participating provider for the delivery of basic health care services, specialty health care services, or supplemental health care services to enrollees.

(I) "Health care services" means basic health care services, specialty health care services, and supplemental health care services.

(J) "Material amendment" means an amendment to a health care contract that decreases the participating provider's payment or compensation, changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expenses, or adds a new product. A material amendment does not include any of the following:

(1) A decrease in payment or compensation resulting solely from a change in a published fee schedule upon which the payment or compensation is based and the date of applicability is clearly identified in the contract;

(2) A decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract;

(3) An administrative change that may significantly increase the provider's administrative expense, the specific applicability of which is clearly identified in the contract;

(4) Changes to an existing prior authorization, precertification, notification, or referral program that do not substantially increase the provider's administrative expense;

(5) Changes to an edit program or to specific edits if the participating provider is provided notice of the changes pursuant to division (A)(1) of section 3963.04 of the Revised Code and the notice includes information sufficient for the provider to determine the effect of the change;

(6) Changes to a health care contract described in division (B) of section

3963.04 of the Revised Code.

(K) "Participating provider" means a provider that has a health care contract with a contracting entity and is entitled to reimbursement for health care services rendered to an enrollee under the health care contract.

(L) "Payer" means any person that assumes the financial risk for the payment of claims under a health care contract or the reimbursement for health care services provided to enrollees by participating providers pursuant to a health care contract.

(M) "Primary enrollee" means a person who is responsible for making payments for participation in a health care plan or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health care plan.

(N) "Procedure codes" includes the American medical association's current procedural terminology code, the American dental association's current dental terminology, and the centers for medicare and medicaid services health care common procedure coding system.

(O) "Product" means one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:

(1) A health maintenance organization or other product provided by a health insuring corporation;

(2) A preferred provider organization;

(3) Medicare;

(4) Medicaid ~~or the children's buy-in program established under section 5101.5211 to 5101.5216 of the Revised Code~~;

(5) Workers' compensation.

(P) "Provider" means a physician, podiatrist, dentist, chiropractor, optometrist, psychologist, physician assistant, advanced practice nurse, occupational therapist, massage therapist, physical therapist, professional counselor, professional clinical counselor, hearing aid dealer, orthotist, prosthetist, home health agency, hospice care program, or hospital, or a provider organization or physician-hospital organization that is acting exclusively as an administrator on behalf of a provider to facilitate the provider's participation in health care contracts. "Provider" does not mean a pharmacist, pharmacy, nursing home, or a provider organization or physician-hospital organization that leases the provider organization's or physician-hospital organization's network to a third party or contracts directly with employers or health and welfare funds.

(Q) "Specialty health care services" has the same meaning as in section 1751.01 of the Revised Code, except that it does not include any services

listed in division (B) of section 1751.01 of the Revised Code that are provided by a pharmacist or a nursing home.

(R) "Supplemental health care services" has the same meaning as in division (B) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

Sec. 3963.11. (A) No contracting entity shall do any of the following:

(1) Offer to a provider ~~other than a hospital~~ a health care contract that includes a most favored nation clause;

(2) Enter into a health care contract with a provider ~~other than a hospital~~ that includes a most favored nation clause;

(3) Amend or renew an existing health care contract previously entered into with a provider ~~other than a hospital~~ so that the contract as amended or renewed adds or continues to include a most favored nation clause.

~~(B) This section shall not go into effect until three years after the effective date of this section.~~

~~(C)~~(B) As used in this section:

(1) "Contracting entity," "health care contract," "health care services," "participating provider," and "provider" have the same meanings as in section 3963.01 of the Revised Code.

(2) "Most favored nation clause" means a provision in a health care contract that does any of the following:

(a) Prohibits, or grants a contracting entity an option to prohibit, the participating provider from contracting with another contracting entity to provide health care services at a lower price than the payment specified in the contract;

(b) Requires, or grants a contracting entity an option to require, the participating provider to accept a lower payment in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;

(c) Requires, or grants a contracting entity an option to require, termination or renegotiation of the existing health care contract in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;

(d) Requires the participating provider to disclose the participating provider's contractual reimbursement rates with other contracting entities.

Sec. 4113.11. (A) As specified in division (B) of this section and except as provided in divisions (C) and ~~(F)~~(E) of this section, all employers that employ ten or more employees shall adopt and maintain a cafeteria plan that allows the employer's employees to pay for health insurance coverage by a

salary reduction arrangement as permitted under section 125 of the Internal Revenue Code.

(B) Employers shall comply with the requirements of division (A) of this section as follows:

(1) For employers that employ more than five hundred employees, by not later than January 1, 2011, or six months after the superintendent of insurance adopts rules as required by division ~~(E)~~(D) of this section, whichever is later;

(2) For employers that employ one hundred fifty to five hundred employees, by not later than July 1, 2011, or twelve months after the superintendent adopts rules as required by division ~~(E)~~(D) of this section, whichever is later;

(3) For employers that employ ten to one hundred forty-nine employees, by not later than January 1, 2012, or eighteen months after the superintendent adopts rules as required by division ~~(E)~~(D) of this section, whichever is later.

(C) This section shall not apply to employers that, through other means than provided under this section, offer health insurance coverage, reimburse for health insurance coverage, or provide employees with opportunities to pay for health insurance with pre-tax dollars through other salary reduction arrangements.

(D) ~~The health care coverage and quality council created under section 3923.90 of the Revised Code shall make recommendations to the superintendent for both of the following:~~

~~(1) Development of strategies to educate, assist, and conduct outreach to employers to simplify administrative processes with respect to creating and maintaining cafeteria plans, including, but not limited to, providing employers with model cafeteria plan documents and technical assistance on creating and maintaining cafeteria plans that conform with state and federal law;~~

~~(2) Development of strategies to educate, assist, and conduct outreach to employees with respect to finding, selecting, and purchasing a health insurance plan to be paid for through their employer's cafeteria plan under this section.~~

~~(E)~~(1) The superintendent shall adopt rules in accordance with Chapter 119. of the Revised Code to implement and enforce this section~~, including the strategies recommended by the council pursuant to division (D) of this section~~.

(2) Prior to adopting rules under this division, the superintendent shall consult any federal agency that has oversight of cafeteria plans and

employee welfare benefit plans, including the internal revenue service and the United States department of labor, and receive written confirmation that the rules adopted will permit employers to establish cafeteria plans in accordance with federal law. The written confirmation shall include a determination that individual policies purchased pursuant to this section do not need to comply with the group market rules established by the "Health Insurance Portability and Accountability Act of 1996."

~~(F)~~(E) The requirement provided in division (A) of this section does not apply if the superintendent does not receive written confirmation pursuant to division ~~(E)~~(D)(2) of this section that individual policies purchased pursuant to this section do not need to comply with the group market rules established by the "Health Insurance Portability and Accountability Act of 1996."

~~(G)~~(F) Nothing in this section shall be construed as requiring an employer to establish a cafeteria plan in a manner that would violate federal law, including the "Employee Retirement Income Security Act of 1974," the "Consolidated Omnibus Budget Reconciliation Act of 1985," or the "Health Insurance Portability and Accountability Act of 1996."

~~(H)~~(G) As used in this section:

(1) "Cafeteria plan" has the same meaning as in section 125 of the Internal Revenue Code.

(2) "Employer" has the same meaning as in section 4113.51 of the Revised Code.

(3) "Employee" means an individual employed for consideration who works twenty-five or more hours per week or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment, except for a public employee employed by a township or municipal corporation. In that case, "employee" means an individual hired with the expectation that the employee will work more than one thousand five hundred hours in any year unless full-time employment is defined differently in an applicable collective bargaining agreement.

Sec. 4113.61. (A)(1) If a subcontractor or material supplier submits an application or request for payment or an invoice for materials to a contractor in sufficient time to allow the contractor to include the application, request, or invoice in the contractor's own pay request submitted to an owner, the contractor, within ten calendar days after receipt of payment from the owner for improvements to property, shall pay to the:

(a) Subcontractor, an amount that is equal to the percentage of completion of the subcontractor's contract allowed by the owner for the amount of labor or work performed;

(b) Material supplier, an amount that is equal to all or that portion of the

invoice for materials which represents the materials furnished by the material supplier.

The contractor may reduce the amount paid by any retainage provision contained in the contract, invoice, or purchase order between the contractor and the subcontractor or material supplier, and may withhold amounts that may be necessary to resolve disputed liens or claims involving the work or labor performed or material furnished by the subcontractor or material supplier.

If the contractor fails to comply with division (A)(1) of this section, the contractor shall pay the subcontractor or material supplier, in addition to the payment due, interest in the amount of eighteen per cent per annum of the payment due, beginning on the eleventh day following the receipt of payment from the owner and ending on the date of full payment of the payment due plus interest to the subcontractor or material supplier.

(2) If a lower tier subcontractor or lower tier material supplier submits an application or request for payment or an invoice for materials to a subcontractor, material supplier, or other lower tier subcontractor or lower tier material supplier in sufficient time to allow the subcontractor, material supplier, or other lower tier subcontractor or lower tier material supplier to include the application, request, or invoice in the subcontractor's, material supplier's, or other lower tier subcontractor's or lower tier material supplier's own pay request submitted to a contractor, other subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier, the subcontractor, material supplier, or other lower tier subcontractor or lower tier material supplier, within ten calendar days after receipt of payment from the contractor, other subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier for improvements to property, shall pay to the:

(a) Lower tier subcontractor, an amount that is equal to the percentage of completion of the lower tier subcontractor's contract allowed by the owner for the amount of labor or work performed;

(b) Lower tier material supplier, an amount that is equal to all or that portion of the invoice for materials which represents the materials furnished by the lower tier material supplier.

The subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier may reduce the amount paid by any retainage provision contained in the contract, invoice, or purchase order between the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier and the lower tier subcontractor or lower tier material supplier, and may withhold amounts that may be necessary to resolve

disputed liens or claims involving the work or labor performed or material furnished by the lower tier subcontractor or lower tier material supplier.

If the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier fails to comply with division (A)(2) of this section, the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier shall pay the lower tier subcontractor or lower tier material supplier, in addition to the payment due, interest in the amount of eighteen per cent per annum of the payment due, beginning on the eleventh day following the receipt of payment from the contractor, other subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier and ending on the date of full payment of the payment due plus interest to the lower tier subcontractor or lower tier material supplier.

(3) If a contractor receives any final retainage from the owner for improvements to property, the contractor shall pay from that retainage each subcontractor and material supplier the subcontractor's or material supplier's proportion of the retainage, within ten calendar days after receipt of the retainage from the owner, or within the time period provided in a contract, invoice, or purchase order between the contractor and the subcontractor or material supplier, whichever time period is shorter, provided that the contractor has determined that the subcontractor's or material supplier's work, labor, and materials have been satisfactorily performed or furnished and that the owner has approved the subcontractor's or material supplier's work, labor, and materials.

If the contractor fails to pay a subcontractor or material supplier within the appropriate time period, the contractor shall pay the subcontractor or material supplier, in addition to the retainage due, interest in the amount of eighteen per cent per annum of the retainage due, beginning on the eleventh day following the receipt of the retainage from the owner and ending on the date of full payment of the retainage due plus interest to the subcontractor or material supplier.

(4) If a subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier receives any final retainage from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier for improvements to property, the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier shall pay from that retainage each lower tier subcontractor or lower tier the lower tier subcontractor's or lower tier material supplier's proportion of the retainage, within ten calendar days after receipt of payment from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier, or within the time period provided in a contract, invoice, or purchase order

between the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier and the lower tier subcontractor or lower tier material supplier, whichever time period is shorter, provided that the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier has determined that the lower tier subcontractor's or lower tier material supplier's work, labor, and materials have been satisfactorily performed or furnished and that the owner has approved the lower tier subcontractor's or lower tier material supplier's work, labor, and materials.

If the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier fails to pay the lower tier subcontractor or lower tier material supplier within the appropriate time period, the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier shall pay the lower tier subcontractor or lower tier material supplier, in addition to the retainage due, interest in the amount of eighteen per cent per annum of the retainage due, beginning on the eleventh day following the receipt of the retainage from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier and ending on the date of full payment of the retainage due plus interest to the lower tier subcontractor or lower tier material supplier.

(5) A contractor, subcontractor, or lower tier subcontractor shall pay a laborer wages due within ten days of payment of any application or request for payment or the receipt of any retainage from an owner, contractor, subcontractor, or lower tier subcontractor.

If the contractor, subcontractor, or lower tier subcontractor fails to pay the laborer wages due within the appropriate time period, the contractor, subcontractor, or lower tier subcontractor shall pay the laborer, in addition to the wages due, interest in the amount of eighteen per cent per annum of the wages due, beginning on the eleventh day following the receipt of payment from the owner, contractor, subcontractor, or lower tier subcontractor and ending on the date of full payment of the wages due plus interest to the laborer.

(B)(1) If a contractor, subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier has not made payment in compliance with division (A)(1), (2), (3), (4), or (5) of this section within thirty days after payment is due, a subcontractor, material supplier, lower tier subcontractor, lower tier material supplier, or laborer may file a civil action to recover the amount due plus the interest provided in those divisions. If the court finds in the civil action that a contractor, subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier has not made payment in compliance with those divisions,

the court shall award the interest specified in those divisions, in addition to the amount due. Except as provided in division (B)(3) of this section, the court shall award the prevailing party reasonable attorney fees and court costs.

(2) In making a determination to award attorney fees under division (B)(1) of this section, the court shall consider all relevant factors, including but not limited to the following:

(a) The presence or absence of good faith allegations or defenses asserted by the parties;

(b) The proportion of the amount of recovery as it relates to the amount demanded;

(c) The nature of the services rendered and the time expended in rendering the services.

(3) The court shall not award attorney fees under division (B)(1) of this section if the court determines, following a hearing on the payment of attorney fees, that the payment of attorney fees to the prevailing party would be inequitable.

(C) This section does not apply to any construction or improvement of any single-, two-, or three-family detached dwelling houses.

(D)(1) No provision of this section regarding entitlement to interest, attorney fees, or court costs may be waived by agreement and any such term in any contract or agreement is void and unenforceable as against public policy.

(2) This section shall not be construed as impairing or affecting, in any way, the terms and conditions of any contract, invoice, purchase order, or any other agreement between a contractor and a subcontractor or a material supplier or between a subcontractor and another subcontractor, a material supplier, a lower tier subcontractor, or a lower tier material supplier, except that if such terms and conditions contain time periods which are longer than any of the time periods specified in divisions (A)(1), (2), (3), (4), and (5) of this section or interest at a percentage less than the interest stated in those divisions, then the provisions of this section shall prevail over such terms and conditions.

(E) Notwithstanding the definition of lower tier material supplier in this section, a person is not a lower tier material supplier unless the materials supplied by the person are:

(1) Furnished with the intent, as evidenced by the contract of sale, the delivery order, delivery to the site, or by other evidence that the materials are to be used on a particular structure or improvement;

(2) Incorporated in the improvement or consumed as normal wastage in

the course of the improvement; or

(3) Specifically fabricated for incorporation in the improvement and not readily resalable in the ordinary course of the fabricator's business even if not actually incorporated in the improvement.

(F) As used in this section:

(1) "Contractor" means any person who undertakes to construct, alter, erect, improve, repair, demolish, remove, dig, or drill any part of a structure or improvement under a contract with an owner, ~~or~~ a "construction manager" or "construction manager at risk" as ~~that term is~~ those terms are defined in section 9.33 of the Revised Code, or a "design-build firm" as that term is defined in section 153.65 of the Revised Code.

(2) "Laborer," "material supplier," "subcontractor," and "wages" have the same meanings as in section 1311.01 of the Revised Code.

(3) "Lower tier subcontractor" means a subcontractor who is not in privity of contract with a contractor but is in privity of contract with another subcontractor.

(4) "Lower tier material supplier" means a material supplier who is not in privity of contract with a contractor but is in privity of contract with another subcontractor or a material supplier.

(5) "Wages due" means the wages due to a laborer as of the date a contractor or subcontractor receives payment for any application or request for payment or retainage from any owner, contractor, or subcontractor.

(6) "Owner" includes the state, and a county, township, municipal corporation, school district, or other political subdivision of the state, and any public agency, authority, board, commission, instrumentality, or special district of or in the state or a county, township, municipal corporation, school district, or other political subdivision of the state, and any officer or agent thereof and relates to all the interests either legal or equitable, which a person may have in the real estate upon which improvements are made, including interests held by any person under contracts of purchase, whether in writing or otherwise.

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, authorized to enter into a contract for the construction of a public improvement or to construct the same by the direct employment of labor, or any institution supported in whole or in part by public funds and said sections apply to expenditures of such institutions made in whole or in part from public funds.

(B) "Construction" means ~~either~~ any of the following:

(1) ~~Any~~ Except as provided in division (B)(3) of this section, any new construction of ~~any~~ a public improvement, the total overall project cost of which is fairly estimated to be more than ~~fifty thousand dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code~~ the following amounts and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority~~;~~:

(a) One hundred twenty-five thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter;

(b) Two hundred thousand dollars, beginning when the time period described in division (B)(1)(a) of this section expires and continuing for one year thereafter;

(c) Two hundred fifty thousand dollars, beginning when the time period described in division (B)(1)(b) of this section expires.

(2) ~~Any~~ Except as provided in division (B)(4) of this section, any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of ~~any~~ a public improvement, the total overall project cost of which is fairly estimated to be more than ~~fifteen thousand dollars adjusted biennially by the administrator pursuant to section 4115.034 of the Revised Code~~ the following amounts and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority:

(a) Thirty-eight thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter;

(b) Sixty thousand dollars, beginning when the time period described in division (B)(2)(a) of this section expires and continuing for one year thereafter;

(c) Seventy-five thousand dollars, beginning when the time period described in division (B)(2)(b) of this section expires.

(3) Any new construction of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than seventy-eight thousand two hundred fifty-eight dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(4) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge

construction, the total overall project cost of which is fairly estimated to be more than twenty-three thousand four hundred forty-seven dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority.

(C) "Public improvement" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by a public authority of the state or any political subdivision thereof or by any person who, pursuant to a contract with a public authority, constructs any structure for a public authority of the state or a political subdivision thereof. When a public authority rents or leases a newly constructed structure within six months after completion of such construction, all work performed on such structure to suit it for occupancy by a public authority is a "public improvement." "Public improvement" does not include an improvement authorized by section 1515.08 of the Revised Code that is constructed pursuant to a contract with a soil and water conservation district, as defined in section 1515.01 of the Revised Code, or performed as a result of a petition filed pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, wherein no less than seventy-five per cent of the project is located on private land and no less than seventy-five per cent of the cost of the improvement is paid for by private property owners pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised Code.

(D) "Locality" means the county wherein the physical work upon any public improvement is being performed.

(E) "Prevailing wages" means the sum of the following:

(1) The basic hourly rate of pay;

(2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program;

(3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected:

(a) Medical or hospital care or insurance to provide such;

(b) Pensions on retirement or death or insurance to provide such;

(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;

(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;

(e) Life insurance;

(f) Disability and sickness insurance;

(g) Accident insurance;

(h) Vacation and holiday pay;

(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;

(j) Other bona fide fringe benefits.

None of the benefits enumerated in division (E)(3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.

(F) "Interested party," with respect to a particular contract for construction of a public improvement, means:

(1) Any person who submits a bid for the purpose of securing the award of ~~a~~ the contract ~~for construction of the public improvement~~;

(2) Any person acting as a subcontractor of a person ~~mentioned~~ described in division (F)(1) of this section;

(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person ~~mentioned~~ described in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;

(4) Any association having as members any of the persons ~~mentioned~~ described in division (F)(1) or (2) of this section.

(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an office of trust, command, or authority in a corporation, business trust, partnership, or association.

Sec. 4115.033. No public authority shall subdivide a public improvement project into component parts or projects, the cost of which is fairly estimated to be less than the threshold levels set forth in ~~divisions~~ division (B)~~(1) and (2)~~ of section 4115.03 of the Revised Code, unless the projects are conceptually separate and unrelated to each other, or encompass independent and unrelated needs of the public authority.

Sec. 4115.034. On January 1, 1996, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold levels for which public improvement projects are subject to sections 4115.03 to 4115.16 of the Revised Code as set forth in divisions

(B)~~(1)~~(3) and ~~(2)~~(4) of section 4115.03 of the Revised Code. The director shall adjust those amounts according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of the census implicit price deflator for construction, provided that no increase or decrease for any year shall exceed three per cent of the threshold level in existence at the time of the adjustment.

Sec. 4115.04. (A)(1) Every public authority authorized to contract for or construct with its own forces a public improvement, before advertising for bids or undertaking such construction with its own forces, shall have the director of commerce determine the prevailing rates of wages of mechanics and laborers in accordance with section 4115.05 of the Revised Code for the class of work called for by the public improvement, in the locality where the work is to be performed. Except as provided in division (A)(2) of this section, that schedule of wages shall be attached to and made part of the specifications for the work, and shall be printed on the bidding blanks where the work is done by contract. A copy of the bidding blank shall be filed with the director before the contract is awarded. A minimum rate of wages for common laborers, on work coming under the jurisdiction of the department of transportation, shall be fixed in each county of the state by the department of transportation, in accordance with section 4115.05 of the Revised Code.

(2) In the case of contracts that are administered by the department of natural resources, the director of natural resources or the director's designee shall include language in the contracts requiring wage rate determinations and updates to be obtained directly from the department of commerce through electronic or other means as appropriate. Contracts that include this requirement are exempt from the requirements established in division (A)(1) of this section that involve attaching the schedule of wages to the specifications for the work, making the schedule part of those specifications, and printing the schedule on the bidding blanks where the work is done by contract.

(B) Sections 4115.03 to 4115.16 of the Revised Code do not apply to:

(1) Public improvements in any case where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided that the federal government or any of its agencies prescribes predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvements;

(2) A participant in a work activity, developmental activity, or an alternative work activity under sections 5107.40 to 5107.69 of the Revised

Code when a public authority directly uses the labor of the participant to construct a public improvement if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(3) Public improvements undertaken by, or under contract for, the board of education of any school district or the governing board of any educational service center;

(4) Public improvements undertaken by, or under contract for, a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code if none of the funds used in constructing the improvements are the proceeds of bonds or other obligations that are secured by the full faith and credit of the state, a county, a township, or a municipal corporation and none of the funds used in constructing the improvements, including funds used to repay any amounts borrowed to construct the improvements, are funds that have been appropriated for that purpose by the state, a board of county commissioners, a township, or a municipal corporation from funds generated by the levy of a tax, provided that a county hospital or municipal hospital may elect to apply sections 4115.03 to 4115.16 of the Revised Code to a public improvement undertaken by, or under contract for, the hospital;

(5) Any project described in divisions (D)(1)(a) to (D)(1)(e) of section 176.05 of the Revised Code;

(6) Public improvements undertaken by, or under contract for, a port authority as defined in section 4582.01 or 4582.21 of the Revised Code;

(7) Any portion of a public improvement undertaken and completed solely with labor donated by the individuals performing the labor, by a labor organization and its members, or by a contractor or subcontractor that donates all labor and materials for that portion of the public improvement project.

(C) Under no circumstances shall a public authority apply the prevailing wage requirements of this chapter to a public improvement that is exempt under division (B)(3) of this section.

Sec. 4115.05. The prevailing rate of wages to be paid for a legal day's work, as prescribed in section 4115.04 of the Revised Code, to laborers, workers, or mechanics upon public works shall not be less at any time during the life of a contract for the public work than the prevailing rate of wages then payable in the same trade or occupation in the locality where such public work is being performed, under collective bargaining agreements or understandings, between employers and bona fide organizations of labor in force at the date the contract for the public work, relating to the trade or occupation, was made, and collective bargaining

agreements or understandings successor thereto.

Serving laborers, helpers, assistants and apprentices shall not be classified as common labor and shall be paid not less at any time during the life of a contract for the public work than the prevailing rate of wages then payable for such labor in the locality where the public work is being performed, under or as a result of collective bargaining agreements or understandings between employers and bona fide organizations of labor in force at the date the contract for the public work, requiring the employment of serving laborers, helpers, assistants, or apprentices, was made, and collective bargaining agreements or understandings successor thereto.

Apprentices will be permitted to work only under a bona fide apprenticeship program if such program exists and is registered with the Ohio apprenticeship council.

The allowable ratio of apprentices to skilled workers permitted to work shall not be greater than the ratio allowed the contractor or subcontractor in the collective bargaining agreement or understanding referred to in this section under which the work is being performed. A contractor, subcontractor, or public authority that exceeds the permissible ratio of apprentices to skilled workers by two or fewer apprentices for not more than two days in any thirty-day period shall not be found in violation of this provision with regard to that excess number of apprentices.

For purposes of establishing the prevailing rate of wages, a labor organization that is a party to a collective bargaining agreement, contract, or understanding, including any successor agreement, contract, or understanding, that establishes wages for a trade or occupation typically employed on public improvements shall file with the director of commerce all relevant portions of any such agreement, contract, or understanding to which the labor organization is a party. The filing shall occur within ninety days after the agreement, contract, or understanding is executed, except that the relevant portion of any agreement, contract, or understanding to which a labor organization is a party on the effective date of this amendment shall be filed within ninety days after the effective date of this amendment. The labor organization shall certify under penalty of law that the portion of the agreement, contract, or understanding filed under this section contains, in full, all provisions of the agreement, contract, or understanding concerning wages paid to persons and the apprentice to skilled worker ratio under the agreement, contract, or understanding.

In the event there is no such collective bargaining agreement or understanding in the immediate locality, then the prevailing rates of wages in the nearest locality in which such collective bargaining agreements or

understandings are in effect shall be the prevailing rate of wages, in such locality, for the various occupations covered by sections 4115.03 to 4115.16 of the Revised Code.

The prevailing rate of wages to be paid for a legal day's work, to laborers, workers, or mechanics, upon any material to be used in or in connection with a public work, shall be not less than the prevailing rate of wages payable for a day's work in the same trade or occupation in the locality within the state where such public work is being performed and where the material in its final or completed form is to be situated, erected, or used.

Every contract for a public work shall contain a provision that each laborer, worker, or mechanic, employed by such contractor, subcontractor, or other person about or upon such public work, shall be paid the prevailing rate of wages provided in this section.

No contractor or subcontractor under a contract for a public work shall sublet any of the work covered by such contract unless specifically authorized to do so by the contract.

Where contracts are not awarded or construction undertaken within ninety days from the date of the establishment of the prevailing rate of wages, there shall be a redetermination of the prevailing rate of wages before the contract is awarded. ~~Upon receipt from the director of commerce of a notice of a change in prevailing wage rates, a~~ A public authority shall, within seven working days after ~~receipt thereof~~ receiving from the director a notice of a change in the prevailing wage rate, notify all affected contractors and subcontractors with whom the public authority has contracts for a public improvement of the changes and require the contractors to make the necessary adjustments in the prevailing wage rates.

If, upon receipt of the relevant portions of a collective bargaining agreement, contract, or understanding, the director determines that the prevailing wage rate has changed in the locality in which an ongoing project is being constructed, any change in that rate shall take effect two weeks after the director receives the relevant portions of the agreement, contract, or understanding showing that the prevailing wage rate has changed.

If the director determines that a contractor or subcontractor has violated sections 4115.03 to 4115.16 of the Revised Code because the public authority has not notified the contractor or subcontractor as required by this section, the public authority is liable for any back wages, fines, damages, court costs, and attorney's fees associated with the enforcement of said sections by the director for the period of time running until the public authority gives the required notice to the contractor or subcontractor.

On the occasion of the first pay date under a contract, the contractor or subcontractor shall furnish each employee not covered by a collective bargaining agreement or understanding between employers and bona fide organizations of labor with individual written notification of the job classification to which the employee is assigned, the prevailing wage determined to be applicable to that classification, separated into the hourly rate of pay and the fringe payments, and the identity of the prevailing wage coordinator appointed by the public authority. The contractor or subcontractor shall furnish the same notification to each affected employee every time the job classification of the employee is changed.

Sec. 4115.10. (A) No person, firm, corporation, or public authority that constructs a public improvement with its own forces, the total overall project cost of which is fairly estimated to be more than the amounts set forth in division (B)~~(1) or (2)~~ of section 4115.03 of the Revised Code, adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code, as appropriate, shall violate the wage provisions of sections 4115.03 to 4115.16 of the Revised Code, or suffer, permit, or require any employee to work for less than the rate of wages so fixed, or violate the provisions of section 4115.07 of the Revised Code. Any employee upon any public improvement, except an employee to whom or on behalf of whom restitution is made pursuant to division (C) of section 4115.13 of the Revised Code, who is paid less than the fixed rate of wages applicable thereto may recover from such person, firm, corporation, or public authority that constructs a public improvement with its own forces the difference between the fixed rate of wages and the amount paid to the employee and in addition thereto a sum equal to twenty-five per cent of that difference. The person, firm, corporation, or public authority who fails to pay the rate of wages so fixed also shall pay a penalty to the director of seventy-five per cent of the difference between the fixed rate of wages and the amount paid to the employees on the public improvement. The director shall deposit all moneys received from penalties paid to the director pursuant to this section into the ~~penalty enforcement~~ labor operating fund~~, which is hereby created in the state treasury~~. The director shall use the fund for the enforcement of sections 4115.03 to 4115.16 of the Revised Code. The employee may file suit for recovery within ninety days of the director's determination of a violation of sections 4115.03 to 4115.16 of the Revised Code or is barred from further action under this division. Where the employee prevails in a suit, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(B) Any employee upon any public improvement who is paid less than

the prevailing rate of wages applicable thereto may file a complaint in writing with the director upon a form furnished by the director. The complaint shall include documented evidence to demonstrate that the employee was paid less than the prevailing wage in violation of this chapter. Upon receipt of a properly completed written complaint of any employee paid less than the prevailing rate of wages applicable, the director shall take an assignment of a claim in trust for the assigning employee and bring any legal action necessary to collect the claim. The employer shall pay the costs and reasonable attorney's fees allowed by the court if the employer is found in violation of sections 4115.03 to 4115.16 of the Revised Code.

(C) If after investigation pursuant to section 4115.13 of the Revised Code, the director determines there is a violation of sections 4115.03 to 4115.16 of the Revised Code and a period of sixty days has elapsed from the date of the determination, and if:

(1) No employee has brought suit pursuant to division (A) of this section;

(2) No employee has requested that the director take an assignment of a wage claim pursuant to division (B) of this section~~;~~.

The director shall bring any legal action necessary to collect any amounts owed to employees and the director. The director shall pay over to the affected employees the amounts collected to which the affected employees are entitled under division (A) of this section. In any action in which the director prevails, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(D) Where persons are employed and their rate of wages has been determined as provided in section 4115.04 of the Revised Code, no person, either for self or any other person, shall request, demand, or receive, either before or after the person is engaged, that the person so engaged pay back, return, donate, contribute, or give any part or all of the person's wages, salary, or thing of value, to any person, upon the statement, representation, or understanding that failure to comply with such request or demand will prevent the procuring or retaining of employment, and no person shall, directly or indirectly, aid, request, or authorize any other person to violate this section. This division does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

(E) The director shall enforce sections 4115.03 to 4115.16 of the Revised Code.

(F) For the purpose of supplementing existing resources and to assist in enforcing division (E) of this section, the director may contract with a

person registered as a public accountant under Chapter 4701. of the Revised Code to conduct an audit of a person, firm, corporation, or public authority.

(G) No contractor or subcontractor shall be responsible for the payment of the penalties provided in division (A) of this section resulting from a violation of sections 4115.03 to 4115.16 of the Revised Code by its subcontractor, provided that the contractor or subcontractor has made a good faith effort to ensure that its subcontractor complied with the requirements of sections 4115.03 to 4115.16 of the Revised Code.

Sec. 4115.101. There is hereby created the prevailing wage custodial fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The director of commerce shall deposit to the fund all money paid by employers to the director that are held in trust for employees to whom prevailing wages are due and owing. The director shall make disbursements from the fund in accordance with this chapter to employees affected by violations of this chapter. If the director determines that any funds in the prevailing wage custodial fund are not returnable to employees as required under this section, then the director shall certify to the treasurer of state the amount of the funds that are not returnable. Upon the receipt of a certification from the director in accordance with this section, the treasurer of state shall transfer the certified amount of the funds from the prevailing wage custodial fund to the labor operating fund.

Sec. 4115.13. (A) Upon the director's own motion or within five days of the filing of a properly completed complaint under section 4115.10 or 4115.16 of the Revised Code, the director of commerce, or a representative designated by the director, shall investigate any alleged violation of sections 4115.03 to 4115.16 of the Revised Code.

(B) At the conclusion of the investigation, the director or a designated representative shall make a ~~recommendation~~ determination as to whether the alleged violation was committed. If the director or designated representative ~~recommends~~ determines that the alleged violation was an intentional violation, the director or designated representative shall give written notice by certified mail of that ~~recommendation~~ determination to the contractor, subcontractor, or officer of the contractor or subcontractor which also shall state that the contractor, subcontractor, or officer of the contractor or subcontractor may file with the director an appeal of the ~~recommendation~~ determination within thirty days after the date the notice was received. If the contractor, subcontractor, or officer of the contractor or subcontractor timely appeals the ~~recommendation~~ determination, within sixty days of the filing of the appeal, the director or designated representative shall schedule the appeal for a hearing. If the contractor, subcontractor, or officer of the

contractor or subcontractor fails to timely appeal the ~~recommendation~~ determination, the director or designated representative shall adopt the ~~recommendation~~ determination as a finding of fact for purposes of division (D) of this section. The director or designated representative, in the performance of any duty or execution of any power prescribed by sections 4115.03 to 4115.16 of the Revised Code, may hold hearings, and such hearings shall be held within the county in which the violation of sections 4115.03 to 4115.16 of the Revised Code is alleged to have been committed, or in Franklin county, whichever county the person alleged to have committed the violation chooses. For the purpose of the hearing, the director may designate a hearing examiner who shall, after notice to all interested parties, conduct a hearing and make findings of fact and recommendations to the director. The director shall make a decision, which shall be sent to the affected parties. The director or designated representative may make decisions, based upon findings of fact, as are found necessary to enforce sections 4115.03 to 4115.16 of the Revised Code.

(C) If any underpayment by a contractor or subcontractor was the result of a misinterpretation of the statute, or an erroneous preparation of the payroll documents, the director or designated representative may make a decision ordering the employer to make restitution to the employees, or on their behalf, the plans, funds, or programs for any type of fringe benefits described in the applicable wage determination. In accordance with the finding of the director that any underpayment was the result of a misinterpretation of the statute, or an erroneous preparation of the payroll documents, employers who make restitution are not subject to any further proceedings pursuant to sections 4115.03 to 4115.16 of the Revised Code.

If a contractor's or subcontractor's underpayment to an employee is less than one thousand dollars, the contractor or subcontractor is not subject to any further proceedings under sections 4115.03 to 4115.16 of the Revised Code for that underpayment if the contractor or subcontractor makes full restitution to the affected employee.

(D) If the director or designated representative makes a decision, based upon findings of fact, that a contractor, subcontractor, or officer of a contractor or subcontractor has intentionally violated sections 4115.03 to 4115.16 of the Revised Code, the contractor, subcontractor, or officer of a contractor or subcontractor is prohibited from contracting directly or indirectly with any public authority for the construction of a public improvement or from performing any work on the same as provided in section 4115.133 of the Revised Code. A contractor, subcontractor, or officer of a contractor or subcontractor may appeal the decision, within sixty

days after the decision, to the court of common pleas of the county in which the first hearing involving the violation was heard. If the contractor, subcontractor, or officer of a contractor or subcontractor does not timely appeal the ~~recommendation~~ determination of the director or designated representative under division (B) of this section, the contractor, subcontractor, or officer of a contractor or subcontractor may appeal the findings of fact, within sixty days after the ~~recommendations~~ determinations are adopted as findings of fact, to the court of common pleas within the county in which the violation of sections 4115.03 to 4115.16 of the Revised Code is alleged to have been committed or in Franklin county, whichever county the person alleged to have committed the violation chooses.

(E) No appeal to the court from the decision of the director may be had by the contractor or subcontractor unless the contractor or subcontractor files a bond with the court in the amount of the restitution, conditioned upon payment should the decision of the director be upheld.

(F) No statement of a contractor, subcontractor, or officer of a contractor or subcontractor and no determination, recommendation, or finding of fact issued under this section is admissible as evidence in a criminal action brought under this chapter against the contractor, subcontractor, or officer of a contractor or subcontractor.

(G) In determining whether a contractor, subcontractor, or officer of a contractor or subcontractor intentionally violated sections 4115.03 to 4115.16 of the Revised Code, the director may consider as evidence either of the following:

(1) The fact that the director, prior to the commission of the violation under consideration, issued notification to the contractor, subcontractor, or officer of a contractor or subcontractor of the same or a similar violation, provided that the commission of the same or a similar violation of sections 4115.03 to 4115.16 of the Revised Code at a subsequent time does not create a presumption that the subsequent violation was intentional;

(2) The fact that, prior to the commission of the violation, the contractor, subcontractor, or officer of a contractor or subcontractor used reasonable efforts to ascertain the correct interpretation of sections 4115.03 to 4115.16 of the Revised Code from the director or 4115.04 or 4115.131 of the Revised Code, provided that a violation is presumed not to be intentional where a contractor, subcontractor, or officer of a contractor or subcontractor complies with a decision the director or designated representative issues pursuant to a request made under section 4115.131 of the Revised Code.

(H) As used in this section, "intentional violation" means a willful, knowing, or deliberate failure to comply with any provision of sections

4115.03 to 4115.16 of the Revised Code, and includes, but is not limited to, the following actions when conducted in the manner described in this division:

(1) An intentional failure to submit reports as required under division (C) of section 4115.071 of the Revised Code or knowingly submitting false or erroneous reports;

(2) An intentional misclassification of employees for the purpose of reducing wages;

(3) An intentional misclassification of employees as independent contractors or as apprentices;

(4) An intentional failure to pay the prevailing wage;

(5) An intentional failure to comply with the allowable ratio of apprentices to skilled workers as required under section 4115.05 of the Revised Code and by rules adopted by the director pursuant to section 4115.12 of the Revised Code;

(6) Intentionally allowing an officer of a contractor or subcontractor who is known to be prohibited from contracting directly or indirectly with a public authority for the construction of a public improvement or from performing any work on the same pursuant to section 4115.133 of the Revised Code to perform work on a public improvement.

Sec. 4115.16. (A) An interested party may file a complaint with the director of commerce alleging a specific violation of sections 4115.03 to 4115.16 of the Revised Code by a specific contractor or subcontractor. The complaint shall be in writing on a form furnished by the director and shall include sufficient evidence to justify the complaint. The director, upon receipt of a properly completed complaint, shall investigate pursuant to section 4115.13 of the Revised Code. The director shall not investigate any complaint filed under this section that fails to allege a specific violation or that lacks sufficient evidence to justify the complaint. If the director determines that no violation has occurred or that the violation was not intentional, the interested party may appeal the decision to the court of common pleas of the county where the violation is alleged to have occurred.

(B) ~~If~~ Except as otherwise provided in this section, the director or the designated representative shall conclude the investigation conducted under section 4115.13 of the Revised Code and make a determination not later than one hundred twenty days after the complaint is filed. The director or the designated representative may take additional time, of up to ninety days, to conclude the investigation and make a determination if the parties to the complaint are given notice of the extension before the initial one-hundred-twenty-day period expires. The director or the designated

representative may take more time than that which is provided in this section to conclude the investigation and make a determination if the director, or the designated representative, and all parties to the complaint agree to a different time frame.

If the director has not ruled on the merits of the complaint within ~~sixty days after its filing,~~ the time provided under this section the interested party may file a complaint in the court of common pleas of the county in which the violation is alleged to have occurred. The complaint may make the contracting public authority a party to the action, but not the director. Contemporaneous with service of the complaint, the interested party shall deliver a copy of the complaint to the director. Upon receipt thereof, the director shall cease investigating or otherwise acting upon the complaint filed pursuant to division (A) of this section. The court in which the complaint is filed pursuant to this division shall hear and decide the case, and upon finding that a violation has occurred, shall make such orders as will prevent further violation and afford to injured persons the relief specified under sections 4115.03 to 4115.16 of the Revised Code. The court's finding that a violation has occurred shall have the same consequences as a like determination by the director. The court may order the director to take such action as will prevent further violation and afford to injured persons the remedies specified under sections 4115.03 to 4115.16 of the Revised Code. Upon receipt of any order of the court pursuant to this section, the director shall undertake enforcement action without further investigation or hearings.

(C) The director shall make available to the parties to any appeal or action pursuant to this section all files, documents, affidavits, or other information in the director's possession that pertain to the matter. The rules generally applicable to civil actions in the courts of this state shall govern all appeals or actions under this section. Any determination of a court under this section is subject to appellate review.

(D) Where, pursuant to this section, a court finds a violation of sections 4115.03 to 4115.16 of the Revised Code, the court shall award attorney fees and court costs to the prevailing party. In the event the court finds that no violation has occurred, the court may award court costs and ~~attorney~~ fees to the prevailing party, other than to the director or the public authority, where the court finds the action brought was unreasonable or without foundation, even though not brought in subjective bad faith.

Sec. 4116.01. As used in sections 4116.01 to 4116.04 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the

state, or any political subdivision of the state, or any institution supported in whole or in part by public funds, authorized to enter into a contract for the construction of a public improvement or to construct a public improvement by the direct employment of labor. "Public authority" shall not mean any municipal corporation that has adopted a charter under sections three and seven of article XVIII of the Ohio ~~constitution~~ Constitution, unless the specific contract for a public improvement includes state funds appropriated for the purposes of that public improvement.

(B) "Construction" means all of the following:

(1) Any new construction of any public improvement performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority;

(3) Construction on any project, facility, or project facility to which section ~~122.452,~~ 122.80, ~~165.031,~~ 166.02, ~~1551.13,~~ or 1728.07~~, or 3706.042~~ of the Revised Code applies;

(4) Construction on any project as defined in section 122.39 of the Revised Code, any project as defined in section 165.01 of the Revised Code, any energy resource development facility as defined in section 1551.01 of the Revised Code, or any project as defined in section 3706.01 of the Revised Code.

(C) "Public improvement" means all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and other structures or works constructed by a public authority or by any person who, pursuant to a contract with a public authority, constructs any structure or work for a public authority. When a public authority rents or leases a newly constructed structure within six months after completion of its construction, all work performed on that structure to suit it for occupancy by a public authority is a "public improvement."

(D) "Interested party," with respect to a particular public improvement, means all of the following:

(1) Any person who submits a bid for the purpose of securing the award of a contract for the public improvement;

(2) Any person acting as a subcontractor of a person mentioned in division (D)(1) of this section;

(3) Any association having as members any of the persons mentioned in division (D)(1) or (2) of this section;

(4) Any employee of a person mentioned in division (D)(1), (2), or (3) of this section;

(5) Any individual who is a resident of the jurisdiction of the public authority for whom products or services for a public improvement are being procured or for whom work on a public improvement is being performed.

Sec. 4117.01. As used in this chapter:

(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; college preparatory boarding school established under Chapter 3328. of the Revised Code or its operator; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment. "Public employer" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.

(C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a public employer and a private employer and over whom the national labor relations board has declined jurisdiction on the basis that the involved employees are employees of a public employer, except:

(1) Persons holding elective office;

(2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;

(3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief executive;

(4) Persons who are members of the Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;

(5) Employees of the state employment relations board, including those

employees of the state employment relations board utilized by the state personnel board of review in the exercise of the powers and the performance of the duties and functions of the state personnel board of review;

(6) Confidential employees;

(7) Management level employees;

(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;

(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;

(10) Supervisors;

(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;

(12) Employees of county boards of election;

(13) Seasonal and casual employees as determined by the state employment relations board;

(14) Part-time faculty members of an institution of higher education;

(15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;

(17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code who are not subject to a collective bargaining agreement on June 1, 2005.

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote,

discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this section.

(3) With respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy;

(4) No teacher as defined in section 3319.09 of the Revised Code shall be designated as a supervisor or a management level employee unless the teacher is employed under a contract governed by section 3319.01, 3319.011, or 3319.02 of the Revised Code and is assigned to a position for which a license deemed to be for administrators under state board rules is required pursuant to section 3319.22 of the Revised Code.

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not

mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Unauthorized strike" includes any such action, absence, stoppage, slowdown, or abstinence when done partially or intermittently, whether during or after the expiration of the term or extended term of a collective bargaining agreement or during or after the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code.

(J) "Professional employee" means any employee engaged in work that is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship; or an employee who has completed the courses of specialized intellectual instruction and is performing related work under the supervision of a professional person to become qualified as a professional employee.

(K) "Confidential employee" means any employee who works in the personnel offices of a public employer and deals with information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the employer.

(L) "Management level employee" means an individual who formulates policy on behalf of the public employer, who responsibly directs the

implementation of policy, or who may reasonably be required on behalf of the public employer to assist in the preparation for the conduct of collective negotiations, administer collectively negotiated agreements, or have a major role in personnel administration. Assistant superintendents, principals, and assistant principals whose employment is governed by section 3319.02 of the Revised Code are management level employees. With respect to members of a faculty of a state institution of higher education, no person is a management level employee because of the person's involvement in the formulation or implementation of academic or institution policy.

(M) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

(N) "Member of a police department" means a person who is in the employ of a police department of a municipal corporation as a full-time regular police officer as the result of an appointment from a duly established civil service eligibility list or under section 737.15 or 737.16 of the Revised Code, a full-time deputy sheriff appointed under section 311.04 of the Revised Code, a township constable appointed under section 509.01 of the Revised Code, or a member of a township or joint police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular firefighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under section 505.38, 709.012, or 737.22 of the Revised Code.

(Q) "Day" means calendar day.

Sec. 4117.03. (A) Public employees have the right to:

(1) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Chapter 4117. of the Revised Code, any employee organization of their own choosing;

(2) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;

(3) Representation by an employee organization;

(4) Bargain collectively with their public employers to determine wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements;

(5) Present grievances and have them adjusted, without the intervention

of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and as long as the bargaining representatives have the opportunity to be present at the adjustment.

(B) Persons on active duty or acting in any capacity as members of the organized militia do not have collective bargaining rights.

(C) Except as provided in division (D) of this section, nothing in Chapter 4117. of the Revised Code prohibits public employers from electing to engage in collective bargaining, to meet and confer, to hold discussions, or to engage in any other form of collective negotiations with public employees who are not subject to Chapter 4117. of the Revised Code pursuant to division (C) of section 4117.01 of the Revised Code.

(D) A public employer shall not engage in collective bargaining or other forms of collective negotiations with the employees of county boards of elections referred to in division (C)(12) of section 4117.01 of the Revised Code.

(E) Employees of public schools may bargain collectively for health care benefits~~; however, all health care benefits shall include best practices prescribed by the school employees health care board, in accordance with section 9.901 of the Revised Code~~.

Sec. 4121.03. (A) The governor shall appoint from among the members of the industrial commission the chairperson of the industrial commission. The chairperson shall serve as chairperson at the pleasure of the governor. The chairperson is the head of the commission and its chief executive officer.

(B) The chairperson shall appoint, after consultation with other commission members and obtaining the approval of at least one other commission member, an executive director of the commission. The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall perform all of the following duties:

(1) Act as chief administrative officer for the commission;

(2) Ensure that all commission personnel follow the rules of the commission;

(3) Ensure that all orders, awards, and determinations are properly heard and signed, prior to attesting to the documents;

(4) Coordinate, to the fullest extent possible, commission activities with the bureau of workers' compensation activities;

(5) Do all things necessary for the efficient and effective implementation of the duties of the commission.

The responsibilities assigned to the executive director of the commission do not relieve the chairperson from final responsibility for the proper performance of the acts specified in this division.

(C) The chairperson shall do all of the following:

(1) Except as otherwise provided in this division, employ, promote, supervise, remove, and establish the compensation of all employees as needed in connection with the performance of the commission's duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code and may assign to them their duties to the extent necessary to achieve the most efficient performance of its functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of every employee of the commission. The civil service status of any person employed by the commission prior to November 3, 1989, is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(2) Hire district and staff hearing officers after consultation with other commission members and obtaining the approval of at least one other commission member;

(3) Fire staff and district hearing officers when the chairperson finds appropriate after obtaining the approval of at least one other commission member;

(4) Maintain the office for the commission in Columbus;

(5) To the maximum extent possible, use electronic data processing equipment for the issuance of orders immediately following a hearing, scheduling of hearings and medical examinations, tracking of claims, retrieval of information, and any other matter within the commission's jurisdiction, and shall provide and input information into the electronic data processing equipment as necessary to effect the success of the claims tracking system established pursuant to division (B)(15) of section 4121.121 of the Revised Code;

(6) Exercise all administrative and nonadjudicatory powers and duties conferred upon the commission by Chapters 4121., 4123., 4127., and 4131. of the Revised Code;

(7) Approve all contracts for special services.

(D) The chairperson is responsible for all administrative matters and

may secure for the commission facilities, equipment, and supplies necessary to house the commission, any employees, and files and records under the commission's control and to discharge any duty imposed upon the commission by law, the expense thereof to be audited and paid in the same manner as other state expenses. For that purpose, the chairperson, separately from the budget prepared by the administrator of workers' compensation ~~and the budget prepared by the director of the workers' compensation council~~, shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.532 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the commission and staff and district hearing officers in the discharge of any duty imposed upon the chairperson, the commission, and hearing officers by law.

(E) A majority of the commission constitutes a quorum to transact business. No vacancy impairs the rights of the remaining members to exercise all of the powers of the commission, so long as a majority remains. Any investigation, inquiry, or hearing that the commission may hold or undertake may be held or undertaken by or before any one member of the commission, or before one of the deputies of the commission, except as otherwise provided in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. Every order made by a member, or by a deputy, when approved and confirmed by a majority of the members, and so shown on its record of proceedings, is the order of the commission. The commission may hold sessions at any place within the state. The commission is responsible for all of the following:

(1) Establishing the overall adjudicatory policy and management of the commission under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, except for those administrative matters within the jurisdiction of the chairperson, bureau of workers' compensation, and the administrator of workers' compensation under those chapters;

(2) Hearing appeals and reconsiderations under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(3) Engaging in rulemaking where required by this chapter or Chapter 4123., 4127., or 4131. of the Revised Code.

Sec. 4121.12. (A) There is hereby created the bureau of workers' compensation board of directors consisting of eleven members to be appointed by the governor with the advice and consent of the senate. One member shall be an individual who, on account of the individual's previous vocation, employment, or affiliations, can be classed as a representative of employees; two members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as

representatives of employee organizations and at least one of these two individuals shall be a member of the executive committee of the largest statewide labor federation; three members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representatives of employers, one of whom represents self-insuring employers, one of whom is a state fund employer who employs one hundred or more employees, and one of whom is a state fund employer who employs less than one hundred employees; two members shall be individuals who, on account of their vocation, employment, or affiliations, can be classed as investment and securities experts who have direct experience in the management, analysis, supervision, or investment of assets and are residents of this state; one member who shall be a certified public accountant; one member who shall be an actuary who is a member in good standing with the American academy of actuaries or who is an associate or fellow with the casualty actuarial society; and one member shall represent the public and also be an individual who, on account of the individual's previous vocation, employment, or affiliations, cannot be classed as either predominantly representative of employees or of employers. The governor shall select the chairperson of the board who shall serve as chairperson at the pleasure of the governor.

None of the members of the board, within one year immediately preceding the member's appointment, shall have been employed by the bureau of workers' compensation or by any person, partnership, or corporation that has provided to the bureau services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(B) Of the initial appointments made to the board, the governor shall appoint the member who represents employees, one member who represents employers, and the member who represents the public to a term ending one year after June 11, 2007; one member who represents employers, one member who represents employee organizations, one member who is an investment and securities expert, and the member who is a certified public accountant to a term ending two years after June 11, 2007; and one member who represents employers, one member who represents employee organizations, one member who is an investment and securities expert, and the member who is an actuary to a term ending three years after June 11, 2007. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

Members may be reappointed. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) In making appointments to the board, the governor shall select the members from the list of names submitted by the workers' compensation board of directors nominating committee pursuant to this division. The nominating committee shall submit to the governor a list containing four separate names for each of the members on the board. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list.

At least thirty days prior to a vacancy occurring as a result of the expiration of a term and within thirty days after other vacancies occurring on the board, the nominating committee shall submit an initial list containing four names for each vacancy. Within fourteen days after the submission of the initial list, the governor either shall appoint individuals from that list or request the nominating committee to submit another list of four names for each member the governor has not appointed from the initial list, which list the nominating committee shall submit to the governor within fourteen days after the governor's request. The governor then shall appoint, within seven days after the submission of the second list, one of the individuals from either list to fill the vacancy for which the governor has not made an appointment from the initial list. If the governor appoints an individual to fill a vacancy occurring as a result of the expiration of a term, the individual appointed shall begin serving as a member of the board when the term for which the individual's predecessor was appointed expires or immediately upon appointment by the governor, whichever occurs later. With respect to the filling of vacancies, the nominating committee shall provide the governor with a list of four individuals who are, in the judgment of the nominating committee, the most fully qualified to accede to membership on the board.

In order for the name of an individual to be submitted to the governor under this division, the nominating committee shall approve the individual by an affirmative vote of a majority of its members.

(D) All members of the board shall receive their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members and also shall receive an annual salary not to exceed sixty thousand dollars in total,

payable on the following basis:

(1) Except as provided in division (D)(2) of this section, a member shall receive two thousand five hundred dollars during a month in which the member attends one or more meetings of the board and shall receive no payment during a month in which the member attends no meeting of the board.

(2) A member may receive no more than thirty thousand dollars per year to compensate the member for attending meetings of the board, regardless of the number of meetings held by the board during a year or the number of meetings in excess of twelve within a year that the member attends.

(3) Except as provided in division (D)(4) of this section, if a member serves on the workers' compensation audit committee, workers' compensation actuarial committee, or the workers' compensation investment committee, the member shall receive two thousand five hundred dollars during a month in which the member attends one or more meetings of the committee on which the member serves and shall receive no payment during any month in which the member attends no meeting of that committee.

(4) A member may receive no more than thirty thousand dollars per year to compensate the member for attending meetings of any of the committees specified in division (D)(3) of this section, regardless of the number of meetings held by a committee during a year or the number of committees on which a member serves.

The chairperson of the board shall set the meeting dates of the board as necessary to perform the duties of the board under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code. The board shall meet at least twelve times a year. The administrator of workers' compensation shall provide professional and clerical assistance to the board, as the board considers appropriate.

(E) Before entering upon the duties of office, each appointed member of the board shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code and file in the office of the secretary of state the bond required under section 4121.127 of the Revised Code.

(F) The board shall:

(1) Establish the overall administrative policy for the bureau for the purposes of this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(2) Review progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(3) Submit an annual report to the president of the senate, the speaker of

the house of representatives, and the governor~~, and the workers' compensation council~~ and include all of the following in that report:

(a) An evaluation of the cost and quality objectives of the bureau;

(b) A statement of the net assets available for the provision of compensation and benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as of the last day of the fiscal year;

(c) A statement of any changes that occurred in the net assets available, including employer premiums and net investment income, for the provision of compensation and benefits and payment of administrative expenses, between the first and last day of the fiscal year immediately preceding the date of the report;

(d) The following information for each of the six consecutive fiscal years occurring previous to the report:

(i) A schedule of the net assets available for compensation and benefits;

(ii) The annual cost of the payment of compensation and benefits;

(iii) Annual administrative expenses incurred;

(iv) Annual employer premiums allocated for the provision of compensation and benefits.

(e) A description of any significant changes that occurred during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year.

(4) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.

(5) Study issues as requested by the administrator or the governor;

(6) Contract with all of the following:

(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;

(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;

(c) An independent fiduciary counsel to assist the board in the performance of its duties.

(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code.

(8) Review and publish the investment policy no less than annually and make copies available to interested parties.

(9) Prohibit, on a prospective basis, any specific investment it finds to

be contrary to the investment policy approved by the board.

(10) Vote to open each investment class and allow the administrator to invest in an investment class only if the board, by a majority vote, opens that class;

(11) After opening a class but prior to the administrator investing in that class, adopt rules establishing due diligence standards for employees of the bureau to follow when investing in that class and establish policies and procedures to review and monitor the performance and value of each investment class;

(12) Submit a report annually on the performance and value of each investment class to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives~~, and the workers' compensation council~~.

(13) Advise and consent on all of the following:

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating;

(b) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

(c) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code;

(d) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

(14) Perform all duties required under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(15) Meet with the governor on an annual basis to discuss the administrator's performance of the duties specified in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(16) Develop and participate in a bureau of workers' compensation board of directors education program that consists of all of the following:

(a) An orientation component for newly appointed members;

(b) A continuing education component for board members who have served for at least one year;

(c) A curriculum that includes education about each of the following topics:

(i) Board member duties and responsibilities;

(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(iii) Ethics;

(iv) Governance processes and procedures;

(v) Actuarial soundness;

(vi) Investments;

(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.

(17) ~~Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;~~

~~(18)~~ Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.

(G) The board may do both of the following:

(1) Vote to close any investment class;

(2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in performing its duties.

(H) The office of a member of the board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. The vacancy shall be filled in the same manner as the original appointment. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible to be a member of the board. A member who receives a bill of indictment for any of the offenses specified in this section shall be automatically suspended from the board pending resolution of the criminal matter.

(I) For the purposes of division (G)(1) of section 121.22 of the Revised Code, the meeting between the governor and the board to review the administrator's performance as required under division (F)(15) of this section shall be considered a meeting regarding the employment of the administrator.

Sec. 4121.121. (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an

organization or organizations of substantial size and complexity. A person appointed to the position of administrator also shall possess a minimum of five years of experience in the field of workers' compensation insurance or in another insurance industry, except as otherwise provided when the conditions specified in division (C) of this section are satisfied. The governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code. The governor shall not appoint to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

The administrator shall hold no other public office and shall devote full time to the duties of administrator. Before entering upon the duties of the office, the administrator shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code, and shall file in the office of the secretary of state, a bond signed by the administrator and by surety approved by the governor, for the sum of fifty thousand dollars payable to the state, conditioned upon the faithful performance of the administrator's duties.

(B) The administrator is responsible for the management of the bureau and for the discharge of all administrative duties imposed upon the administrator in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, and in the discharge thereof shall do all of the following:

(1) Perform all acts and exercise all authorities and powers, discretionary and otherwise that are required of or vested in the bureau or any of its employees in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, except the acts and the exercise of authority and power that is required of and vested in the bureau of workers' compensation board of directors or the industrial commission pursuant to those chapters. The treasurer of state shall honor all warrants signed by the administrator, or by one or more of the administrator's employees, authorized by the administrator in writing, or bearing the facsimile signature of the administrator or such employee under sections 4123.42 and 4123.44 of the Revised Code.

(2) Employ, direct, and supervise all employees required in connection with the performance of the duties assigned to the bureau by this chapter and

Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, including an actuary, and may establish job classification plans and compensation for all employees of the bureau provided that this grant of authority shall not be construed as affecting any employee for whom the state employment relations board has established an appropriate bargaining unit under section 4117.06 of the Revised Code. All positions of employment in the bureau are in the classified civil service except those employees the administrator may appoint to serve at the administrator's pleasure in the unclassified civil service pursuant to section 124.11 of the Revised Code. The administrator shall fix the salaries of employees the administrator appoints to serve at the administrator's pleasure, including the chief operating officer, staff physicians, and other senior management personnel of the bureau and shall establish the compensation of staff attorneys of the bureau's legal section and their immediate supervisors, and take whatever steps are necessary to provide adequate compensation for other staff attorneys.

The administrator may appoint a person who holds a certified position in the classified service within the bureau to a position in the unclassified service within the bureau. A person appointed pursuant to this division to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may only be exercised when the administrator demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or Chapter 124., 4123., 4125., 4127., 4131., or 4167. of the Revised Code, violation of the rules of the director of administrative services or the administrator, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An employee also forfeits the right to resume a position in the classified service upon transfer to a different agency.

Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the department of administrative services. If the position the

person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the bureau that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position during the person's time of service in the position in the unclassified service.

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(4) Provide offices, equipment, supplies, and other facilities for the bureau.

(5) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for classifications of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any other information the board requires for the prompt and efficient discharge of its duties.

(6) Keep the accounts required by division (A) of section 4123.34 of the

Revised Code and all other accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds and shall obtain the statistical and other information required by section 4123.19 of the Revised Code.

(7) Exercise the investment powers vested in the administrator by section 4123.44 of the Revised Code in accordance with the investment policy approved by the board pursuant to section 4121.12 of the Revised Code and in consultation with the chief investment officer of the bureau of workers' compensation. The administrator shall not engage in any prohibited investment activity specified by the board pursuant to division (F)(9) of section 4121.12 of the Revised Code and shall not invest in any type of investment specified in divisions (B)(1) to (10) of section 4123.442 of the Revised Code. All business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property held, in the name of the bureau, or in the name of its nominee, provided that nominees are authorized by the administrator solely for the purpose of facilitating the transfer of securities, and restricted to the administrator and designated employees.

(8) Make contracts for and supervise the construction of any project or improvement or the construction or repair of buildings under the control of the bureau.

(9) Purchase supplies, materials, equipment, and services; make contracts for, operate, and superintend the telephone, other telecommunication, and computer services for the use of the bureau; and make contracts in connection with office reproduction, forms management, printing, and other services. Notwithstanding sections 125.12 to 125.14 of the Revised Code, the administrator may transfer surplus computers and computer equipment directly to an accredited public school within the state. The computers and computer equipment may be repaired or refurbished prior to the transfer.

(10) Prepare and submit to the board an annual budget for internal operating purposes for the board's approval. The administrator also shall, separately from the budget the industrial commission submits ~~and from the budget the director of the workers' compensation council submits~~, prepare and submit to the director of budget and management a budget for each biennium. The budgets submitted to the board and the director shall include estimates of the costs and necessary expenditures of the bureau in the discharge of any duty imposed by law.

(11) As promptly as possible in the course of efficient administration, decentralize and relocate such of the personnel and activities of the bureau

as is appropriate to the end that the receipt, investigation, determination, and payment of claims may be undertaken at or near the place of injury or the residence of the claimant and for that purpose establish regional offices, in such places as the administrator considers proper, capable of discharging as many of the functions of the bureau as is practicable so as to promote prompt and efficient administration in the processing of claims. All active and inactive lost-time claims files shall be held at the service office responsible for the claim. A claimant, at the claimant's request, shall be provided with information by telephone as to the location of the file pertaining to the claimant's claim. The administrator shall ensure that all service office employees report directly to the director for their service office.

(12) Provide a written binder on new coverage where the administrator considers it to be in the best interest of the risk. The administrator, or any other person authorized by the administrator, shall grant the binder upon submission of a request for coverage by the employer. A binder is effective for a period of thirty days from date of issuance and is nonrenewable. Payroll reports and premium charges shall coincide with the effective date of the binder.

(13) Set standards for the reasonable and maximum handling time of claims payment functions, ensure, by rules, the impartial and prompt treatment of all claims and employer risk accounts, and establish a secure, accurate method of time stamping all incoming mail and documents hand delivered to bureau employees.

(14) Ensure that all employees of the bureau follow the orders and rules of the commission as such orders and rules relate to the commission's overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.

(15) Manage and operate a data processing system with a common data base for the use of both the bureau and the commission and, in consultation with the commission, using electronic data processing equipment, shall develop a claims tracking system that is sufficient to monitor the status of a claim at any time and that lists appeals that have been filed and orders or determinations that have been issued pursuant to section 4123.511 or 4123.512 of the Revised Code, including the dates of such filings and issuances.

(16) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:

(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and

reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;

(e) Perform other duties assigned to it by the administrator.

(17) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.

(18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.

(19) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding procedures contained in the Revised Code.

(20) Adopt, with the advice and consent of the board, rules for the operation of the bureau.

(21) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and

4121.442 of the Revised Code.

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has a minimum of five years of experience in the field of workers' compensation insurance or in another similar insurance industry if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

Sec. 4121.125. (A) The bureau of workers' compensation board of directors, based upon recommendations of the workers' compensation actuarial committee, may contract with one or more outside actuarial firms and other professional persons, as the board determines necessary, to assist the board in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems. The board, actuarial firm or firms, and professional persons shall make such measurements and comparisons using accepted insurance industry standards, including, but not limited to, standards promulgated by the National Council on Compensation Insurance.

(B) The board may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.

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

(1) Contract to have prepared annually by or under the supervision of an actuary a report that meets the requirements specified under division (E) of this section and that consists of an actuarial valuation of the assets, liabilities, and funding requirements of the state insurance fund and all other funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Require that the actuary or person supervised by an actuary referred to in division (C)(1) of this section complete the valuation in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries;

(3) Submit the report referred to in division (C)(1) of this section to the ~~workers' compensation council and the~~ standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation on or before the first day of November following

the year for which the valuation was made;

(4) Have an actuary or a person who provides actuarial services under the supervision of an actuary, at such time as the board determines, and at least once during the five-year period that commences on September 10, 2007, and once within each five-year period thereafter, conduct an actuarial investigation of the experience of employers, the mortality, service, and injury rate of employees, and the payment of temporary total disability, permanent partial disability, and permanent total disability under sections 4123.56 to 4123.58 of the Revised Code to update the actuarial assumptions used in the report required by division (C)(1) of this section;

(5) Submit the report required under division (F) of this section to the ~~council and the~~ standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation not later than the first day of November following the fifth year of the period that the report covers;

(6) Have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the workers' compensation system;

(7) Submit the report required under division (G) of this section to the legislative service commission~~,~~ and the standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation~~, and the council~~ not later than sixty days after the date of introduction of the legislation.

(D) The administrator of workers' compensation and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the board to the extent necessary for fulfillment of both of the following requirements:

(1) Conduct of the measurements and comparisons described in division (A) of this section;

(2) Conduct of the management and financial audits and establishment of the principles and methods described in division (B) of this section.

(E) The firm or person with whom the board contracts pursuant to division (C)(1) of this section shall prepare a report of the valuation and submit the report to the board. The firm or person shall include all of the following information in the report that is required under division (C)(1) of this section:

(1) A summary of the compensation and benefit provisions evaluated;

(2) A description of the actuarial assumptions and actuarial cost method used in the valuation;

(3) A schedule showing the effect of any changes in the compensation

and benefit provisions, actuarial assumptions, or cost methods since the previous annual actuarial valuation report was submitted to the board.

(F) The actuary or person whom the board designates to conduct an actuarial investigation under division (C)(4) of this section shall prepare a report of the actuarial investigation and shall submit the report to the board. The actuary or person shall prepare the report and make any recommended changes in actuarial assumptions in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:

(1) A summary of relevant decrement and economic assumption experience;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (C)(1) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

(G) The actuary or person whom the board designates to conduct the actuarial analysis under division (C)(6) of this section shall prepare a report of the actuarial analysis and shall submit that report to the board. The actuary or person shall complete the analysis in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:

(1) A summary of the statutory changes being evaluated;

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;

(3) A description of the participant group or groups included in the report;

(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, in actuarial accrued liabilities, and, if an increase in actuarial accrued liabilities is predicted, the per cent of premium increase that would be required to amortize the increase in those liabilities as a level per cent of employer premiums over a period not to exceed thirty years.

(5) A statement of whether the employer premiums paid to the bureau of workers' compensation after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

(H) The board may, at any time, request an actuary to make any studies or actuarial valuations to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and

4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary.

(I) The board shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies approved by the board and investment procedures of the bureau. The board shall submit a copy of that audit to the auditor of state.

(J) The administrator, with the advice and consent of the board, shall employ an internal auditor who shall report findings directly to the board, workers' compensation audit committee, and administrator, except that the internal auditor shall not report findings directly to the administrator when those findings involve malfeasance, misfeasance, or nonfeasance on the part of the administrator. The board and the workers' compensation audit committee may request and review internal audits conducted by the internal auditor.

(K) The administrator shall pay the expenses incurred by the board to effectively fulfill its duties and exercise its powers under this section as the administrator pays other operating expenses of the bureau.

Sec. 4121.128. The attorney general shall be the legal adviser of the bureau of workers' compensation board of directors ~~and the workers' compensation council~~.

Sec. 4121.44. (A) The administrator of workers' compensation shall oversee the implementation of the Ohio workers' compensation qualified health plan system as established under section 4121.442 of the Revised Code.

(B) The administrator shall direct the implementation of the health partnership program administered by the bureau as set forth in section 4121.441 of the Revised Code. To implement the health partnership program, the bureau:

(1) Shall certify one or more external vendors, which shall be known as "managed care organizations," to provide medical management and cost containment services in the health partnership program for a period of two years beginning on the date of certification, consistent with the standards established under this section;

(2) May recertify external vendors for additional periods of two years; and

(3) May integrate the certified vendors with bureau staff and existing bureau services for purposes of operation and training to allow the bureau to assume operation of the health partnership program at the conclusion of the certification periods set forth in division (B)(1) or (2) of this section.

(C) Any vendor selected shall demonstrate all of the following:

(1) Arrangements and reimbursement agreements with a substantial number of the medical, professional and pharmacy providers currently being utilized by claimants.

(2) Ability to accept a common format of medical bill data in an electronic fashion from any provider who wishes to submit medical bill data in that form.

(3) A computer system able to handle the volume of medical bills and willingness to customize that system to the bureau's needs and to be operated by the vendor's staff, bureau staff, or some combination of both staffs.

(4) A prescription drug system where pharmacies on a statewide basis have access to the eligibility and pricing, at a discounted rate, of all prescription drugs.

(5) A tracking system to record all telephone calls from claimants and providers regarding the status of submitted medical bills so as to be able to track each inquiry.

(6) Data processing capacity to absorb all of the bureau's medical bill processing or at least that part of the processing which the bureau arranges to delegate.

(7) Capacity to store, retrieve, array, simulate, and model in a relational mode all of the detailed medical bill data so that analysis can be performed in a variety of ways and so that the bureau and its governing authority can make informed decisions.

(8) Wide variety of software programs which translate medical terminology into standard codes, and which reveal if a provider is manipulating the procedures codes, commonly called "unbundling."

(9) Necessary professional staff to conduct, at a minimum, authorizations for treatment, medical necessity, utilization review, concurrent review, post-utilization review, and have the attendant computer system which supports such activity and measures the outcomes and the savings.

(10) Management experience and flexibility to be able to react quickly to the needs of the bureau in the case of required change in federal or state requirements.

(D)(1) Information contained in a vendor's application for certification in the health partnership program, and other information furnished to the bureau by a vendor for purposes of obtaining certification or to comply with performance and financial auditing requirements established by the administrator, is for the exclusive use and information of the bureau in the

discharge of its official duties, and shall not be open to the public or be used in any court in any proceeding pending therein, unless the bureau is a party to the action or proceeding, but the information may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No employee of the bureau, except as otherwise authorized by the administrator, shall divulge any information secured by the employee while in the employ of the bureau in respect to a vendor's application for certification or in respect to the business or other trade processes of any vendor to any person other than the administrator or to the employee's superior.

(2) Notwithstanding the restrictions imposed by division (D)(1) of this section, the governor, members of select or standing committees of the senate or house of representatives, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4123. of the Revised Code, may examine any vendor application or other information furnished to the bureau by the vendor. None of those individuals shall divulge any information secured in the exercise of that authority in respect to a vendor's application for certification or in respect to the business or other trade processes of any vendor to any person.

(E) On and after January 1, 2001, a vendor shall not be any insurance company holding a certificate of authority issued pursuant to Title XXXIX of the Revised Code or any health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code.

(F) The administrator may limit freedom of choice of health care provider or supplier by requiring, beginning with the period set forth in division (B)(1) or (2) of this section, that claimants shall pay an appropriate out-of-plan copayment for selecting a medical provider not within the health partnership program as provided for in this section.

(G) The administrator, six months prior to the expiration of the bureau's certification or recertification of the vendor or vendors as set forth in division (B)(1) or (2) of this section, may certify and provide evidence to the governor, the speaker of the house of representatives, and the president of the senate that the existing bureau staff is able to match or exceed the performance and outcomes of the external vendor or vendors and that the bureau should be permitted to internally administer the health partnership program upon the expiration of the certification or recertification as set forth in division (B)(1) or (2) of this section.

(H) The administrator shall establish and operate a bureau of workers' compensation health care data program. The administrator shall develop reporting requirements from all employees, employers and medical

providers, medical vendors, and plans that participate in the workers' compensation system. The administrator shall do all of the following:

(1) Utilize the collected data to measure and perform comparison analyses of costs, quality, appropriateness of medical care, and effectiveness of medical care delivered by all components of the workers' compensation system.

(2) Compile data to support activities of the selected vendor or vendors and to measure the outcomes and savings of the health partnership program.

(3) Publish and report compiled data on the measures of outcomes and savings of the health partnership program and submit the report to the president of the senate, the speaker of the house of representatives, and the governor~~, and the workers' compensation council~~ with the annual report prepared under division (F)(3) of section 4121.12 of the Revised Code. The administrator shall protect the confidentiality of all proprietary pricing data.

(I) Any rehabilitation facility the bureau operates is eligible for inclusion in the Ohio workers' compensation qualified health plan system or the health partnership program under the same terms as other providers within health care plans or the program.

(J) In areas outside the state or within the state where no qualified health plan or an inadequate number of providers within the health partnership program exist, the administrator shall permit employees to use a nonplan or nonprogram health care provider and shall pay the provider for the services or supplies provided to or on behalf of an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code on a fee schedule the administrator adopts.

(K) No health care provider, whether certified or not, shall charge, assess, or otherwise attempt to collect from an employee, employer, a managed care organization, or the bureau any amount for covered services or supplies that is in excess of the allowed amount paid by a managed care organization, the bureau, or a qualified health plan.

(L) The administrator shall permit any employer or group of employers who agree to abide by the rules adopted under this section and sections 4121.441 and 4121.442 of the Revised Code to provide services or supplies to or on behalf of an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code through qualified health plans of the Ohio workers' compensation qualified health plan system pursuant to section 4121.442 of the Revised Code or through the health partnership program pursuant to section 4121.441 of the Revised Code. No amount paid under the qualified

health plan system pursuant to section 4121.442 of the Revised Code by an employer who is a state fund employer shall be charged to the employer's experience or otherwise be used in merit-rating or determining the risk of that employer for the purpose of the payment of premiums under this chapter, and if the employer is a self-insuring employer, the employer shall not include that amount in the paid compensation the employer reports under section 4123.35 of the Revised Code.

Sec. 4123.27. Information contained in the annual statement provided for in section 4123.26 of the Revised Code, and such other information as may be furnished to the bureau of workers' compensation by employers in pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding; but the information contained in the statement may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by the person while in the employ of the bureau in respect to the transactions, property, claim files, records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association, partnership, or public utility to any person other than the administrator or to the superior of such employee of the bureau.

Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4121. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers.

The administrator shall report to the director of job and family services or to the county director of job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, as that term is defined in section 5101.181 of the Revised Code, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code.

The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies.

Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients or participants of public assistance pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The administrator also shall inform the auditor of state of the amount of workers' compensation paid to the person during such period as the director specifies.

The bureau and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients or participants of public assistance in compliance with ~~division (A) of~~ section 5101.181 of the Revised Code.

~~For the purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code, Ohio works first provided under Chapter 5107. of the Revised Code, prevention, retention, and contingency benefits and services provided under Chapter 5108. of the Revised Code, or disability financial assistance provided under Chapter 5115. of the Revised Code.~~

Sec. 4123.341. The administrative costs of the industrial commission, ~~the workers' compensation council,~~ the bureau of workers' compensation board of directors, and the bureau of workers' compensation shall be those costs and expenses that are incident to the discharge of the duties and performance of the activities of the industrial commission, ~~the council,~~ the board, and the bureau under this chapter and Chapters 4121., 4125., 4127., 4131., and 4167. of the Revised Code, and all such costs shall be borne by the state and by other employers amenable to this chapter as follows:

(A) In addition to the contribution required of the state under sections 4123.39 and 4123.40 of the Revised Code, the state shall contribute the sum determined to be necessary under section 4123.342 of the Revised Code.

(B) The director of budget and management may allocate the state's share of contributions in the manner the director finds most equitably apportions the costs.

(C) The counties and taxing districts therein shall contribute such sum as may be required under section 4123.342 of the Revised Code.

(D) The private employers shall contribute the sum required under

section 4123.342 of the Revised Code.

Sec. 4123.342. (A) The administrator of workers' compensation shall allocate among counties and taxing districts therein as a class, the state and its instrumentalities as a class, private employers who are insured under the private fund as a class, and self-insuring employers as a class their fair shares of the administrative costs which are to be borne by such employers under division (D) of section 4123.341 of the Revised Code, separately allocating to each class those costs solely attributable to the activities of the industrial commission, ~~those costs solely attributable to the activities of the workers' compensation council,~~ and those costs solely attributable to the activities of the bureau of workers' compensation board of directors, and the bureau of workers' compensation in respect of the class, allocating to any combination of classes those costs attributable to the activities of the industrial commission, ~~council,~~ board, or bureau in respect of the classes, and allocating to all four classes those costs attributable to the activities of the industrial commission, ~~council,~~ board, and bureau in respect of all classes. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the board and the bureau. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the industrial commission. ~~The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the council.~~ The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the board and the bureau. The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the industrial commission. ~~The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the council.~~ In a timely manner, the industrial commission shall provide to the administrator, the information necessary for the administrator to allocate and calculate, with the approval of the chairperson of the

industrial commission, for each class of employer as described in this division, the costs solely attributable to the activities of the industrial commission. ~~In a timely manner, the director of the workers' compensation council shall submit to the administrator the information necessary for the administrator to allocate and calculate, with the approval of the director, for each class of employer as described in this division, the costs solely attributable to the activities of the council.~~

(B) The administrator shall divide the administrative cost assessments collected by the administrator into ~~three~~ two administrative assessment accounts within the state insurance fund. One of the administrative assessment accounts shall consist of the administrative cost assessment collected by the administrator for the industrial commission. ~~One of the administrative assessment accounts shall consist of the administrative cost assessment collected by the administrator for the council.~~ One of the administrative assessment accounts shall consist of the administrative cost assessments collected by the administrator for the bureau and the board. The administrator may invest the administrative cost assessments in these accounts on behalf of the bureau, ~~the council,~~ and the industrial commission as authorized in section 4123.44 of the Revised Code. In a timely manner, the administrator shall provide to the industrial commission ~~and the council~~ the information and reports the commission ~~or council, as applicable,~~ deems necessary for the commission ~~or the council, as applicable,~~ to monitor the receipts and the disbursements from the administrative assessment account for the industrial commission ~~or the administrative assessment account for the council, as applicable~~.

(C) The administrator or the administrator's designee shall transfer moneys as necessary from the administrative assessment account identified for the bureau and the board to the workers' compensation fund for the use of the bureau and the board. As necessary and upon the authorization of the industrial commission, the administrator or the administrator's designee shall transfer moneys from the administrative assessment account identified for the industrial commission to the industrial commission operating fund created under section 4121.021 of the Revised Code. To the extent that the moneys collected by the administrator in any fiscal biennium of the state equal the sum appropriated by the general assembly for administrative costs of the industrial commission, board, and bureau for the biennium ~~and the administrative costs approved by the workers' compensation council~~, the moneys shall be paid into the workers' compensation fund~~,~~ and the industrial commission operating fund of the state, ~~the workers' compensation council fund, and the workers' compensation council remuneration fund,~~ as

appropriate, and any remainder shall be retained in those funds and applied to reduce the amount collected during the next biennium.

(D) ~~As necessary and upon authorization of the director of the council, the administrator or the administrator's designee shall transfer moneys from the administrative assessment account identified for the council to the workers' compensation council fund created in division (C) of section 4121.79 of the Revised Code.~~

~~(E)~~ Sections 4123.41, 4123.35, and 4123.37 of the Revised Code apply to the collection of assessments from public and private employers respectively, except that for boards of county hospital trustees that are self-insuring employers, only those provisions applicable to the collection of assessments for private employers apply.

Sec. 4123.35. (A) Except as provided in this section, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code, and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator, and a receipt or certificate certifying that payment has been made, along with a written notice as is required in section 4123.54 of the Revised Code, shall be mailed immediately to the employer by the bureau of workers' compensation. The receipt or certificate is prima-facie evidence of the payment of the premium, and the proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section 4123.54 of the Revised Code.

The bureau of workers' compensation shall verify with the secretary of state the existence of all corporations and organizations making application for workers' compensation coverage and shall require every such application to include the employer's federal identification number.

An employer as defined in division (B)(2) of section 4123.01 of the Revised Code who has contracted with a subcontractor is liable for the unpaid premium due from any subcontractor with respect to that part of the payroll of the subcontractor that is for work performed pursuant to the contract with the employer.

Division (A) of this section providing for the payment of premiums semiannually does not apply to any employer who was a subscriber to the

state insurance fund prior to January 1, 1914, or who may first become a subscriber to the fund in any month other than January or July. Instead, the semiannual premiums shall be paid by those employers from time to time upon the expiration of the respective periods for which payments into the fund have been made by them.

The administrator shall adopt rules to permit employers to make periodic payments of the semiannual premium due under this division. The rules shall include provisions for the assessment of interest charges, where appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau immediately shall mail a receipt or certificate to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' compensation coverage under this chapter continues uninterrupted upon timely receipt of payment under this division.

Every public employer, except public employers that are self-insuring employers under this section, shall comply with sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in regard to the contribution of moneys to the public insurance fund.

(B) Employers who will abide by the rules of the administrator and who may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and who do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application.

All employers granted status as self-insuring employers shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the

employer's ability to promptly meet all the obligations imposed on the employer by this section.

(1) The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the employer by this section:

(a) The employer employs a minimum of five hundred employees in this state;

(b) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;

(c) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(d) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;

(e) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(f) The employer's organizational plan for the administration of the workers' compensation law;

(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and

(h) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will be honored by a financial institution in this state.

The administrator may waive the requirements of divisions (B)(1)(a) and (b) of this section and the requirement of division (B)(1)(e) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an employer shall meet in order for the administrator to waive the requirement of division (B)(1)(e) of this section. Such rules may require additional security of that employer pursuant to division (E) of section 4123.351 of the Revised Code.

The administrator shall not grant the status of self-insuring employer to the state, except that the administrator may grant the status of self-insuring employer to a state institution of higher education, excluding its hospitals, that meets the requirements of division (B)(2) of this section.

(2) When considering the application of a public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, the administrator shall verify that the public employer satisfies all of the following requirements as the requirements apply to that public employer:

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year immediately preceding the year in which the public employer makes application under this section.

(b) For each of the two fiscal years preceding application under this section, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least five per cent of the public employer's general fund revenues for the fiscal year computed in accordance with generally accepted accounting principles.

(c) For the five-year period preceding application under this section, the public employer, to the extent applicable, has complied fully with the continuing disclosure requirements established in rules adopted by the United States securities and exchange commission under 17 C.F.R. 240.15c 2-12.

(d) For the five-year period preceding application under this section, the public employer has not had its local government fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.

(e) For the five-year period preceding application under this section, the public employer has not been under a fiscal watch or fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 of the Revised Code.

(f) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable

rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge a board of county commissioners described in division (G) of section 4123.01 of the Revised Code that applies for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application. All employers

granted such status shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section. The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the board as an employer by this section:

(1) The board as an employer employs a minimum of five hundred employees in this state;

(2) The board has operated in this state for a minimum of two years;

(3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;

(5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(6) The board's organizational plan for the administration of the workers' compensation law;

(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;

(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;

(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator.

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees

whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code.

(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide that all self-insuring employers shall pay into the state insurance fund such amounts as are required to be credited to the surplus fund in division (B) of section 4123.34 of the Revised Code. The administrator may adopt rules establishing requirements in addition to the requirements described in division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status.

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a statement, containing its findings of fact, that is prepared by the bureau and signed by the administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium

into the state insurance fund. The administrator also shall adopt rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer and fixing time limits beyond which failure of the self-insuring employer to provide for the necessary medical examinations and evaluations may not delay a decision on a claim.

(G) The administrator shall adopt rules setting forth procedures for auditing the program of self-insuring employers. The bureau shall conduct the audit upon a random basis or whenever the bureau has grounds for believing that a self-insuring employer is not in full compliance with bureau rules or this chapter.

The administrator shall monitor the programs conducted by self-insuring employers, to ensure compliance with bureau requirements and for that purpose, shall develop and issue to self-insuring employers standardized forms for use by the self-insuring employer in all aspects of the self-insuring employers' direct compensation program and for reporting of information to the bureau.

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action.

The administrator shall adopt as a rule a prohibition against any self-insuring employer from harassing, dismissing, or otherwise disciplining any employee making a complaint, which rule shall provide for a financial penalty to be levied by the administrator payable by the offending self-insuring employer.

(H) For the purpose of making determinations as to whether to grant status as a self-insuring employer, the administrator may subscribe to and pay for a credit reporting service that offers financial and other business information about individual employers. The costs in connection with the bureau's subscription or individual reports from the service about an applicant may be included in the application fee charged employers under this section.

(I) The administrator, notwithstanding other provisions of this chapter, may permit a self-insuring employer to resume payment of premiums to the state insurance fund with appropriate credit modifications to the employer's basic premium rate as such rate is determined pursuant to section 4123.29 of

the Revised Code.

(J) On the first day of July of each year, the administrator shall calculate separately each self-insuring employer's assessments for the safety and hygiene fund, administrative costs pursuant to section 4123.342 of the Revised Code, and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, on the basis of the paid compensation attributable to the individual self-insuring employer according to the following calculation:

(1) The total assessment against all self-insuring employers as a class for each fund and for the administrative costs for the year that the assessment is being made, as determined by the administrator, divided by the total amount of paid compensation for the previous calendar year attributable to all amenable self-insuring employers;

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum assessment the administrator shall determine on the first day of July of each year with the advice and consent of the bureau of workers' compensation board of directors, in which event, the self-insuring employer shall pay the minimum assessment.

In determining the total amount due for the total assessment against all self-insuring employers as a class for each fund and the administrative assessment, the administrator shall reduce proportionately the total for each fund and assessment by the amount of money in the self-insurance assessment fund as of the date of the computation of the assessment.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for handicapped reimbursement in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in the handicapped reimbursement program and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in the handicapped reimbursement program. The administrator, as the administrator determines appropriate, may determine the total assessment for the handicapped portion of the surplus fund in accordance with sound actuarial principles.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that under division (D) of section 4121.66 of the Revised Code is used for rehabilitation costs in the same manner as set forth in divisions (J)(1) and (2) of this section, except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers who have not made the election to make payments directly under division (D) of section 4121.66 of the Revised Code and an individual self-insuring employer's proportion of paid compensation only for those self-insuring employers who have not made that election.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for reimbursement to a self-insuring employer under division (H) of section 4123.512 of the Revised Code in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state.

(K) ~~The administrator shall deposit any moneys received from a self-insuring employer for the self-insuring employer's assessment to pay the costs solely attributable to the workers' compensation council into the administrative assessment account described in division (B) of section 4123.342 of the Revised Code for the administrative cost assessment collected by the administrator for the council.~~ There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from the surplus fund pursuant to section 4123.512 of the Revised Code for any paid compensation. The self-insuring employer also shall exclude from the paid compensation reported any amount recovered under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to or on behalf of a claimant in any final administrative or judicial proceeding. The self-insuring employer shall exclude such amounts from the paid compensation reported in the reporting period subsequent to the date the determination is made. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, that provide for all of the following:

(1) Establishing the date by which self-insuring employers must submit such information and the amount of the assessments provided for in division (J) of this section for employers who have been granted self-insuring status within the last calendar year;

(2) If an employer fails to pay the assessment when due, the administrator may add a late fee penalty of not more than five hundred dollars to the assessment plus an additional penalty amount as follows:

(a) For an assessment from sixty-one to ninety days past due, the prime interest rate, multiplied by the assessment due;

(b) For an assessment from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due;

(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due;

(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;

(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;

(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied

by the assessment due.

(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.

For purposes of division (L)(2) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the self-insuring employer, and all amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (R) of this section, if the construction project is estimated to exceed twenty-five million dollars. The administrator may waive such cost and time criteria and grant a self-insuring employer the privilege to self-insure a construction project regardless of the time needed to complete the construction project and provided that the cost of the construction project is estimated to exceed fifty million dollars. A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the

estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement governing the rights, duties, and obligations of each of the parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization.

A self-insuring employer may apply to self-insure the employees of either of the following:

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project;

(2) All contractors and, at the administrator's discretion, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project.

Upon approval of the application, the administrator shall mail a certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project.

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate.

Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under this chapter and Chapter 4121. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project. For purposes of this chapter and Chapter 4121. of the Revised Code, a claim that is administered and paid in accordance with this division is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer listed in the certificate, all claims that arise under this chapter and Chapter 4121. of the Revised Code in connection with the construction project for which the

certificate is issued.

A self-insuring employer who complies with this division is entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the employees of the contractors and subcontractors covered under a certificate issued under this division for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project, as if the employees were employees of the self-insuring employer, provided that the self-insuring employer also complies with this section. No employee of the contractors and subcontractors covered under a certificate issued under this division shall be considered the employee of the self-insuring employer listed in that certificate for any purposes other than this chapter and Chapter 4121. of the Revised Code. Nothing in this division gives a self-insuring employer authority to control the means, manner, or method of employment of the employees of the contractors and subcontractors covered under a certificate issued under this division.

The contractors and subcontractors included under a certificate issued under this division are entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the contractor's or subcontractor's employees who are employed on the construction project which is the subject of the certificate, for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project.

The contractors and subcontractors included under a certificate issued under this division shall identify in their payroll records the employees who are considered the employees of the self-insuring employer listed in that certificate for purposes of this chapter and Chapter 4121. of the Revised Code, and the amount that those employees earned for employment on the construction project that is the subject of that certificate. Notwithstanding any provision to the contrary under this chapter and Chapter 4121. of the Revised Code, the administrator shall exclude the payroll that is reported for employees who are considered the employees of the self-insuring employer listed in that certificate, and that the employees earned for employment on the construction project that is the subject of that certificate, when determining those contractors' or subcontractors' premiums or assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as those rights existed prior to September 17, 1996. Nothing in this division shall be construed as altering the rights devolved under sections 2305.31 and 4123.82 of the Revised Code as those rights existed prior to September 17, 1996.

As used in this division, "privilege to self-insure a construction project" means privilege to pay individually compensation, and to furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees.

(P) A self-insuring employer whose application is granted under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties:

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project;

(2) Investigate the status of a claim upon the request of an employee to do so;

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the

construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised Code;

(6) A municipal power agency as defined in section 3734.058 of the Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4131.03. (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a coal-workers pneumoconiosis fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The fund shall consist of premiums and other payments thereto by subscribers who elect to subscribe to the fund to insure the payment of

benefits required by the federal act.

(B)(1) The coal-workers pneumoconiosis fund shall be in the custody of the treasurer of state. The bureau of workers' compensation shall make disbursements from the fund to those persons entitled to payment therefrom and in the amounts required pursuant to sections 4131.01 to 4131.06 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(2) ~~The~~ Beginning July 1, 2011, and ending June 30, 2013, the director of natural resources annually may request the administrator of workers' compensation to transfer a portion of the investment earnings credited to the coal-workers pneumoconiosis fund as provided in this division. If the administrator receives a request from the director, the administrator ~~of workers' compensation may~~, on the first day of July, or as soon as possible after that date, shall transfer ~~a portion of~~ from the investment earnings credited to the coal-workers pneumoconiosis fund an amount not to exceed three million dollars to the mine safety fund created in section 1561.24 of the Revised Code for the purposes specified in that section and an amount not to exceed one million five hundred thousand dollars to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code for the purposes specified in that section. The administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules governing the transfer in order to ensure the solvency of the coal-workers pneumoconiosis fund. For that purpose, the rules may establish tests based on measures of net assets, liabilities, expenses, interest, dividend income, or other factors that the administrator determines appropriate that may be applied prior to a transfer.

(C) The administrator shall have the same powers to invest any of the surplus or reserve belonging to the coal-workers pneumoconiosis fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund.

(D) If the administrator determines that reinsurance of the risks of the coal-workers pneumoconiosis fund is necessary to assure solvency of the fund, the administrator may:

(1) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance;

(2) Pay the cost of reinsurance from the fund;

(3) Include the costs of reinsurance as a liability and estimated liability of the fund.

Sec. 4141.08. (A) There is hereby created an unemployment

compensation advisory council appointed as follows:

(1) Three members who on account of their vocation, employment, or affiliations can be classed as representative of employers and three members who on account of their vocation, employment, or affiliation can be classed as representatives of employees appointed by the governor with the advice and consent of the senate. All appointees shall be persons whose training and experience qualify them to deal with the difficult problems of unemployment compensation, particularly with respect to the legal, accounting, actuarial, economic, and social aspects of unemployment compensation;

(2) The chairpersons of the standing committees of the senate and the house of representatives to which legislation pertaining to Chapter 4141. of the Revised Code is customarily referred;

(3) Two members of the senate appointed by the president of the senate; and

(4) Two members of the house of representatives appointed by the speaker of the house of representatives.

The speaker and the president shall arrange that of the six legislative members appointed to the council, not more than three are members of the same political party.

(B) Members appointed by the governor shall serve for a term of four years, each term ending on the same day as the date of their original appointment. Legislative members shall serve during the session of the general assembly to which they are elected and for as long as they are members of the general assembly. Vacancies shall be filled in the same manner as the original appointment but only for the unexpired part of a term.

(C) Members of the council shall serve without salary but, notwithstanding section 101.26 of the Revised Code, shall be paid a meeting stipend of fifty dollars per day each and their actual and necessary expenses while engaged in the performance of their duties as members of the council which shall be paid from funds allocated to pay the expenses of the council pursuant to this section.

(D) The council shall organize itself and select a chairperson or co-chairpersons and other officers and committees as it considers necessary. Seven members constitute a quorum and the council may act only upon the affirmative vote of seven members. The council shall meet at least once each calendar quarter but it may meet more often as the council considers necessary or at the request of the chairperson.

(E) The council may employ professional and clerical assistance as it

considers necessary and may request of the director of job and family services assistance as it considers necessary. The director shall furnish the council with office and meeting space as requested by the council.

(F) The director shall pay the operating expenses of the council ~~as determined by the council~~ from moneys in the unemployment compensation special administrative fund established in section 4141.11 of the Revised Code.

(G) The council shall have access to only the records of the department of job and family services that are necessary for the administration of this chapter and to the reasonable services of the employees of the department. It may request the director, or any of the employees appointed by the director, or any employer or employee subject to this chapter, to appear before it and to testify relative to the functioning of this chapter and to other relevant matters. The council may conduct research of its own, make and publish reports, and recommend to the director, the unemployment compensation review commission, the governor, or the general assembly needed changes in this chapter, or in the rules of the department as it considers necessary.

Sec. 4141.11. There is hereby created in the state treasury the unemployment compensation special administrative fund. The fund shall consist of all interest collected on delinquent contributions pursuant to this chapter, all fines and forfeitures collected under this chapter, and all court costs and interest paid or collected in connection with the repayment of fraudulently obtained benefits pursuant to section 4141.35 of the Revised Code. All interest earned on the money in the fund shall be retained in the fund and shall not be credited or transferred to any other fund or account, except as provided in division (B) of this section. All moneys which are deposited or paid into this fund may be used by:

(A) The director of job and family services ~~with the approval of the unemployment compensation advisory council~~ whenever it appears that such use is necessary for:

(1) The proper administration of this chapter and no federal funds are available for the specific purpose for which the expenditure is to be made, provided the moneys are not substituted for appropriations from federal funds, which in the absence of such moneys would be available;

(2) The proper administration of this chapter for which purpose appropriations from federal funds have been requested and approved but not received, provided the fund would be reimbursed upon receipt of the federal appropriation;

(3) To the extent possible, the repayment to the unemployment compensation administration fund of moneys found by the proper agency of

the United States to have been lost or expended for purposes other than, or an amount in excess of, those found necessary by the proper agency of the United States for the administration of this chapter.

(B) The director or the director's deputy whenever it appears that such use is necessary for the payment of refunds or adjustments of interest, fines, forfeitures, or court costs erroneously collected and paid into this fund pursuant to this chapter.

(C) The director, to pay state disaster unemployment benefits pursuant to section 4141.292 of the Revised Code. ~~The director need not have prior approval from the council to make these payments.~~

(D) The director, to pay any costs attributable to the director that are associated with the sale of real property under section 4141.131 of the Revised Code. ~~The director need not have prior approval from the council to make these payments.~~

Whenever the balance in the unemployment compensation special administrative fund is considered to be excessive by the ~~council~~ director, the director shall request the director of budget and management to transfer to the unemployment compensation fund the amount considered to be excessive. Any balance in the unemployment compensation special administrative fund shall not lapse at any time, but shall be continuously available to the director of ~~jobs~~ job and family services ~~or to the council~~ for expenditures consistent with this chapter.

Sec. 4141.33. (A) ~~"Seasonal~~ As used in this section:

(1) "Reasonable assurance" means a written, verbal, or implied agreement that the individual will perform services in the same or similar capacity during the ensuing sports season or seasonal period.

(2) "Seasonal employment" means employment of individuals hired primarily to perform services in an industry which because of climatic conditions or because of the seasonal nature of such industry it is customary to operate only during regularly recurring periods of forty weeks or less in any consecutive fifty-two weeks. ~~"Seasonal~~

(3) "Seasonal employer" means an employer determined by the director of job and family services to be an employer whose operations and business, with the exception of certain administrative and maintenance operations, are substantially all in a seasonal industry. ~~Any~~

(4) "Significantly" means forty per cent or more of an individual's base period consists of services performed in seasonal employment.

(B) Any employer who claims to have seasonal employment in a seasonal industry may file with the director a written application for classification of such employment as seasonal. Whenever in any industry it

is customary to operate because of climatic conditions or because of the seasonal nature of such industry only during regularly recurring periods of forty weeks or less duration, benefits shall be payable only during the longest seasonal periods which the best practice of such industry will reasonably permit. The director shall determine, after investigation, hearing, and due notice, whether the industry is seasonal and, if seasonal, establish seasonal periods for such seasonal employer. Until such determination by the director, no industry or employment shall be deemed seasonal.

~~(B)~~(C) When the director has determined such seasonal periods, the director shall also establish the proportionate number of weeks of employment and earnings required to qualify for seasonal benefit rights in place of the weeks of employment and earnings requirement stipulated in division (R) of section 4141.01 and section 4141.30 of the Revised Code, and the proportionate number of weeks for which seasonal benefits may be paid. An individual whose base period employment consists of only seasonal employment for a single seasonal employer and who meets the employment and earnings requirements determined by the director pursuant to this division will have benefit rights determined in accordance with this division, except benefits shall not be paid for any week between two successive seasonal periods. Benefit charges for such seasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code. The director may adopt rules for implementation of this section.

~~(C)~~(D) An individual whose base period employment consists of either seasonal employment with two or more seasonal employers or both seasonal employment and nonseasonal employment with employers subject to this chapter, will have benefit rights determined in accordance with division (R) of section 4141.01 and section 4141.30 of the Revised Code. Benefit charges for both seasonal and nonseasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code. The total seasonal and nonseasonal benefits during a benefit year cannot exceed twenty-six times the weekly benefit amount. Effective October 30, 2011, an individual who performs services that significantly consist of services performed in seasonal employment shall not be paid benefits for those services for any week in the period between two successive seasonal periods if the individual performed those services in the first of the seasonal periods and there is reasonable assurance that the individual will perform those services in the later of the seasonal periods. The director shall adopt rules for the implementation of this division.

~~(D)~~(E) Benefits shall not be paid to any individual on the basis of any

services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons, or similar periods, if the individual performed services in the first of the seasons, or similar periods, and there is a reasonable assurance that the individual will perform services in the later of the seasons, or similar periods.

~~(1) The term "reasonable assurance" as used in this division means a written, verbal, or implied agreement that the individual will perform services in the same or similar capacity during the ensuing sports season.~~

~~(2)~~(F) The director shall adopt rules concerning the eligibility for benefits of individuals under divisions (D) and (E) of this ~~division~~ section.

Sec. 4301.12. The division of liquor control shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by it or any of its employees or agents prior to paying them to the treasurer of state as provided by section 113.08 of the Revised Code.

A sum equal to three dollars and thirty-eight cents for each gallon of spirituous liquor sold by the division, JobsOhio, or a designee of JobsOhio during the period covered by the payment shall be paid into the state treasury to the credit of the general revenue fund. All moneys received from permit fees, except B-2a and S permit fees from B-2a and S permit holders who do not also hold A-2 permits, shall be paid to the credit of the undivided liquor permit fund established by section 4301.30 of the Revised Code.

Except as otherwise provided by law, all moneys collected under Chapters 4301. and 4303. of the Revised Code shall be paid by the division into the state treasury to the credit of the liquor control fund, which is hereby created. In addition, revenue resulting from any contracts with the department of commerce pertaining to the responsibilities and operations described in this chapter may be credited to the fund. Amounts in the liquor control fund may be used to pay the operating expenses of the liquor control commission.

Whenever, in the judgment of the director of budget and management, the amount in the liquor control fund is in excess of that needed to meet the maturing obligations of the division, as working capital for its further operations, to pay the operating expenses of the commission, and for the alcohol testing program under section 3701.143 of the Revised Code, the director shall transfer the excess to the credit of the general revenue fund. If the director determines that the amount in the liquor control fund is insufficient, the director may transfer money from the general revenue fund

to the liquor control fund.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2009~~ 2011, through June 30, ~~2011~~ 2013, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4301.62. (A) As used in this section:

(1) "Chauffeured limousine" means a vehicle registered under section 4503.24 of the Revised Code.

(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code.

(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) In a state liquor store;

(2) Except as provided in division (C) of this section, on the premises of the holder of any permit issued by the division of liquor control;

(3) In any other public place;

(4) Except as provided in division (D) or (E) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in division (D) or (E) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(C)(1) A person may have in the person's possession an opened container of any of the following:

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 permit;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;

(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;

(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission.

(2) A person may have in the person's possession on an F liquor permit

premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(3)(a) A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

(b) As used in division (C)(3)(a) of this section:

(i) "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.

(ii) "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in division (C)(3)(b)(i) of this section if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(D) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine.

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or

parking.

(E) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

Sec. 4301.80. (A) As used in this section, "community entertainment district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

(1) Hotels;

(2) Restaurants;

(3) Retail sales establishments;

(4) Enclosed shopping centers;

(5) Museums;

(6) Performing arts theaters;

(7) Motion picture theaters;

(8) Night clubs;

(9) Convention facilities;

(10) Sports facilities;

(11) Entertainment facilities or complexes;

(12) Any combination of the establishments described in division (A)(1) to (11) of this section that provide similar services to the community.

(B) Any owner of property located in a municipal corporation seeking to have that property, or that property and other surrounding property, designated as a community entertainment district shall file an application seeking this designation with the mayor of the municipal corporation in which that property is located. Any owner of property located in the unincorporated area of a township seeking to have that property, or that property and other surrounding property, designated as a community

entertainment district shall file an application seeking this designation with the board of township trustees of the township in whose unincorporated area that property is located. An application to designate an area as a community entertainment district shall contain all of the following:

(1) The applicant's name and address;

(2) A map or survey of the proposed community entertainment district in sufficient detail to identify the boundaries of the district and the property owned by the applicant;

(3) A general statement of the nature and types of establishments described in division (A) of this section that are or will be located within the proposed community improvement district and any other establishments located in the proposed community entertainment district that are not described in division (A) of this section;

(4) If some or all of the establishments within the proposed community entertainment district have not yet been developed, the proposed time frame for completing the development of these establishments;

(5) Evidence that the uses of land within the proposed community entertainment district are in accord with the municipal corporation's or township's master zoning plan or map;

(6) A certificate from a surveyor or engineer licensed under Chapter 4733. of the Revised Code indicating that the area encompassed by the proposed community entertainment district contains no less than twenty contiguous acres;

(7) A handling and processing fee to accompany the application, payable to the applicable municipal corporation or township, in an amount determined by that municipal corporation or township.

(C) An application described in division (B) of this section relating to an area located in a municipal corporation shall be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within thirty days after receiving the application, shall submit the application with the mayor's recommendation to the legislative authority of the municipal corporation. An application described in division (B) of this section relating to an area located in the unincorporated area of a township shall be addressed and submitted to the board of township trustees of the township in whose unincorporated area the area described in the application is located. The application is a public record for purposes of section 149.43 of the Revised Code upon its receipt by the mayor or board of township trustees.

Within thirty days after it receives the application and the mayor's recommendations relating to the application, the legislative authority of the

municipal corporation, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the clerk of the municipal corporation and is available for inspection by the public during regular business hours. Within thirty days after it receives the application, the board of township trustees, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the township fiscal officer and is available for inspection by the public during regular business hours. The notice shall also indicate the date and time of any public hearing by the legislative authority or board of township trustees on the application.

Within seventy-five days after the date the application is filed with the mayor of a municipal corporation, the legislative authority of the municipal corporation by ordinance or resolution shall approve or disapprove the application based on whether the proposed community entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the municipal corporation in which the community is located. Any approval of an application shall be by an affirmative majority vote of the legislative authority.

Within seventy-five days after the date the application is filed with a board of township trustees, the board by resolution shall approve or disapprove the application based on whether the proposed community entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the township in which the community is located. Any approval of an application shall be by an affirmative majority vote of the board of township trustees.

If the legislative authority or board of township trustees disapproves the application, the applicant may make changes in the application to secure its approval by the legislative authority or board of township trustees. Any area approved by the legislative authority or board of township trustees constitutes a community entertainment district, and a local option election may be conducted in the district, as a type of community facility, under section 4301.356 of the Revised Code.

(D) All or part of an area designated as a community entertainment district may lose this designation as provided in this division. The legislative

authority of a municipal corporation in which a community entertainment district is located, or the board of township trustees of the township in whose unincorporated area a community entertainment district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, may determine by ordinance or resolution in the case of the legislative authority of a municipal corporation, or by resolution in the case of a board of township trustees of a township, that all or part of the area fails to meet the standards described in this section for designation of an area as a community entertainment district. If the legislative authority or board so determines, the area designated in the ordinance or resolution no longer constitutes a community entertainment district.

Sec. 4301.81. (A) As used in this section:

(1) "Revitalization district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

(a) Hotels;

(b) Restaurants;

(c) Retail sales establishments;

(d) Enclosed shopping centers;

(e) Museums;

(f) Performing arts theaters;

(g) Motion picture theaters;

(h) Night clubs;

(i) Convention facilities;

(j) Sports facilities;

(k) Entertainment facilities or complexes;

(l) Any combination of the establishments described in divisions (A)(1)(a) to (k) of this section that provide similar services to the community.

(2) "Municipal corporation" means a municipal corporation with a population of less than one hundred thousand.

(3) "Township" means a township with a population in its unincorporated area of less than one hundred thousand.

(B) Any owner of property located in a municipal corporation seeking to have that property, or that property and other surrounding property, designated as a revitalization district shall file an application seeking this

designation with the mayor of the municipal corporation in which that property is located. Any owner of property located in the unincorporated area of a township seeking to have that property, or that property and other surrounding property, designated as a revitalization district shall file an application seeking this designation with the board of township trustees of the township in whose unincorporated area that property is located. An application to designate an area as a revitalization district shall contain all of the following:

(1) The applicant's name and address;

(2) A map or survey of the proposed revitalization district in sufficient detail to identify the boundaries of the district and the property owned by the applicant;

(3) A general statement of the nature and types of establishments described in division (A) of this section that are or will be located within the proposed revitalization district and any other establishments located in the proposed revitalization district that are not described in division (A) of this section;

(4) If some or all of the establishments within the proposed revitalization district have not yet been developed, the proposed time frame for completing the development of these establishments;

(5) Evidence that the uses of land within the proposed revitalization district are in accord with the municipal corporation's or township's master zoning plan or map; and

(6) A handling and processing fee to accompany the application, payable to the applicable municipal corporation or township, in an amount determined by that municipal corporation or township.

(C) An application relating to an area located in a municipal corporation shall be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within thirty days after receiving the application, shall submit the application with the mayor's recommendation to the legislative authority of the municipal corporation. An application relating to an area located in the unincorporated area of a township shall be addressed and submitted to the board of township trustees of the township in whose unincorporated area the area described in the application is located. The application is a public record for purposes of section 149.43 of the Revised Code upon its receipt by the mayor or board of township trustees.

Within thirty days after it receives the application and the mayor's recommendations relating to the application, the legislative authority of the municipal corporation, by notice published once a week for two consecutive

weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the clerk of the municipal corporation and is available for inspection by the public during regular business hours. Within thirty days after it receives the application, the board of township trustees, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the township fiscal officer and is available for inspection by the public during regular business hours. The notice shall also indicate the date and time of any public hearing by the municipal legislative authority or board of township trustees on the application.

Within seventy-five days after the date the application is filed with the mayor of a municipal corporation, the legislative authority of the municipal corporation by ordinance or resolution shall approve or disapprove the application based on whether the proposed revitalization district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the municipal corporation in which the community is located. Any approval of an application shall be by an affirmative majority vote of the legislative authority. Not more than one revitalization district shall be designated within the municipal corporation.

Within seventy-five days after the date the application is filed with a board of township trustees, the board by resolution shall approve or disapprove the application based on whether the proposed revitalization district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the township in which the community is located. Any approval of an application shall be by an affirmative majority vote of the board of township trustees. Not more than one revitalization district shall be designated within the unincorporated area of the township.

If the municipal legislative authority or board of township trustees disapproves the application, the applicant may make changes in the application to secure its approval by the legislative authority or board of township trustees. Any area approved by the legislative authority or board of township trustees constitutes a revitalization district, and a local option election may be conducted in the district, as a type of community facility, under section 4301.356 of the Revised Code.

(D) All or part of an area designated as a revitalization district may lose this designation as provided in this division. The legislative authority of a municipal corporation in which a revitalization district is located, or the board of township trustees of the township in whose unincorporated area a revitalization district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, may determine by ordinance or resolution in the case of the legislative authority of a municipal corporation, or by resolution in the case of a board of township trustees of a township, that all or part of the area fails to meet the standards described in this section for designation of an area as a revitalization district. If the legislative authority or board so determines, the area designated in the ordinance or resolution no longer constitutes a revitalization district.

Sec. 4313.01. As used in this chapter:

(A) "Enterprise acquisition project" means, as applicable, all or any portion of the capital or other assets of the spirituous liquor distribution and merchandising operations of the division of liquor control, including, without limitation, inventory, real property rights, equipment, furnishings, the spirituous liquor distribution system including transportation, the monetary management system, warehouses, contract rights, rights to take assignment of contracts and related receipts and revenues, accounts receivable, the exclusive right to manage and control spirituous liquor distribution and merchandising and to sell spirituous liquor in the state subject to the control of the division of liquor control pursuant to the terms of the transfer agreement, and all necessary appurtenances thereto, or leasehold interests therein, and the assets and liabilities of the facilities establishment fund.

(B) "JobsOhio" means the nonprofit corporation formed under section 187.01 of the Revised Code and includes any subsidiary of that corporation unless otherwise specified or clearly implied from the context, together with any successor or assignee of that corporation or any such subsidiary if and to the extent permitted by the transfer agreement or Chapter 187. of the Revised Code.

(C) "Spirituous liquor profits" means all receipts representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, less the costs, expenses, and working capital provided for therein, but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as in effect on May 2, 1980, to be paid into the state treasury, provided that from and after the

initial transfer of the enterprise acquisition project to JobsOhio and until the transfer back to the state under division (D) of section 4313.02 of the Revised Code, the reference in division (B)(4) of section 4301.10 of the Revised Code to all costs and expenses of the division and also an adequate working capital reserve for the division shall be to all costs and expenses of JobsOhio and providing an adequate working capital reserve for JobsOhio.

(D) "Transfer" means an assignment and sale, conveyance, granting of a franchise, lease, or transfer of all or an interest.

(E) "Transfer agreement" means the agreement entered into between the state and JobsOhio providing for the transfer of the enterprise acquisition project pursuant to section 4313.02 of the Revised Code and any amendments or supplements thereto.

Sec. 4313.02. (A) The state may transfer to JobsOhio, and JobsOhio may accept the transfer of, all or a portion of the enterprise acquisition project for a transfer price payable by JobsOhio to the state. Any such transfer shall be treated as an absolute conveyance and true sale of the interest in the enterprise acquisition project purported to be conveyed for all purposes, and not as a pledge or other security interest. The characterization of any such transfer as a true sale and absolute conveyance shall not be negated or adversely affected by the acquisition or retention by the state of a residual or reversionary interest in the enterprise acquisition project, the participation of any state officer or employee as a member or officer of, or contracting for staff support to, JobsOhio or any subsidiary of JobsOhio, any regulatory responsibility of an officer or employee of the state, including the authority to collect amounts to be received in connection therewith, the retention of the state of any legal title to or interest in any portion of the enterprise acquisition project for the purpose of regulatory activities, or any characterization of JobsOhio or obligations of JobsOhio under accounting, taxation, or securities regulations, or any other reason whatsoever. An absolute conveyance and true sale or lease shall exist under this section regardless of whether JobsOhio has any recourse against the state or the treatment or characterization of the transfer as a financing for any purpose. Upon and following the transfer, the state shall not have any right, title, or interest in the enterprise acquisition project so transferred other than any residual interest that may be described in the transfer agreement pursuant to the following paragraph and division (D) of this section. Any determination of the fair market value of the enterprise acquisition project reflected in the transfer agreement shall be conclusive and binding on the state and JobsOhio.

Any transfer of the enterprise acquisition project that is a lease or grant

of a franchise shall be for a term not to exceed twenty-five years. Any transfer of the enterprise acquisition project that is an assignment and sale, conveyance, or other transfer shall contain a provision that the state shall have the option to have conveyed or transferred back to it, at no cost, the enterprise acquisition project, as it then exists, no later than twenty-five years after the original transfer authorized in the transfer agreement on such other terms as shall be provided in the transfer agreement.

The exercise of the powers granted by this section will be for the benefit of the people of the state. All or any portion of the enterprise acquisition project transferred pursuant to the transfer agreement that would be exempt from real property taxes or assessments or real property taxes or assessments in the absence of such transfer shall, as it may from time to time exist thereafter, remain exempt from real property taxes or assessments levied by the state and its subdivisions to the same extent as if not transferred. The gross receipts and income of JobsOhio derived from the enterprise acquisition project shall be exempt from taxation levied by the state and its subdivisions, including, but not limited to, the taxes levied pursuant to Chapters 718., 5739., 5741., 5747., and 5751. of the Revised Code. Any transfer from the state to JobsOhio of the enterprise acquisition project, or item included or to be included in the project, shall be exempt from the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code.

(B) The proceeds of any transfer under division (A) of this section may be expended as provided in the transfer agreement for any one or more of the following purposes:

(1) Funding, payment, or defeasance of outstanding bonds issued pursuant to Chapters 151. and 166. of the Revised Code and secured by pledged liquor profits as defined in section 151.40 of the Revised Code;

(2) Deposit into the general revenue fund;

(3) Deposit into the clean Ohio revitalization fund created pursuant to section 122.658 of the Revised Code, the innovation Ohio loan fund created pursuant to section 166.16 of the Revised Code, the research and development loan fund created pursuant to section 166.20 of the Revised Code, the logistics and distribution infrastructure fund created pursuant to section 166.26 of the Revised Code, the advanced energy research and development fund created pursuant to section 3706.27 of the Revised Code, and the advanced energy research and development taxable fund created pursuant to section 3706.27 of the Revised Code;

(4) Conveyance to JobsOhio for the purposes for which it was created.

(C)(1) The state may covenant, pledge, and agree in the transfer agreement, with and for the benefit of JobsOhio, that it shall maintain

statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project. The transfer agreement may provide or authorize the manner for determining material impairment of the security for any such outstanding obligations, including by assessing and evaluating the revenues of the enterprise acquisition project.

(2) The director of budget and management, in consultation with the director of commerce, may, without need for any other approval, negotiate terms of any documents, including the transfer agreement, necessary to effect the transfer and the acceptance of the transfer of the enterprise acquisition project. The director of budget and management and the director of commerce shall execute the transfer agreement on behalf of the state. The director of budget and management may also, without need for any other approval, retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the judgment of the director of budget and management to effect the transfer agreement. Any transfer agreement may contain terms and conditions established by the state to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of JobsOhio. Any such transfer agreement shall be sufficient to effectuate the transfer without regard to any other laws governing other property sales or financial transactions by the state. The director of budget and management may create any funds or accounts, within or without the state treasury, as are needed for the transactions and activities authorized by this section.

(3) The transfer agreement may authorize JobsOhio, in the ordinary course of doing business, to convey, lease, release, or otherwise dispose of any regular inventory or tangible personal property. Ownership of the interest in the enterprise acquisition project that is transferred to JobsOhio under this section and the transfer agreement shall be maintained in JobsOhio or a nonprofit entity the sole member of which is JobsOhio until the enterprise acquisition project is transferred back to the state pursuant to the second paragraph of division (A) and division (D) of this section.

(D) The transfer agreement may authorize JobsOhio to fix, alter, and collect rentals and other charges for the use and occupancy of all or any portion of the enterprise acquisition project and to lease any portion of the enterprise acquisition project to the state, and shall include a contract with, or the granting of an option to, the state to have the enterprise acquisition project, as it then exists, transferred back to it without charge in accordance with the terms of the transfer agreement after retirement or redemption, or

provision therefor, of all obligations supported by a pledge of spirituous liquor profits.

(E) JobsOhio, the director of budget and management, and the director of commerce shall, subject to approval by the controlling board, enter into a contract, which may be part of the transfer agreement, for the continuing operation by the division of liquor control of spirituous liquor distribution and merchandising subject to standards for performance provided in that contract that may relate to or support division (C)(1) of this section. The contract shall establish other terms and conditions for the assignment of duties to, and the provision of advice, services, and other assistance by, the division of liquor control, including providing for the necessary staffing and payment by JobsOhio of appropriate compensation to the division for the performance of such duties and the provision of such advice, services, and other assistance. The division of liquor control shall manage and actively supervise the activities required or authorized under sections 4301.10 and 4301.17 of the Revised Code as those sections exist on the effective date of this section, including, but not limited to, controlling the traffic in intoxicating liquor in this state and fixing the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor are sold.

(F) The transfer agreement shall require JobsOhio to pay for the operations of the division of liquor control with regard to the spirituous liquor merchandising operations of the division. The payments from JobsOhio shall be deposited into the state treasury to the credit of the liquor control fund created in section 4301.12 of the Revised Code.

(G) The transaction and transfer provided for under this section shall comply with all applicable provisions of the Ohio Constitution.

Sec. 4503.06. (A) The owner of each manufactured or mobile home that has acquired situs in this state shall pay either a real property tax pursuant to Title LVII of the Revised Code or a manufactured home tax pursuant to division (C) of this section.

(B) The owner of a manufactured or mobile home shall pay real property taxes if either of the following applies:

(1) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred on or after January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code.

(b) The home is located on land that is owned by the owner of the home.

(c) The certificate of title has been inactivated by the clerk of the court of common pleas that issued it, pursuant to division (H) of section 4505.11

of the Revised Code.

(2) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred before January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code.

(b) The home is located on land that is owned by the owner of the home.

(c) The owner of the home has elected to have the home taxed as real property and, pursuant to section 4505.11 of the Revised Code, has surrendered the certificate of title to the auditor of the county containing the taxing district in which the home has its situs, together with proof that all taxes have been paid.

(d) The county auditor has placed the home on the real property tax list and delivered the certificate of title to the clerk of the court of common pleas that issued it and the clerk has inactivated the certificate.

(C)(1) Any mobile or manufactured home that is not taxed as real property as provided in division (B) of this section is subject to an annual manufactured home tax, payable by the owner, for locating the home in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivisions in which the home has its situs pursuant to this section.

(2) The year for which the manufactured home tax is levied commences on the first day of January and ends on the following thirty-first day of December. The state shall have the first lien on any manufactured or mobile home on the list for the amount of taxes, penalties, and interest charged against the owner of the home under this section. The lien of the state for the tax for a year shall attach on the first day of January to a home that has acquired situs on that date. The lien for a home that has not acquired situs on the first day of January, but that acquires situs during the year, shall attach on the next first day of January. The lien shall continue until the tax, including any penalty or interest, is paid.

(3)(a) The situs of a manufactured or mobile home located in this state on the first day of January is the local taxing district in which the home is located on that date.

(b) The situs of a manufactured or mobile home not located in this state on the first day of January, but located in this state subsequent to that date, is the local taxing district in which the home is located thirty days after it is acquired or first enters this state.

(4) The tax is collected by and paid to the county treasurer of the county containing the taxing district in which the home has its situs.

(D) The manufactured home tax shall be computed and assessed by the county auditor of the county containing the taxing district in which the home has its situs as follows:

(1) On a home that acquired situs in this state prior to January 1, 2000:

(a) By multiplying the assessable value of the home by the tax rate of the taxing district in which the home has its situs, and deducting from the product thus obtained any reduction authorized under section 4503.065 of the Revised Code. The tax levied under this formula shall not be less than thirty-six dollars, unless the home qualifies for a reduction in assessable value under section 4503.065 of the Revised Code, in which case there shall be no minimum tax and the tax shall be the amount calculated under this division.

(b) The assessable value of the home shall be forty per cent of the amount arrived at by the following computation:

(i) If the cost to the owner, or market value at time of purchase, whichever is greater, of the home includes the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year in which the home is owned by the current owner	x	80%
2nd calendar year	x	75%
3rd "	x	70%
4th "	x	65%
5th "	x	60%
6th "	x	55%
7th "	x	50%
8th "	x	45%
9th "	x	40%
10th and each year thereafter	x	35%

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(ii) If the cost to the owner, or market value at the time of purchase, whichever is greater, of the home does not include the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year in which the home is owned by the

current owner	x	95%
2nd calendar year	x	90%
3rd "	x	85%
4th "	x	80%
5th "	x	75%
6th "	x	70%
7th "	x	65%
8th "	x	60%
9th "	x	55%
10th and each year thereafter	x	50%

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(2) On a home in which ownership was transferred or that first acquired situs in this state on or after January 1, 2000:

(a) By multiplying the assessable value of the home by the effective tax rate, as defined in section 323.08 of the Revised Code, for residential real property of the taxing district in which the home has its situs, and deducting from the product thus obtained the reductions required or authorized under section 319.302, division (B) of section 323.152, or section 4503.065 of the Revised Code.

(b) The assessable value of the home shall be thirty-five per cent of its true value as determined under division (L) of this section.

(3) On or before the fifteenth day of January each year, the county auditor shall record the assessable value and the amount of tax on the manufactured or mobile home on the tax list and deliver a duplicate of the list to the county treasurer. In the case of an emergency as defined in section 323.17 of the Revised Code, the tax commissioner, by journal entry, may extend the times for delivery of the duplicate for an additional fifteen days upon receiving a written application from the county auditor regarding an extension for the delivery of the duplicate, or from the county treasurer regarding an extension of the time for the billing and collection of taxes. The application shall contain a statement describing the emergency that will cause the unavoidable delay and must be received by the tax commissioner on or before the last day of the month preceding the day delivery of the duplicate is otherwise required. When an extension is granted for delivery of the duplicate, the time period for payment of taxes shall be extended for a like period of time. When a delay in the closing of a tax collection period becomes unavoidable, the tax commissioner, upon application by the county auditor and county treasurer, may order the time for payment of taxes to be extended if the tax commissioner determines that penalties have accrued or

would otherwise accrue for reasons beyond the control of the taxpayers of the county. The order shall prescribe the final extended date for payment of taxes for that collection period.

(4) After January 1, 1999, the owner of a manufactured or mobile home taxed pursuant to division (D)(1) of this section may elect to have the home taxed pursuant to division (D)(2) of this section by filing a written request with the county auditor of the taxing district in which the home is located on or before the first day of December of any year. Upon the filing of the request, the county auditor shall determine whether all taxes levied under division (D)(1) of this section have been paid, and if those taxes have been paid, the county auditor shall tax the manufactured or mobile home pursuant to division (D)(2) of this section commencing in the next tax year.

(5) A manufactured or mobile home that acquired situs in this state prior to January 1, 2000, shall be taxed pursuant to division (D)(2) of this section if no manufactured home tax had been paid for the home and the home was not exempted from taxation pursuant to division (E) of this section for the year for which the taxes were not paid.

(6)(a) Immediately upon receipt of any manufactured home tax duplicate from the county auditor, but not less than twenty days prior to the last date on which the first one-half taxes may be paid without penalty as prescribed in division (F) of this section, the county treasurer shall cause to be prepared and mailed or delivered to each person charged on that duplicate with taxes, or to an agent designated by such person, the tax bill prescribed by the tax commissioner under division (D)(7) of this section. When taxes are paid by installments, the county treasurer shall mail or deliver to each person charged on such duplicate or the agent designated by that person a second tax bill showing the amount due at the time of the second tax collection. The second half tax bill shall be mailed or delivered at least twenty days prior to the close of the second half tax collection period. A change in the mailing address of any tax bill shall be made in writing to the county treasurer. Failure to receive a bill required by this section does not excuse failure or delay to pay any taxes shown on the bill or, except as provided in division (B)(1) of section 5715.39 of the Revised Code, avoid any penalty, interest, or charge for such delay.

(b) After delivery of the copy of the delinquent manufactured home tax list under division (H) of this section, the county treasurer may prepare and mail to each person in whose name a home is listed an additional tax bill showing the total amount of delinquent taxes charged against the home as shown on the list. The tax bill shall include a notice that the interest charge prescribed by division (G) of this section has begun to accrue.

(7) Each tax bill prepared and mailed or delivered under division (D)(6) of this section shall be in the form and contain the information required by the tax commissioner. The commissioner may prescribe different forms for each county and may authorize the county auditor to make up tax bills and tax receipts to be used by the county treasurer. The tax bill shall not contain or be mailed or delivered with any information or material that is not required by this section or that is not authorized by section 321.45 of the Revised Code or by the tax commissioner. In addition to the information required by the commissioner, each tax bill shall contain the following information:

(a) The taxes levied and the taxes charged and payable against the manufactured or mobile home;

(b) The following notice: "Notice: If the taxes are not paid within sixty days after the county auditor delivers the delinquent manufactured home tax list to the county treasurer, you and your home may be subject to collection proceedings for tax delinquency." Failure to provide such notice has no effect upon the validity of any tax judgment to which a home may be subjected.

(c) In the case of manufactured or mobile homes taxed under division (D)(2) of this section, the following additional information:

(i) The effective tax rate. The words "effective tax rate" shall appear in boldface type.

(ii) The following notice: "Notice: If the taxes charged against this home have been reduced by the 2-1/2 per cent tax reduction for residences occupied by the owner but the home is not a residence occupied by the owner, the owner must notify the county auditor's office not later than March 31 of the year for which the taxes are due. Failure to do so may result in the owner being convicted of a fourth degree misdemeanor, which is punishable by imprisonment up to 30 days, a fine up to $250, or both, and in the owner having to repay the amount by which the taxes were erroneously or illegally reduced, plus any interest that may apply.

If the taxes charged against this home have not been reduced by the 2-1/2 per cent tax reduction and the home is a residence occupied by the owner, the home may qualify for the tax reduction. To obtain an application for the tax reduction or further information, the owner may contact the county auditor's office at ..... (insert the address and telephone number of the county auditor's office)."

(E)(1) A manufactured or mobile home is not subject to this section when any of the following applies:

(a) It is taxable as personal property pursuant to section 5709.01 of the

Revised Code. Any manufactured or mobile home that is used as a residence shall be subject to this section and shall not be taxable as personal property pursuant to section 5709.01 of the Revised Code.

(b) It bears a license plate issued by any state other than this state unless the home is in this state in excess of an accumulative period of thirty days in any calendar year.

(c) The annual tax has been paid on the home in this state for the current year.

(d) The tax commissioner has determined, pursuant to section 5715.27 of the Revised Code, that the property is exempt from taxation, or would be exempt from taxation under Chapter 5709. of the Revised Code if it were classified as real property.

(2) A travel trailer or park trailer, as these terms are defined in section 4501.01 of the Revised Code, is not subject to this section if it is unused or unoccupied and stored at the owner's normal place of residence or at a recognized storage facility.

(3) A travel trailer or park trailer, as these terms are defined in section 4501.01 of the Revised Code, is subject to this section and shall be taxed as a manufactured or mobile home if it has a situs longer than thirty days in one location and is connected to existing utilities, unless either of the following applies:

(a) The situs is in a state facility or a camping or park area as defined in division (C), (Q), (S), or (V) of section 3729.01 of the Revised Code.

(b) The situs is in a camping or park area that is a tract of land that has been limited to recreational use by deed or zoning restrictions and subdivided for sale of five or more individual lots for the express or implied purpose of occupancy by either self-contained recreational vehicles as defined in division (T) of section 3729.01 of the Revised Code or by dependent recreational vehicles as defined in division (D) of section 3729.01 of the Revised Code.

(F) Except as provided in division (D)(3) of this section, the manufactured home tax is due and payable as follows:

(1) When a manufactured or mobile home has a situs in this state, as provided in this section, on the first day of January, one-half of the amount of the tax is due and payable on or before the first day of March and the balance is due and payable on or before the thirty-first day of July. At the option of the owner of the home, the tax for the entire year may be paid in full on the first day of March.

(2) When a manufactured or mobile home first acquires a situs in this state after the first day of January, no tax is due and payable for that year.

(G)(1)(a) Except as otherwise provided in division (G)(1)(b) of this section, if one-half of the current taxes charged under this section against a manufactured or mobile home, together with the full amount of any delinquent taxes, are not paid on or before the first day of March in that year, or on or before the last day for such payment as extended pursuant to section 4503.063 of the Revised Code, a penalty of ten per cent shall be charged against the unpaid balance of such half of the current taxes. If the total amount of all such taxes is not paid on or before the thirty-first day of July, next thereafter, or on or before the last day for payment as extended pursuant to section 4503.063 of the Revised Code, a like penalty shall be charged on the balance of the total amount of the unpaid current taxes.

(b) After a valid delinquent tax contract that includes unpaid current taxes from a first-half collection period described in division (F) of this section has been entered into under section 323.31 of the Revised Code, no ten per cent penalty shall be charged against such taxes after the second-half collection period while the delinquent tax contract remains in effect. On the day a delinquent tax contract becomes void, the ten per cent penalty shall be charged against such taxes and shall equal the amount of penalty that would have been charged against unpaid current taxes outstanding on the date on which the second-half penalty would have been charged thereon under division (G)(1)(a) of this section if the contract had not been in effect.

(2)(a) On the first day of the month following the last day the second installment of taxes may be paid without penalty beginning in 2000, interest shall be charged against and computed on all delinquent taxes other than the current taxes that became delinquent taxes at the close of the last day such second installment could be paid without penalty. The charge shall be for interest that accrued during the period that began on the preceding first day of December and ended on the last day of the month that included the last date such second installment could be paid without penalty. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the delinquent manufactured home tax list compiled under division (H) of this section.

(b) On the first day of December beginning in 2000, the interest shall be charged against and computed on all delinquent taxes. The charge shall be for interest that accrued during the period that began on the first day of the month following the last date prescribed for the payment of the second installment of taxes in the current year and ended on the immediately preceding last day of November. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the delinquent manufactured home tax list.

(c) After a valid undertaking has been entered into for the payment of any delinquent taxes, no interest shall be charged against such delinquent taxes while the undertaking remains in effect in compliance with section 323.31 of the Revised Code. If a valid undertaking becomes void, interest shall be charged against the delinquent taxes for the periods that interest was not permitted to be charged while the undertaking was in effect. The interest shall be charged on the day the undertaking becomes void and shall equal the amount of interest that would have been charged against the unpaid delinquent taxes outstanding on the dates on which interest would have been charged thereon under divisions (G)(1) and (2) of this section had the undertaking not been in effect.

(3) If the full amount of the taxes due at either of the times prescribed by division (F) of this section is paid within ten days after such time, the county treasurer shall waive the collection of and the county auditor shall remit one-half of the penalty provided for in this division for failure to make that payment by the prescribed time.

(4) The treasurer shall compile and deliver to the county auditor a list of all tax payments the treasurer has received as provided in division (G)(3) of this section. The list shall include any information required by the auditor for the remission of the penalties waived by the treasurer. The taxes so collected shall be included in the settlement next succeeding the settlement then in process.

(H)(1) ~~Beginning in 2000, the~~ The county auditor shall compile annually a "delinquent manufactured home tax list" consisting of homes the county treasurer's records indicate have taxes that were not paid within the time prescribed by divisions (D)(3) and (F) of this section, have taxes that remain unpaid from prior years, or have unpaid tax penalties or interest that have been assessed.

(2) Within thirty days after the settlement under division (H)(2) of section 321.24 of the Revised Code ~~beginning in 2000~~, the county auditor shall deliver a copy of the delinquent manufactured home tax list to the county treasurer. The auditor shall update and publish the delinquent manufactured home tax list annually in the same manner as delinquent real property tax lists are published. The county auditor ~~shall~~ may apportion the cost of publishing the list among taxing districts in proportion to the amount of delinquent manufactured home taxes so published that each taxing district is entitled to receive upon collection of those taxes, or the county auditor may charge the owner of a home on the list a flat fee established under section 319.54 of the Revised Code for the cost of publishing the list and, if the fee is not paid, may place the fee upon the delinquent manufactured

home tax list as a lien on the listed home, to be collected as other manufactured home taxes.

(3) When taxes, penalties, or interest are charged against a person on the delinquent manufactured home tax list and are not paid within sixty days after the list is delivered to the county treasurer, the county treasurer shall, in addition to any other remedy provided by law for the collection of taxes, penalties, and interest, enforce collection of such taxes, penalties, and interest by civil action in the name of the treasurer against the owner for the recovery of the unpaid taxes following the procedures for the recovery of delinquent real property taxes in sections 323.25 to 323.28 of the Revised Code. The action may be brought in municipal or county court, provided the amount charged does not exceed the monetary limitations for original jurisdiction for civil actions in those courts.

It is sufficient, having made proper parties to the suit, for the county treasurer to allege in the treasurer's bill of particulars or petition that the taxes stand chargeable on the books of the county treasurer against such person, that they are due and unpaid, and that such person is indebted in the amount of taxes appearing to be due the county. The treasurer need not set forth any other matter relating thereto. If it is found on the trial of the action that the person is indebted to the state, judgment shall be rendered in favor of the county treasurer prosecuting the action. The judgment debtor is not entitled to the benefit of any law for stay of execution or exemption of property from levy or sale on execution in the enforcement of the judgment.

Upon the filing of an entry of confirmation of sale or an order of forfeiture in a proceeding brought under this division, title to the manufactured or mobile home shall be in the purchaser. The clerk of courts shall issue a certificate of title to the purchaser upon presentation of proof of filing of the entry of confirmation or order and, in the case of a forfeiture, presentation of the county auditor's certificate of sale.

(I) The total amount of taxes collected shall be distributed in the following manner: four per cent shall be allowed as compensation to the county auditor for the county auditor's service in assessing the taxes; two per cent shall be allowed as compensation to the county treasurer for the services the county treasurer renders as a result of the tax levied by this section. Such amounts shall be paid into the county treasury, to the credit of the county general revenue fund, on the warrant of the county auditor. Fees to be paid to the credit of the real estate assessment fund shall be collected pursuant to division (C) of section 319.54 of the Revised Code and paid into the county treasury, on the warrant of the county auditor. The balance of the taxes collected shall be distributed among the taxing subdivisions of the

county in which the taxes are collected and paid in the same ratio as those taxes were collected for the benefit of the taxing subdivision. The taxes levied and revenues collected under this section shall be in lieu of any general property tax and any tax levied with respect to the privilege of using or occupying a manufactured or mobile home in this state except as provided in sections 4503.04 and 5741.02 of the Revised Code.

(J) An agreement to purchase or a bill of sale for a manufactured home shall show whether or not the furnishings and equipment are included in the purchase price.

(K) If the county treasurer and the county prosecuting attorney agree that an item charged on the delinquent manufactured home tax list is uncollectible, they shall certify that determination and the reasons to the county board of revision. If the board determines the amount is uncollectible, it shall certify its determination to the county auditor, who shall strike the item from the list.

(L)(1) The county auditor shall appraise at its true value any manufactured or mobile home in which ownership is transferred or which first acquires situs in this state on or after January 1, 2000, and any manufactured or mobile home the owner of which has elected, under division (D)(4) of this section, to have the home taxed under division (D)(2) of this section. The true value shall include the value of the home, any additions, and any fixtures, but not any furnishings in the home. In determining the true value of a manufactured or mobile home, the auditor shall consider all facts and circumstances relating to the value of the home, including its age, its capacity to function as a residence, any obsolete characteristics, and other factors that may tend to prove its true value.

(2)(a) If a manufactured or mobile home has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time prior to the determination of true value, the county auditor shall consider the sale price of the home to be the true value for taxation purposes.

(b) The sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the home if either of the following occurred after the sale:

(i) The home has lost value due to a casualty.

(ii) An addition or fixture has been added to the home.

(3) The county auditor shall have each home viewed and appraised at least once in each six-year period in the same year in which real property in the county is appraised pursuant to Chapter 5713. of the Revised Code, and shall update the appraised values in the third calendar year following the

appraisal. The person viewing or appraising a home may enter the home to determine by actual view any additions or fixtures that have been added since the last appraisal. In conducting the appraisals and establishing the true value, the auditor shall follow the procedures set forth for appraising real property in sections 5713.01 and 5713.03 of the Revised Code.

(4) The county auditor shall place the true value of each home on the manufactured home tax list upon completion of an appraisal.

(5)(a) If the county auditor changes the true value of a home, the auditor shall notify the owner of the home in writing, delivered by mail or in person. The notice shall be given at least thirty days prior to the issuance of any tax bill that reflects the change. Failure to receive the notice does not invalidate any proceeding under this section.

(b) Any owner of a home or any other person or party listed in division (A)(1) of section 5715.19 of the Revised Code may file a complaint against the true value of the home as appraised under this section. The complaint shall be filed with the county auditor on or before the thirty-first day of March of the current tax year or the date of closing of the collection for the first half of manufactured home taxes for the current tax year, whichever is later. The auditor shall present to the county board of revision all complaints filed with the auditor under this section. The board shall hear and investigate the complaint and may take action on it as provided under sections 5715.11 to 5715.19 of the Revised Code.

(c) If the county board of revision determines, pursuant to a complaint against the valuation of a manufactured or mobile home filed under this section, that the amount of taxes, assessments, or other charges paid was in excess of the amount due based on the valuation as finally determined, then the overpayment shall be refunded in the manner prescribed in section 5715.22 of the Revised Code.

(d) Payment of all or part of a tax under this section for any year for which a complaint is pending before the county board of revision does not abate the complaint or in any way affect the hearing and determination thereof.

(M) If the county auditor determines that any tax or other charge or any part thereof has been erroneously charged as a result of a clerical error as defined in section 319.35 of the Revised Code, the county auditor shall call the attention of the county board of revision to the erroneous charges. If the board finds that the taxes or other charges have been erroneously charged or collected, it shall certify the finding to the auditor. Upon receipt of the certification, the auditor shall remove the erroneous charges on the manufactured home tax list or delinquent manufactured home tax list in the

same manner as is prescribed in section 319.35 of the Revised Code for erroneous charges against real property, and refund any erroneous charges that have been collected, with interest, in the same manner as is prescribed in section 319.36 of the Revised Code for erroneous charges against real property.

(N) As used in this section and section 4503.061 of the Revised Code:

(1) "Manufactured home taxes" includes taxes, penalties, and interest charged under division (C) or (G) of this section and any penalties charged under division (G) or (H)(5) of section 4503.061 of the Revised Code.

(2) "Current taxes" means all manufactured home taxes charged against a manufactured or mobile home that have not appeared on the manufactured home tax list for any prior year. Current taxes become delinquent taxes if they remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent.

(3) "Delinquent taxes" means:

(a) Any manufactured home taxes that were charged against a manufactured or mobile home for a prior year, including any penalties or interest charged for a prior year and the costs of publication under division (H)(2) of this section, and that remain unpaid;

(b) Any current manufactured home taxes charged against a manufactured or mobile home that remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent, including any penalties or interest and the costs of publication under division (H)(2) of this section.

Sec. 4503.235. (A) If division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code requires a court, as part of the sentence of an offender who is convicted of or pleads guilty to a violation of division (A) of section 4511.19 of the Revised Code or as a sanction for an offender who is convicted of or pleaded guilty to a violation of a municipal OVI ordinance, to order the immobilization of a vehicle for a specified period of time, notwithstanding the requirement, the court in its discretion may determine not to order the immobilization of the vehicle if both of the following apply:

(1) Prior to the issuance of the order of immobilization, a family or household member of the offender files a motion with the court identifying the vehicle and requesting that the immobilization order not be issued on the ground that the family or household member is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle

would be an undue hardship to the family or household member.

(2) The court determines that the family or household member who files the motion is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle would be an undue hardship to the family or household member.

(B) If a court pursuant to division (A) of this section determines not to order the immobilization of a vehicle that otherwise would be required pursuant to division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code, the court shall issue an order that waives the immobilization that otherwise would be required pursuant to either of those divisions. The immobilization waiver order shall be in effect for the period of time for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued, subject to division (D) of this section. The immobilization waiver order shall specify the period of time for which it is in effect. The court shall provide a copy of an immobilization waiver order to the offender and to the family or household member of the offender who filed the motion requesting that the immobilization order not be issued and shall place a copy of the immobilization waiver order in the record in the case. The court shall impose an immobilization waiver fee in the amount of fifty dollars. The court shall determine whether the fee is to be paid by the offender or by the family or household member. The clerk of the court shall deposit all of the fees collected during a month on or before the twenty-third day of the following month into the county or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation under division (F) of section 4511.191 of the Revised Code.

(C) If a court pursuant to division (B) of this section issues an immobilization waiver order, the order shall identify the family or household member who requested the order and the vehicle to which the order applies, shall identify the family or household members who are permitted to operate the vehicle, and shall identify the offender and specify that the offender is not permitted to operate the vehicle. The immobilization waiver order shall require that the family or household member display on the vehicle to which the order applies restricted license plates that are issued under section 4503.231 of the Revised Code for the entire period for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued.

(D) A family or household member who is permitted to operate a vehicle under an immobilization waiver order issued under this section shall not permit the offender to operate the vehicle. If a family or household member who is permitted to operate a vehicle under an immobilization waiver order issued under this section permits the offender to operate the vehicle, both of the following apply:

(1) The court that issued the immobilization waiver order shall terminate that order and shall issue an immobilization order in accordance with section 4503.233 of the Revised Code that applies to the vehicle, and the immobilization order shall be in effect for the remaining period of time for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued.

(2) The conduct of the family or household member in permitting the offender to operate the vehicle is a violation of section 4511.203 of the Revised Code.

(E) No offender shall operate a motor vehicle subject to an immobilization waiver order. Whoever violates this division is guilty of operating a motor vehicle in violation of an immobilization waiver, a misdemeanor of the first degree.

(F) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code, except that the person must be currently residing with the offender.

Sec. 4503.70. The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who is a member in good standing of the grand lodge of free and accepted masons of Ohio may apply to the registrar for the registration of the vehicle and issuance of freemason license plates. The application for freemason license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of satisfactory evidence showing that the applicant is a member in good standing of the grand lodge of free and accepted masons of Ohio, and compliance by the applicant with this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of freemason license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, freemason license plates shall be inscribed with identifying words and a

symbol or logo designed by the grand lodge of free and accepted masons of Ohio and approved by the registrar. Freemason license plates shall bear county identification stickers that identify the county of registration by name or number.

Freemason license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, payment of an additional fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for freemason license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes contained in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code. The additional fee of ten dollars shall be for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of freemason license plates, and shall be transmitted by the registrar to the treasurer of state for deposit into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Sec. 4503.93. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of Ohio "volunteer" license plates. The application for Ohio "volunteer" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with divisions (B) and (C) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of Ohio "volunteer" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on license plates, Ohio "volunteer" license plates shall be inscribed with words and markings designed by the Ohio ~~community~~ commission on service ~~council~~ and volunteerism created by section 121.40 of the Revised Code and approved by the registrar. Ohio "volunteer" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) Ohio "volunteer" license plates and a validation sticker, or a validation sticker alone, shall be issued upon receipt of a contribution as

provided in division (C) of this section and upon payment of the regular license tax prescribed in section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, a bureau of motor vehicles fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles.

(C)(1) For each application for registration and registration renewal received under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the Ohio ~~community~~ commission on service ~~council~~ and volunteerism gifts and donations fund created by section 121.403 of the Revised Code. The ~~council~~ commission shall use all such contributions for the purposes described in divisions (B)(2) and (3) of that section.

(2) The registrar shall deposit the bureau of motor vehicles fee of ten dollars specified in division (B) of this section, which is for the purpose of compensating the bureau for the additional services required in issuing Ohio "volunteer" license plates, in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4504.02. For the purpose of paying the costs of enforcing and administering the tax provided for in this section; and for planning, constructing, improving, maintaining, and repairing public roads, highways, and streets; maintaining and repairing bridges and viaducts; paying the county's portion of the costs and expenses of cooperating with the department of transportation in the planning, improvement, and construction of state highways; paying the county's portion of the compensation, damages, cost, and expenses of planning, constructing, reconstructing, improving, maintaining, and repairing roads; paying any costs apportioned to the county under section 4907.47 of the Revised Code; paying debt service charges on notes or bonds of the county issued for such purposes; paying all or part of the costs and expenses of municipal corporations in planning, constructing, reconstructing, improving, maintaining, and repairing highways, roads, and streets designated as necessary or conducive to the orderly and efficient flow of traffic within and through the county pursuant to section 4504.03 of the Revised Code; purchasing, erecting, and maintaining street and traffic signs and markers; purchasing, erecting, and maintaining traffic lights and signals; and to supplement revenue already available for such purposes, any county by resolution adopted by its board of county commissioners may levy an annual license tax, in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code,

upon the operation of motor vehicles on the public roads or highways. Such tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is located in the county levying the tax and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.173, 4503.41, 4503.43, and 4503.46 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless such resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. Such emergency measure must receive an affirmative vote of all of the members of the board of county commissioners, and shall state the reasons for such necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than seventy-five days after such resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it.

Sec. 4504.021. The question of repeal of a county permissive tax adopted as an emergency measure pursuant to section 4504.02, 4504.15, or 4504.16 of the Revised Code may be initiated by filing with the board of elections of the county not less than ninety days before the general election in any year a petition requesting that an election be held on such question. Such petition shall be signed by qualified electors residing in the county equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the county at the next

general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the district, or as provided in section 7.16 of the Revised Code, once a week for two consecutive weeks prior to the election ~~and, if~~. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The notice shall state the purpose, time, and place of the election. The form of the ballot cast at such election shall be prescribed by the secretary of state. The question covered by such petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question of repeal approve the repeal, the result of the election shall be certified immediately after the canvass by the board of elections to the county commissioners, who shall thereupon, after the current year, cease to levy the tax.

Sec. 4504.15. For the purpose of paying the costs of enforcing and administering the tax provided for in this section; for the various purposes stated in section 4504.02 of the Revised Code; and to supplement revenue already available for those purposes, any county may, by resolution adopted by its board of county commissioners, levy an annual license tax, that shall be in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles upon the public roads and highways. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is located in the county levying the tax but is not located within any municipal corporation levying the tax authorized by section 4504.17 of the Revised Code, and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section 7.16 of the Revised Code, once a week for two consecutive weeks~~, the~~. The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. The emergency measure must receive an affirmative vote of all of the members of the board of county commissioners, and shall state the reasons for the necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election occurring not less than ninety days after the resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it. A county is not required to enact the tax authorized by section 4504.02 of the Revised Code in order to levy the tax authorized by this section, but no county may have in effect the tax authorized by this section if it repeals the tax authorized by section 4504.02 of the Revised Code after April 1, 1987.

Sec. 4504.16. For the purpose of paying the costs of enforcing and administering the tax provided for in this section; for the various purposes stated in section 4504.02 of the Revised Code; and to supplement revenue already available for those purposes, any county that currently levies the tax authorized by section 4504.15 of the Revised Code may, by resolution adopted by its board of county commissioners, levy an annual license tax, that shall be in addition to the tax levied by that section and by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles upon the public roads and highways. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is located in the county levying the tax but is not located within any municipal corporation levying the tax authorized by section 4504.171 of the Revised Code, and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section

7.16 of the Revised Code, once a week for two consecutive weeks~~, the~~. The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. The emergency measure must receive an affirmative vote of all of the members of the board of county commissioners, and shall state the reasons for the necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election occurring not less than ninety days after the resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it.

Nothing in this section or in section 4504.15 of the Revised Code shall be interpreted as preventing a county from levying the county motor vehicle license taxes authorized by such sections in a single resolution.

Sec. 4504.18. For the purpose of paying the costs and expenses of enforcing and administering the tax provided for in this section; for the construction, reconstruction, improvement, maintenance, and repair of township roads, bridges, and culverts; for purchasing, erecting, and maintaining traffic signs, markers, lights, and signals; for purchasing road machinery and equipment, and planning, constructing, and maintaining suitable buildings to house such equipment; for paying any costs apportioned to the township under section 4907.47 of the Revised Code; and to supplement revenue already available for such purposes, the board of township trustees may levy an annual license tax, in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles on the public roads and highways in the unincorporated territory of the township. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the owners of which reside in the unincorporated area of the township and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of township trustees shall conduct two public hearings thereon, the second

hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum in the same manner, except as to the form of the petition, as provided in division (H) of section 519.12 of the Revised Code for a proposed amendment to a township zoning resolution. In addition, a petition under this section shall be governed by the rules specified in section 3501.38 of the Revised Code. No resolution levying a tax under this section for which a referendum vote has been requested shall go into effect unless approved by a majority of those voting upon it.

A township license tax levied under this section shall continue in effect until repealed.

Sec. 4505.181. (A) Notwithstanding ~~divisions (A)(2), (5), and (6) of~~ section 4505.18 of the Revised Code, a motor vehicle dealer or person acting on behalf of a motor vehicle dealer may display, offer for sale, or sell a used motor vehicle and a manufactured housing dealer or person acting on behalf of a manufactured housing dealer may display, offer for sale, or sell a used manufactured home or used mobile home without having first obtained a certificate of title for the vehicle in the name of the dealer ~~as required by this chapter if the dealer or person acting on behalf of the dealer complies with divisions (A)(1)(a) and (2) of this section, or divisions (A)(1)(b) and (2) of~~ by complying with this section~~, as follows:~~.

(1)~~(a)~~ The dealer or person acting on behalf of the dealer shall possess a bill of sale for each used motor vehicle, used manufactured home, and used mobile home proposed to be displayed, offered for sale, or sold under this section or a properly executed power of attorney or other related documents from the prior owner of the motor vehicle, manufactured home, or mobile home giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle, manufactured home, or mobile home issued in the name of the dealer, and shall retain copies of all such documents in the dealer's or person's files until such time as a certificate of title in the dealer's name is issued for each such motor vehicle, manufactured home, or mobile home by the clerk of the court of common pleas. Such documents shall be available for inspection by the bureau of motor vehicles and the manufactured homes commission during normal

business hours.

(2) If ~~the dealer has been licensed as a motor vehicle dealer or manufactured housing dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer, or if~~ the attorney general has paid a retail purchaser of the dealer or a secured party under division ~~(C)~~(D), (E), or (G) of this section within three years prior to such date, the dealer ~~posts~~ shall post with the attorney general's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles, manufactured homes, or mobile homes who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with this section. Failure to post a bond constitutes a deceptive act or practice in connection with a consumer transaction and is a violation of section 1345.02 of the Revised Code. The dealer's surety shall notify the registrar and attorney general when a bond of a motor vehicle dealer is canceled and shall notify the manufactured homes commission and the attorney general when a bond of a manufactured housing dealer is canceled. Such notification of cancellation shall include the effective date of and reason for cancellation.

~~(b) If the dealer has been licensed as a motor vehicle dealer or manufactured housing dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle, used manufactured home, or used mobile home for which the dealer has not obtained a certificate of title in the name of the dealer and the attorney general has not paid a retail purchaser of the dealer under division (C) of this section within three years prior to such date, the dealer pays one hundred fifty dollars to the attorney general for deposit into the title defect recision fund created by section 1345.52 of the Revised Code.~~

~~(2) The dealer or person acting on behalf of the dealer possesses a bill of sale for each motor vehicle, used manufactured home, and used mobile home proposed to be displayed, offered for sale, or sold under this section and a properly executed power of attorney or other related documents from the prior owner of the motor vehicle, manufactured home, or mobile home giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle, manufactured home, or mobile home issued in the name of the dealer, and retains copies of all such documents in the dealer's or person's files until such time as a certificate of title in the~~

~~dealer's name is issued for each such motor vehicle, manufactured home, or mobile home by the clerk of the court of common pleas. Such documents shall be available for inspection by the bureau of motor vehicles and the manufactured homes commission during normal business hours.~~

(B) If a retail purchaser purchases a used motor vehicle, used manufactured home, or used mobile home for which the dealer, pursuant to and in accordance with division (A) of this section, does not have a certificate of title issued in the name of the dealer at the time of the sale, the retail purchaser has an unconditional right to demand the dealer rescind the transaction ~~and the dealer has an obligation to refund to the retail purchaser the full purchase price of the vehicle,~~ if one of the following applies:

(1) The dealer fails, on or before the fortieth day following the date of the sale, to obtain a title in the name of the retail purchaser.

(2) The title for the vehicle indicates that it is a rebuilt salvage vehicle, and the fact that it is a rebuilt salvage vehicle was not disclosed to the retail purchaser in writing prior to the execution of the purchase agreement.

(3) The title for the vehicle indicates that the dealer has made an inaccurate odometer disclosure to the retail purchaser.

(4) The title for the vehicle indicates that it is a "buyback" vehicle as defined in section 1345.71 of the Revised Code, and the fact that it is a "buyback" vehicle was not disclosed to the retail purchaser in the written purchase agreement.

(5) The motor vehicle is a used manufactured home or used mobile home, as defined by section ~~5739.021~~ 4781.01 of the Revised Code, that has been repossessed under Chapter 1309. or 1317. of the Revised Code, but a certificate of title for the repossessed home has not yet been transferred by the repossessing party to the dealer on the date the retail purchaser purchases the used manufactured home or used mobile home from the dealer, and the dealer fails to obtain a certificate of title on or before the fortieth day after the dealer obtains the certificate of title for the home from the repossessing party or the date on which an occupancy permit for the home is delivered to the purchaser by the appropriate legal authority, whichever occurs later.

(C)(1) If ~~any of~~ the ~~circumstances~~ circumstance described in ~~divisions~~ division (B)(1) ~~to (4)~~ of this section applies, a retail purchaser or the retail purchaser's representative shall ~~notify~~ provide the dealer ~~and afford the dealer the opportunity to comply with the dealer's obligation to refund the full purchase price~~ notice of the ~~motor vehicle~~ request for recision. Such notification shall occur not later than sixty days from the date the motor vehicle is titled in the name of the retail purchaser. The dealer shall have the

opportunity to comply with the dealer's obligation to refund the full purchase price of the motor vehicle. Reimbursement shall be only in such a manner as to reimburse the retail purchaser any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount paid by the lender to purchase the contract or finance the sale of the vehicle. If a vehicle was taken in trade as a down payment, the dealer shall return the vehicle to the consumer, unless the dealer remitted payment to a third party to satisfy any security interest. If the dealer remitted payment, the dealer shall reimburse the purchaser the value of the vehicle, as evidenced by the bill of sale.

(2) If any of the circumstances described in divisions (B)(2), (3), or (4) of this section apply, a retail purchaser or the retail purchaser's representative shall provide notice to the dealer of a request for recision. Such notification shall occur not later than one hundred eighty days from the date the vehicle is titled in the name of the retail purchaser. Upon timely notification, the dealer shall have the opportunity to comply with the dealer's obligation to refund the full purchase price of the motor vehicle. Reimbursement shall be only in such a manner as to reimburse the retail purchaser any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount paid by the lender to purchase the contract or finance the sale of the vehicle. If a vehicle was taken in trade as a down payment, the dealer shall return the vehicle to the consumer, unless the dealer remitted payment to a third party to satisfy any security interest. If the dealer remitted payment, the dealer shall reimburse the purchaser the value of the vehicle, as evidenced by the bill of sale.

(3) If any of the circumstances described in division (B)(5) of this section apply, a retail purchaser or the retail purchaser's representative shall notify the dealer and afford the dealer the opportunity to comply with the dealer's obligation to rescind the manufactured home or mobile home transaction.

(4) If the retail purchaser does not deliver notice to the dealer within the applicable time period specified in division (C)(1), (2), or (3) of this section, the retail purchaser shall not be entitled to any recovery or have any cause of action under this section.

(5) Nothing in ~~this~~ division (C) of this section shall be construed as prohibiting the dealer and the retail purchaser or their representatives from negotiating a compromise resolution that is satisfactory to both parties.

~~(C)~~(D) If a retail purchaser notifies a dealer of one or more of the circumstances listed in division (B) of this section within the applicable time period specified in division (C)(1), (2), or (3) of this section and the dealer

fails to ~~refund to~~ comply with the ~~retail purchaser the full purchase price~~ requirements for recision as prescribed in division (C) of ~~the vehicle~~ this section or reach a satisfactory compromise with the retail purchaser within ~~three~~ seven business days of presentation of the retail purchaser's recision claim, the retail purchaser may apply to the attorney general for payment from the fund of the full purchase price to the retail purchaser.

~~(D)~~(E)(1) Upon application by a retail purchaser for payment from the fund, if the attorney general is satisfied that one or more of the circumstances contained in divisions (B)(1) to ~~(4)~~(5) of this section exist, and notification has been given within the applicable time period specified in division (C)(1), (2), or (3) of this section, the attorney general shall cause at maximum the full purchase price of the vehicle, manufactured home, or mobile home plus the cost of any additional temporary license placards to be paid to the retail purchaser from the fund ~~after~~. The attorney general may require delivery of the vehicle, manufactured home, or mobile home to the attorney general prior to reimbursement from the fund. Reimbursement shall be only in such a manner as to do either of the following:

(a) Reimburse the retail purchaser any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount paid by the lender to purchase the contract or finance the sale of the vehicle;

(b) If the retail purchaser wishes to retain the vehicle, the attorney general, in the attorney general's sole discretion, may pay a lienholder of record or other holder of a secured interest in such manner that title can be transferred to the retail purchaser free of encumbrances, other than a security interest granted by the retail purchaser at the time of vehicle purchase.

(2) The attorney general, in the attorney general's sole discretion, also may cause the cost of additional temporary license placards to be paid from the fund. ~~The~~

(F) The attorney general may sell or otherwise dispose of any used motor vehicle, manufactured home, or mobile home that is delivered to the attorney general under this section, and may collect the proceeds of any bond posted under division (A) of this section by a dealer who has failed to comply with division ~~(C)~~(D) of this section. The proceeds from all such sales and collections shall be deposited into the title defect recision fund for use as specified in section 1345.52 of the Revised Code.

~~(E)~~(G) If a dealer fails to submit payment of a secured interest on a trade-in vehicle as agreed to by the dealer and retail purchaser and none of the circumstances in divisions (B)(1) to (5) applies, the retail purchaser may apply to the attorney general for payment to the secured creditor from the

fund. The attorney general shall demand immediate payment from the dealer and if payment has not been made or is not immediately forthcoming, the attorney general may cause an amount equal to that which the dealer agreed to pay to the secured creditor to be paid from the fund, along with any additional interest and late fees resulting from the dealer's failure to pay the secured creditor in a timely manner.

(H) Failure by a dealer to comply with both ~~division (A) or~~ divisions (B) and (C) of this section constitutes a deceptive act or practice in connection with a consumer transaction, and is a violation of section 1345.02 of the Revised Code.

~~(F)~~(I) The remedy provided in this section to retail purchasers is in addition to any remedies otherwise available to the retail purchaser for the same conduct of the dealer or person acting on behalf of the dealer under federal law or the laws of this state or a political subdivision of this state.

~~(G) All motor vehicle dealers licensed under Chapter 4517. of the Revised Code and manufactured housing dealers licensed under Chapter 4781. of the Revised Code shall pay to the attorney general for deposit into~~ (J) If, at any time during any calendar year, the balance in the title defect recision fund ~~the amount described in division (A)(1)(b) of this section beginning with the calendar year during which this section becomes effective and each year subsequent to that year until the balance in the fund~~ is ~~not~~ less than three hundred thousand dollars~~. All such dealers also shall pay to,~~ the attorney general ~~for deposit into the fund that amount during any year and subsequent years during which the balance in the fund is less than three hundred thousand dollars~~ may assess all motor vehicle dealers licensed under Chapter 4517. of the Revised Code and all manufactured housing dealers licensed under Chapter 4781. of the Revised Code one hundred fifty dollars for deposit into the title defect rescision fund until the balance in the fund reaches three hundred thousand dollars. A notice of assessment shall be sent to each dealer at its licensed location.

If a motor vehicle dealer or manufactured housing dealer fails to comply with this division, the attorney general may bring a civil action in a court of competent jurisdiction to collect the amount the dealer failed to pay to the attorney general for deposit into the fund.

(K) Nothing in this section shall be construed as providing for payment of attorney fees to the retail purchaser.

(L) As used in this section:

(1) "Full purchase price" means the contract price, including charges for dealer installed options and accessories, all finance, credit insurance, and service contract charges incurred by the retail purchaser, all sales tax,

license and registration fees, and the amount of any negative equity that was not already paid by the dealer to a third party to satisfy a lien, as reflected in the contract.

(2) "Retail purchaser" means a person, other than a motor vehicle dealer or a manufactured housing dealer, who in good faith purchases a used motor vehicle for purposes other than resale.

Sec. 4506.071. On receipt of a notice pursuant to section 3123.54 of the Revised Code, the registrar of motor vehicles shall comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a commercial driver's license or commercial driver's temporary instruction permit issued pursuant to this chapter.

Sec. 4507.111. On receipt of a notice pursuant to section 3123.54 of the Revised Code, the registrar of motor vehicles shall comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to any driver's or commercial license or permit, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit issued by this state that is the subject of the notice.

Sec. 4507.164. (A) Except as provided in divisions (C) to (E) of this section, when the license of any person is suspended pursuant to any provision of the Revised Code other than division (G) of section 4511.19 of the Revised Code and other than section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, the trial judge may impound the identification license plates of any motor vehicle registered in the name of the person.

(B)(1) When the license of any person is suspended pursuant to division (G)(1)(a) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record or the mayor of the mayor's court that suspended the license may impound the identification license plates of any motor vehicle registered in the name of the person.

(2) When the license of any person is suspended pursuant to division (G)(1)(b) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the

trial judge of the court of record that suspended the license shall order the impoundment of the identification license plates of the motor vehicle the offender was operating at the time of the offense and the immobilization of that vehicle in accordance with section 4503.233 and division (G)(1)(b) of section 4511.19 or division ~~(B)~~(C)(2)(a) of section 4511.193 of the Revised Code and may impound the identification license plates of any other motor vehicle registered in the name of the person whose license is suspended.

(3) When the license of any person is suspended pursuant to division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record that suspended the license shall order the criminal forfeiture to the state of the motor vehicle the offender was operating at the time of the offense in accordance with section 4503.234 and division (G)(1)(c), (d), or (e) of section 4511.19 or division ~~(B)~~(C)(2)(b) of section 4511.193 of the Revised Code and may impound the identification license plates of any other motor vehicle registered in the name of the person whose license is suspended.

(C)(1) When a person is convicted of or pleads guilty to a violation of section 4510.14 of the Revised Code or a substantially equivalent municipal ordinance and division (B)(1) or (2) of section 4510.14 or division (C)(1) or (2) of section 4510.161 of the Revised Code applies, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle the person was operating at the time of the offense and the impoundment of its identification license plates in accordance with section 4503.233 and division (B)(1) or (2) of section 4510.14 or division (C)(1) or (2) of section 4510.161 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of section 4510.14 of the Revised Code or a substantially equivalent municipal ordinance and division (B)(3) of section 4510.14 or division (C)(3) of section 4510.161 of the Revised Code applies, the trial judge of the court of record that imposes sentence shall order the criminal forfeiture to the state of the vehicle the person was operating at the time of the offense in accordance with section 4503.234 and division (B)(3) of section 4510.14 or division (C)(3) of section 4510.161 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(D)~~(1)~~ When a person is convicted of or pleads guilty to a violation of division (A) of section 4510.16 of the Revised Code or a substantially equivalent municipal ordinance, division (B) of section 4510.16 or division (B) of section 4510.161 of the Revised Code applies in determining whether the immobilization of the vehicle the person was operating at the time of the offense and the impoundment of its identification license plates or the criminal forfeiture to the state of the vehicle the person was operating at the time of the offense is authorized or required. The trial judge of the court of record or the mayor of the mayor's court that imposes sentence may impound the identification license plates of any other vehicle registered in the name of that person.

(E)(1) When a person is convicted of or pleads guilty to a violation of section 4511.203 of the Revised Code and the person is sentenced pursuant to division (C)(1) or (2) of section 4511.203 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle that was involved in the commission of the offense and the impoundment of its identification license plates in accordance with division (C)(1) or (2) of section 4511.203 and section 4503.233 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of section 4511.203 of the Revised Code and the person is sentenced pursuant to division (C)(3) of section 4511.203 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the criminal forfeiture to the state of the vehicle that was involved in the commission of the offense in accordance with division (C)(3) of section 4511.203 and section 4503.234 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(F) Except as provided in section 4503.233 or 4503.234 of the Revised Code, when the certificate of registration, the identification license plates, or both have been impounded, division (B) of section 4507.02 of the Revised Code is applicable.

(G) As used in this section, "municipal OVI offense" has the same meaning as in section 4511.181 of the Revised Code.

Sec. 4511.191. (A)(1) As used in this section:

(a) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(b) "Alcohol monitoring device" means any device that provides for

continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(5)(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of

the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar <u>of motor vehicles</u> and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of

section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a chemical test and also had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, had been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's

driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the registrar ~~of motor vehicles~~ or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. ~~The~~ Money credited to the fund under this section shall be used ~~to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10~~ for purposes identified in the comprehensive statewide alcohol and drug addiction services plan developed under section 3793.04 of the Revised Code. ~~The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.~~

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established in the state treasury. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to division (H) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services grants fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. ~~Monies~~ Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the registrar or an eligible deputy registrar, only one reinstatement fee of four hundred seventy-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(5) In addition to the reinstatement fee under this section, if the person pays the reinstatement fee to a deputy registrar, the deputy registrar shall collect a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, plus two dollars of the service fee, to the registrar in the manner the registrar shall determine.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of additional costs imposed under section 2949.094 of the Revised Code that are specified for deposit into a county, county juvenile, or municipal indigent drivers alcohol treatment fund by that section, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent

drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division of the section or provision.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) Regarding a suspension imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended

by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of an assessment or the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of the assessment or the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to obtain an assessment or attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in the following manners:

(a) If the source of the moneys was an appropriation of the general assembly, a portion of a fee that was paid under division (F) of this section,

a portion of a fine that was specified for deposit into the fund by section 4511.193 of the Revised Code, or a portion of a fine that was paid for a violation of section 4511.19 of the Revised Code or of a provision contained in Chapter 4510. of the Revised Code that was required to be deposited into the fund, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device;

(b) If the source of the moneys was a portion of an additional court cost imposed under section 2949.094 of the Revised Code, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device. The moneys may be used for a device as described in this division if the use of the device is in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when the use of the device is determined clinically necessary by the treatment program, but the use of a device is not required to be in conjunction with a treatment program approved by the department in order for the moneys to be used for the device as described in this division.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense

with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing alcohol monitoring devices to be used in conjunction with division (H)(3) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(5) For the purpose of determining as described in division (F)(2)(c) of this section whether an offender does not have the means to pay for the offender's attendance at an alcohol and drug addiction treatment program or whether an alleged offender or delinquent child is unable to pay the costs specified in division (H)(4) of this section, the court shall use the indigent client eligibility guidelines and the standards of indigency established by the state public defender to make the determination.

(6) The court shall identify and refer any alcohol and drug addiction program that is not certified under section 3793.06 of the Revised Code and that is interested in receiving amounts from the surplus in the fund declared under division (H)(4) of this section to the department of alcohol and drug addiction services in order for the program to become a certified alcohol and drug addiction program. The department shall keep a record of applicant referrals received pursuant to this division and shall submit a report on the referrals each year to the general assembly. If a program interested in becoming certified makes an application to become certified pursuant to section 3793.06 of the Revised Code, the program is eligible to receive surplus funds as long as the application is pending with the department. The department of alcohol and drug addiction services must offer technical assistance to the applicant. If the interested program withdraws the certification application, the department must notify the court, and the court shall not provide the interested program with any further surplus funds.

(7)(a) Each alcohol and drug addiction services board and board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code shall submit to the department of alcohol and drug addiction services an annual report for each indigent drivers alcohol treatment fund in that board's area.

(b) The report, which shall be submitted not later than sixty days after the end of the state fiscal year, shall provide the total payment that was made from the fund, including the number of indigent consumers that received treatment services and the number of indigent consumers that received an alcohol monitoring device. The report shall identify the

treatment program and expenditure for an alcohol monitoring device for which that payment was made. The report shall include the fiscal year balance of each indigent drivers alcohol treatment fund located in that board's area. In the event that a surplus is declared in the fund pursuant to division (H)(4) of this section, the report also shall provide the total payment that was made from the surplus moneys and identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The department may require additional information necessary to complete the comprehensive statewide alcohol and drug addiction services plan as required by section 3793.04 of the Revised Code.

(c) If a board is unable to obtain adequate information to develop the report to submit to the department for a particular indigent drivers alcohol treatment fund, the board shall submit a report detailing the effort made in obtaining the information.

(I)(1) Each county shall establish an indigent drivers interlock and alcohol monitoring fund and a juvenile indigent drivers interlock and alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers interlock and alcohol monitoring fund. All revenue that the general assembly appropriates to the indigent drivers interlock and alcohol monitoring fund for transfer to a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund, all portions of license reinstatement fees that are paid under division (F)(2) of this section and that are credited under that division to the indigent drivers interlock and alcohol monitoring fund in the state treasury, and all portions of fines that are paid under division (G) of section 4511.19 of the Revised Code and that are credited by division (G)(5)(e) of that section to the indigent drivers interlock and alcohol monitoring fund in the state treasury shall be deposited in the appropriate fund in accordance with division (I)(2) of this section.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that portion of the fine paid under division (G) of section 4511.19 of the Revised Code and that is credited under either division to the indigent drivers interlock and alcohol monitoring fund shall be deposited into a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund as follows:

(a) If the fee or fine is paid by a person who was charged in a county

court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county indigent drivers interlock and alcohol monitoring fund under the control of that court.

(b) If the fee or fine is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county juvenile indigent drivers interlock and alcohol monitoring fund established in the county served by the court.

(c) If the fee or fine is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court.

Sec. 4511.193. (A) Twenty-five dollars of any fine imposed for a violation of a municipal OVI ordinance shall be deposited into the municipal or county indigent drivers alcohol treatment fund created pursuant to division (H) of section 4511.191 of the Revised Code in accordance with this section and section 733.40, divisions (A) ~~and~~, (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code. Regardless of whether the fine is imposed by a municipal court, a mayor's court, or a juvenile court, if the fine was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county-operated municipal court or a municipal court that is not a county-operated municipal court, the twenty-five dollars that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which that municipal corporation is located if the municipal court that has jurisdiction over that municipal corporation is a county-operated municipal court or of the municipal corporation in which is located the municipal court that has jurisdiction over that municipal corporation if that municipal court is not a county-operated municipal court. Regardless of whether the fine is imposed by a county court, a mayor's court, or a juvenile court, if the fine was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county court, the twenty-five dollars that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which is located the county court that has jurisdiction over that municipal corporation. The deposit shall be made in accordance with section 733.40, divisions (A) ~~and~~, (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code.

(B) Any court cost imposed as a result of a violation of a municipal ordinance that is a moving violation and designated for an indigent drivers alcohol treatment fund established pursuant to division (H) of section

4511.191 of the Revised Code shall be deposited into the municipal or county indigent drivers alcohol treatment fund created pursuant to division (H) of section 4511.191 of the Revised Code in accordance with this section and section 733.40, divisions (A), (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code. Regardless of whether the court cost is imposed by a municipal court, a mayor's court, or a juvenile court, if the court cost was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county-operated municipal court or a municipal court that is not a county-operated municipal court, the court cost that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which that municipal corporation is located if the municipal court that has jurisdiction over that municipal corporation is a county-operated municipal court or of the municipal corporation in which is located the municipal court that has jurisdiction over that municipal corporation if that municipal court is not a county-operated municipal court. Regardless of whether the court cost is imposed by a county court, a mayor's court, or a juvenile court, if the court cost was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county court, the court cost that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which is located the county court that has jurisdiction over that municipal corporation. The deposit shall be made in accordance with section 733.40, divisions (A), (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code.

(C)(1) The requirements and sanctions imposed by divisions ~~(B)~~(C)(1) and (2) of this section are an adjunct to and derive from the state's exclusive authority over the registration and titling of motor vehicles and do not comprise a part of the criminal sentence to be imposed upon a person who violates a municipal OVI ordinance.

(2) If a person is convicted of or pleads guilty to a violation of a municipal OVI ordinance, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, and if, within six years of the current offense, the offender has been convicted of or pleaded guilty to one or more violations of division (A) or (B) of section 4511.19 of the Revised Code or one or more other equivalent offenses, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, shall do whichever of the following is applicable:

(a) Except as otherwise provided in division ~~(B)~~(C)(2)(b) of this section, if, within six years of the current offense, the offender has been convicted of

or pleaded guilty to one violation described in division ~~(B)~~(C)(2) of this section, the court shall order the immobilization for ninety days of that vehicle and the impoundment for ninety days of the license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(b) If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations described in division ~~(B)~~(C)(2) of this section, or if the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony and regardless of when the violation and the conviction or guilty plea occurred, the court shall order the criminal forfeiture to the state of that vehicle. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.

(D) As used in this section, "county-operated municipal court" has the same meaning as in section 1901.03 of the Revised Code.

Sec. 4513.39. (A) The state highway patrol and sheriffs or their deputies shall exercise, to the exclusion of all other peace officers except within municipal corporations and except as specified in division (B) of this section and division (E) of section 2935.03 of the Revised Code, the power to make arrests for violations on all state highways, of sections 4503.11, 4503.21, 4511.14 to 4511.16, 4511.20 to 4511.23, 4511.26 to 4511.40, 4511.42 to 4511.48, 4511.58, 4511.59, 4511.62 to 4511.71, 4513.03 to 4513.13, 4513.15 to 4513.22, 4513.24 to 4513.34, 4549.01, 4549.08 to 4549.12, and 4549.62 of the Revised Code.

(B) A member of the police force of a township police district created under section 505.48 of the Revised Code or of a joint police district created under section 505.482 of the Revised Code, and a township constable appointed pursuant to section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, shall exercise the power to make arrests for violations of those sections listed in division (A) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, as follows:

(1) If the population of the township that created the township or joint police district served by the member's police force or the township that is served by the township constable is fifty thousand or less, the member or constable shall exercise that power on those portions of all state highways, except those highways included as part of the interstate system, as defined in section 5516.01 of the Revised Code, that are located within the township or joint police district, in the case of a member of a township or joint police

district police force, or within the unincorporated territory of the township, in the case of a township constable;

(2) If the population of the township that created the township or joint police district served by the member's police force or the township that is served by the township constable is greater than fifty thousand, the member or constable shall exercise that power on those portions of all state highways and highways included as part of the interstate highway system, as defined in section 5516.01 of the Revised Code, that are located within the township or joint police district, in the case of a member of a township or joint police district police force, or within the unincorporated territory of the township, in the case of a township constable.

Sec. 4513.60. (A)(1) The sheriff of a county or chief of police of a municipal corporation, township, or township or joint police district, within the sheriff's or chief's respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The sheriff or chief of police, upon complaint of the owner of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. The place of storage shall be designated by the sheriff or chief of police. When ordering a motor vehicle into storage pursuant to this division, a sheriff or chief of police, whenever possible, shall arrange for the removal of the motor vehicle by a private tow truck operator or towing company. Subject to division (C) of this section, the owner of a motor vehicle that has been removed pursuant to this division may recover the vehicle only in accordance with division (E) of this section.

(2) Divisions (A)(1) to (3) of this section do not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with division (B) of this section.

(3) As used in divisions (A)(1) and (2) of this section, "private residential property" means private property on which is located one or more structures that are used as a home, residence, or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence, or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(B)(1) The owner of private property may establish a private tow-away zone only if all of the following conditions are satisfied:

(a) The owner posts on the owner's property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that contains at least all of the following information:

(i) A notice that the property is a private tow-away zone and that vehicles not authorized to park on the property will be towed away;

(ii) The telephone number of the person from whom a towed-away vehicle can be recovered, and the address of the place to which the vehicle will be taken and the place from which it may be recovered;

(iii) A statement that the vehicle may be recovered at any time during the day or night upon the submission of proof of ownership and the payment of a towing charge, in an amount not to exceed ninety dollars, and a storage charge, in an amount not to exceed twelve dollars per twenty-four-hour period; except that the charge for towing shall not exceed one hundred fifty dollars, and the storage charge shall not exceed twenty dollars per twenty-four-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer.

(b) The place to which the towed vehicle is taken and from which it may be recovered is conveniently located, is well lighted, and is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

(2) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with division (B)(1) of this section, without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner or the owner's agent may remove, or cause the removal of, the vehicle, the owner and the operator of the vehicle shall be deemed to have consented to the removal and storage of the vehicle and to the payment of the towing and storage charges specified in division (B)(1)(a)(iii) of this section, and the owner, subject to division (C) of this section, may recover a vehicle that has been so removed only in accordance with division (E) of this section.

(3) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of private property located within the municipal corporation shall remove, or shall cause the removal and storage of, any vehicle pursuant to division (B)(2) of this section by an unlicensed

tow truck or unlicensed tow truck operator.

(4) Divisions (B)(1) to (3) of this section do not affect or limit the operation of division (A) of this section or sections 4513.61 to 4513.65 of the Revised Code as they relate to property other than private property that is established as a private tow-away zone under division (B)(1) of this section.

(C) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to division (A)(1) of this section or of a vehicle that is being removed under authority of division (B)(2) of this section arrives after the motor vehicle or vehicle has been prepared for removal, but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of motor vehicles under division (A)(1) of this section or of vehicles under division (B)(2) of this section, whichever is applicable, that normally is assessed by the person who has prepared the motor vehicle or vehicle for removal, in order to obtain release of the motor vehicle or vehicle. Upon payment of that fee, the motor vehicle or vehicle shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that:

(1) If the motor vehicle was ordered into storage pursuant to division (A)(1) of this section, it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

(2) If the vehicle was being removed under authority of division (B)(2) of this section, it is not parked on the private property established as a private tow-away zone without the consent of the owner or in violation of any posted parking condition or regulation.

(D)(1) If an owner of private property that is established as a private tow-away zone in accordance with division (B)(1) of this section or the authorized agent of such an owner removes or causes the removal of a vehicle from that property under authority of division (B)(2) of this section, the owner or agent promptly shall notify the police department of the municipal corporation, township, or township <u>or joint</u> police district in which the property is located, of the removal, the vehicle's license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered.

(2) Each county sheriff and each chief of police of a municipal

corporation, township, or township or joint police district shall maintain a record of motor vehicles that the sheriff or chief orders into storage pursuant to division (A)(1) of this section and of vehicles removed from private property in the sheriff's or chief's jurisdiction that is established as a private tow-away zone of which the sheriff or chief has received notice under division (D)(1) of this section. The record shall include an entry for each such motor vehicle or vehicle that identifies the motor vehicle's or vehicle's license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. Any information in the record that pertains to a particular motor vehicle or vehicle shall be provided to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle or vehicle and requests information pertaining to its location.

(3) Any person who registers a complaint that is the basis of a sheriff's or police chief's order for the removal and storage of a motor vehicle under division (A)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(E) The owner of a motor vehicle that is ordered into storage pursuant to division (A)(1) of this section or of a vehicle that is removed under authority of division (B)(2) of this section may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed ninety dollars, and storage, in an amount not to exceed twelve dollars per twenty-four-hour period; except that the charge for towing shall not exceed one hundred fifty dollars, and the storage charge shall not exceed twenty dollars per twenty-four-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle or vehicle also shall be required for reclamation of the vehicle. If a motor vehicle that is ordered into storage pursuant to division (A)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by sections 4513.61 and 4513.62 of the Revised Code shall apply.

(F) No person shall remove, or cause the removal of, any vehicle from private property that is established as a private tow-away zone under division (B)(1) of this section other than in accordance with division (B)(2)

of this section, and no person shall remove, or cause the removal of, any motor vehicle from any other private property other than in accordance with division (A)(1) of this section or sections 4513.61 to 4513.65 of the Revised Code.

(G) Whoever violates division (B)(3) or (F) of this section is guilty of a minor misdemeanor.

Sec. 4513.61. The sheriff of a county or chief of police of a municipal corporation, township, or township or joint police district, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of police of such action and of the location of the place of storage, may order into storage any motor vehicle, including an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code, that has come into the possession of the sheriff, chief of police, or state highway patrol trooper as a result of the performance of the sheriff's, chief's, or trooper's duties or that has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the sheriff or chief of police of the reasons for leaving the motor vehicle in such place, except that when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately. The sheriff or chief of police shall designate the place of storage of any motor vehicle so ordered removed.

The sheriff or chief of police immediately shall cause a search to be made of the records of the bureau of motor vehicles to ascertain the owner and any lienholder of a motor vehicle ordered into storage by the sheriff or chief of police, or by a state highway patrol trooper, and, if known, shall send or cause to be sent notice to the owner or lienholder at the owner's or lienholder's last known address by certified mail with return receipt requested, that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle. If the owner or lienholder of the motor vehicle reclaims it after a search of the records of the bureau has been conducted and after notice has been sent to the owner or lienholder as described in this section, and the search was conducted by the owner of the place of storage or the owner's employee, and the notice was sent to the motor vehicle owner by the owner of the place of storage or the owner's employee, the owner or lienholder shall pay to the place of storage a

processing fee of twenty-five dollars, in addition to any expenses or charges incurred in the removal and storage of the vehicle.

If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of mailing of the notice, and if the vehicle is to be disposed of at public auction as provided in section 4513.62 of the Revised Code, the sheriff or chief of police, without charge to any party, shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the sheriff or chief of police. If the vehicle is to be disposed of to a motor vehicle salvage dealer or other facility as provided in section 4513.62 of the Revised Code, the sheriff or chief of police shall execute in triplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The sheriff or chief of police shall retain the original of the affidavit for the sheriff's or chief's records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the clerk of courts, within thirty days of the presentation, shall issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances.

Whenever a motor vehicle salvage dealer or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the dealer or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the dealer's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the clerk of courts.

Sec. 4513.62. Unclaimed motor vehicles ordered into storage pursuant to division (A)(1) of section 4513.60 or section 4513.61 of the Revised Code shall be disposed of at the order of the sheriff of the county or the chief of police of the municipal corporation, township, or township <u>or joint</u> police district to a motor vehicle salvage dealer or scrap metal processing facility as defined in section 4737.05 of the Revised Code, or to any other facility owned by or under contract with the county, municipal corporation, or township, for the disposal of such motor vehicles, or shall be sold by the sheriff, chief of police, or licensed auctioneer at public auction, after giving notice thereof by advertisement, published once a week for two successive weeks in a newspaper of general circulation in the county <u>or as provided in section 7.16 of the Revised Code</u>. Any moneys accruing from the

disposition of an unclaimed motor vehicle that are in excess of the expenses resulting from the removal and storage of the vehicle shall be credited to the general fund of the county, ~~the~~ municipal corporation, ~~or the~~ township, or joint police district, as the case may be.

Sec. 4513.63. "Abandoned junk motor vehicle" means any motor vehicle meeting all of the following requirements:

(A) Left on private property for forty-eight hours or longer without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer;

(B) Three years old, or older;

(C) Extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission;

(D) Apparently inoperable;

(E) Having a fair market value of one thousand five hundred dollars or less.

The sheriff of a county or chief of police of a municipal corporation, township, or township or joint police district, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of police of such action, shall order any abandoned junk motor vehicle to be photographed by a law enforcement officer. The officer shall record the make of motor vehicle, the serial number when available, and shall also detail the damage or missing equipment to substantiate the value of one thousand five hundred dollars or less. The sheriff or chief of police shall thereupon immediately dispose of the abandoned junk motor vehicle to a motor vehicle salvage dealer as defined in section 4738.01 of the Revised Code or a scrap metal processing facility as defined in section 4737.05 of the Revised Code which is under contract to the county, township, or municipal corporation, or to any other facility owned by or under contract with the county, township, or municipal corporation for the destruction of such motor vehicles. The records and photograph relating to the abandoned junk motor vehicle shall be retained by the law enforcement agency ordering the disposition of such vehicle for a period of at least two years. The law enforcement agency shall execute in quadruplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with, and, within thirty days of disposing of the vehicle, shall sign and file the affidavit with the clerk of courts of the county in which the motor vehicle was

abandoned. The clerk of courts shall retain the original of the affidavit for the clerk's files, shall furnish one copy thereof to the registrar, one copy to the motor vehicle salvage dealer or other facility handling the disposal of the vehicle, and one copy to the law enforcement agency ordering the disposal, who shall file such copy with the records and photograph relating to the disposal. Any moneys arising from the disposal of an abandoned junk motor vehicle shall be deposited in the general fund of the county, township, or the municipal corporation, as the case may be.

Notwithstanding section 4513.61 of the Revised Code, any motor vehicle meeting the requirements of divisions (C), (D), and (E) of this section which has remained unclaimed by the owner or lienholder for a period of ten days or longer following notification as provided in section 4513.61 of the Revised Code may be disposed of as provided in this section.

Sec. 4513.64. (A) No person shall willfully leave an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the sheriff of the county or chief of police of the municipal corporation, township, or township or joint police district of the reasons for leaving the motor vehicle in such place.

For purposes of this section, the fact that a motor vehicle has been so left without permission or notification is prima-facie evidence of abandonment.

Nothing contained in sections 4513.60, 4513.61, and 4513.63 of the Revised Code shall invalidate the provisions of municipal ordinances or township resolutions regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property, or private property within municipal corporations or townships.

(B) Whoever violates this section is guilty of a minor misdemeanor and shall also be assessed any costs incurred by the county, township, joint police district, or municipal corporation in disposing of the abandoned junk motor vehicle that is the basis of the violation, less any money accruing to the county, ~~to the~~ township, joint police district, or ~~to the~~ municipal corporation from this disposal of the vehicle.

Sec. 4513.66. (A) If a motor vehicle accident occurs on any highway, public street, or other property open to the public for purposes of vehicular travel and if any motor vehicle, cargo, or personal property that has been

damaged or spilled as a result of the motor vehicle accident is blocking the highway, street, or other property or is otherwise endangering public safety, the sheriff of the county, or the chief of police of the municipal corporation, township, or township or joint police district, in which the accident occurred, a state highway patrol trooper, or the chief of the fire department having jurisdiction where the accident occurred may, without consent of the owner but with the approval of the law enforcement agency conducting any investigation of the accident, remove the motor vehicle if the motor vehicle is unoccupied, cargo, or personal property from the portion of the highway, public street, or property ordinarily used for vehicular travel on the highway, public street, or other property open to the public for purposes of vehicular travel.

(B)(1) Except as provided in division (B)(2) or (3) of this section, no employee of the department of transportation, sheriff, deputy sheriff, chief of police or police officer of a municipal corporation, township, or township or joint police district, state highway patrol trooper, chief of a fire department, or fire fighter who authorizes or participates in the removal of any unoccupied motor vehicle, cargo, or personal property as authorized by division (A) of this section is liable in civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property. Except as provided in division (B)(2) or (3) of this section, if the department of transportation or a sheriff, chief of police of a municipal corporation, township, or township or joint police district, head of the state highway patrol, or chief of a fire department authorizes, employs, or arranges to have a private tow truck operator or towing company remove any unoccupied motor vehicle, cargo, or personal property as authorized by division (A) of this section, that private tow truck operator or towing company is not liable in civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property, and the department of transportation, sheriff, chief of police, head of the state highway patrol, or fire department chief is not liable in civil damages for any injury, death, or loss to person or property that results from the private tow truck operator or towing company's removal of that unoccupied motor vehicle, cargo, or personal property.

(2) Division (B)(1) of this section does not apply to any person or entity involved in the removal of an unoccupied motor vehicle, cargo, or personal property pursuant to division (A) of this section if that removal causes or contributes to the release of a hazardous material or to structural damage to the roadway.

(3) Division (B)(1) of this section does not apply to a private tow truck operator or towing company that was not authorized, employed, or arranged by the department of transportation, a sheriff, a chief of police of a municipal corporation, township, or township or joint police district, the head of the state highway patrol, or a chief of a fire department or to a private tow truck operator or towing company that was authorized, employed, or arranged by the department of transportation, a sheriff, a chief of police of a municipal corporation, township, or township or joint police district, the head of the state highway patrol, or a chief of a fire department to perform the removal of the unoccupied motor vehicle, cargo, or personal property and the private tow truck operator or towing company performed the removal in a reckless or willful manner.

(C) As used in this section, "hazardous material" has the same meaning as in section 2305.232 of the Revised Code.

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the Revised Code:

(A) "Persons" includes individuals, firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals.

(B) "Motor vehicle" means motor vehicle as defined in section 4501.01 of the Revised Code and also includes "all-purpose vehicle" and "off-highway motorcycle" as those terms are defined in section 4519.01 of the Revised Code. "Motor vehicle" does not include a snowmobile as defined in section 4519.01 of the Revised Code or manufactured and mobile homes.

(C) "New motor vehicle" means a motor vehicle, the legal title to which has never been transferred by a manufacturer, remanufacturer, distributor, or dealer to an ultimate purchaser.

(D) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer purchasing in the capacity of a dealer, who in good faith purchases such new motor vehicle for purposes other than resale.

(E) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(F) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(G) "Retail sale" or "sale at retail" means the act or attempted act of

selling, bartering, exchanging, or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer.

(H) "Retail installment contract" includes any contract in the form of a note, chattel mortgage, conditional sales contract, lease, agreement, or other instrument payable in one or more installments over a period of time and arising out of the retail sale of a motor vehicle.

(I) "Farm machinery" means all machines and tools used in the production, harvesting, and care of farm products.

(J) "Dealer" or "motor vehicle dealer" means any new motor vehicle dealer, any motor vehicle leasing dealer, and any used motor vehicle dealer.

(K) "New motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in new motor vehicles pursuant to a contract or agreement entered into with the manufacturer, remanufacturer, or distributor of the motor vehicles.

(L) "Used motor vehicle dealer" means any person engaged in the business of selling, displaying, offering for sale, or dealing in used motor vehicles, at retail or wholesale, but does not mean any new motor vehicle dealer selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles, any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing official duties.

(M) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, sublease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle is in and remains in the motor vehicle leasing dealer who originally leases it, irrespective of whether or not the motor vehicle is the subject of a later sublease, and not in the user, but does not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(N) "Salesperson" means any person employed by a dealer ~~or manufactured home broker~~ to sell, display, and offer for sale, or deal in motor vehicles for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(O) "Casual sale" means any transfer of a motor vehicle by a person other than a new motor vehicle dealer, used motor vehicle dealer, motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, salesperson, motor vehicle auction owner, manufacturer, or

distributor acting in the capacity of a dealer, salesperson, auction owner, manufacturer, or distributor, to a person who purchases the motor vehicle for use as a consumer.

(P) "Motor vehicle show" means a display of current models of motor vehicles whereby the primary purpose is the exhibition of competitive makes and models in order to provide the general public the opportunity to review and inspect various makes and models of motor vehicles at a single location.

(Q) "Motor vehicle auction owner" means any person who is engaged wholly or in part in the business of auctioning motor vehicles, but does not mean a construction equipment auctioneer or a construction equipment auction licensee.

(R) "Manufacturer" means a person who manufactures, assembles, or imports motor vehicles, including motor homes, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(S) "Tent-type fold-out camping trailer" means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and that is subject to the following properties and limitations:

(1) A minimum of twenty-five per cent of the fold-out portion of the top and sidewalls combined must be constructed of canvas, vinyl, or other fabric, and form an integral part of the shelter.

(2) When folded, the unit must not exceed:

(a) Fifteen feet in length, exclusive of bumper and tongue;

(b) Sixty inches in height from the point of contact with the ground;

(c) Eight feet in width;

(d) One ton gross weight at time of sale.

(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.

(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the

legal rights and liabilities of the parties to such agreement, contract, or understanding.

(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.

(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.

(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

(Z) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

(AA) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

(BB) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in section 1301.201 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

(CC) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

(DD) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(EE) "Wholesale" or "at wholesale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a transferee for the purpose of resale and not for ultimate consumption by that transferee.

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer

under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, a roof elevation, or a body extension on a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose of carrying nine or fewer passengers, that a person modifies by cutting the original chassis, lengthening the wheelbase by forty inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces limousines unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the limousines to complete properly the remanufacture of the chassis into limousines.

(4) For the purposes of division (GG)(1) of this section, "hearse" means a motor vehicle, designed only for the purpose of transporting a single casket, that is equipped with a compartment designed specifically to carry a single casket that a person modifies by cutting the original chassis, lengthening the wheelbase by ten inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal

motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces hearses unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the hearses to complete properly the remanufacture of the chassis into hearses.

(5) For the purposes of division (GG)(1) of this section, "mobile self-contained facility vehicle" means a mobile classroom vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, testing laboratory, and mobile display vehicle, each of which is designed for purposes other than for passenger transportation and other than the transportation or displacement of cargo, freight, materials, or merchandise. A vehicle is remanufactured into a mobile self-contained facility vehicle in part by the addition of insulation to the body shell, and installation of all of the following: a generator, electrical wiring, plumbing, holding tanks, doors, windows, cabinets, shelving, and heating, ventilating, and air conditioning systems.

(6) For the purposes of division (GG)(1) of this section, "tow truck" means both of the following:

(a) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a wrecker body it purchases from a manufacturer or distributor of wrecker bodies, installs an emergency flashing light pylon and emergency lights upon the mast of the wrecker body or rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping so as to create a complete motor vehicle capable of lifting and towing another motor vehicle.

(b) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a car carrier body it purchases from a manufacturer or distributor of car carrier bodies, installs an emergency flashing light pylon and emergency lights upon the rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping.

As used in division (GG)(6)(b) of this section, "car carrier body" means a mechanical or hydraulic apparatus capable of lifting and holding a motor vehicle on a flat level surface so that one or more motor vehicles can be transported, once the car carrier is permanently installed upon an incomplete cab and chassis.

(HH) "Operating as a new motor vehicle dealership" means engaging in activities such as displaying, offering for sale, and selling new motor vehicles at retail, operating a service facility to perform repairs and maintenance on motor vehicles, offering for sale and selling motor vehicle parts at retail, and conducting all other acts that are usual and customary to the operation of a new motor vehicle dealership. For the purposes of this chapter only, possession of either a valid new motor vehicle dealer franchise agreement or a new motor vehicle dealers license, or both of these items, is not evidence that a person is operating as a new motor vehicle dealership.

(II) "Outdoor power equipment" means garden and small utility tractors, walk-behind and riding mowers, chainsaws, and tillers.

(JJ) "Remote service facility" means premises that are separate from a licensed new motor vehicle dealer's sales facility by not more than one mile and that are used by the dealer to perform repairs, warranty work, recall work, and maintenance on motor vehicles pursuant to a franchise agreement entered into with a manufacturer of motor vehicles. A remote service facility shall be deemed to be part of the franchise agreement and is subject to all the rights, duties, obligations, and requirements of Chapter 4517. of the Revised Code that relate to the performance of motor vehicle repairs, warranty work, recall work, and maintenance work by new motor vehicle dealers.

(KK) "Recreational vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(LL) "Construction equipment auctioneer" means a person who holds both a valid ~~auctioneer's~~ auction firm license issued under Chapter 4707. of the Revised Code and a valid construction equipment auction license issued under this chapter.

(MM) "Large construction or transportation equipment" means vehicles having a gross vehicle weight rating of more than ten thousand pounds and includes road rollers, traction engines, power shovels, power cranes, commercial cars and trucks, or farm trucks, and other similar vehicles obtained primarily from the construction, mining, transportation or farming industries.

Sec. 4517.02. (A) Except as otherwise provided in this section, no person shall do any of the following:

(1) Engage in the business of displaying or selling at retail new motor vehicles or assume to engage in that business, unless the person is licensed as a new motor vehicle dealer under sections 4517.01 to 4517.45 of the Revised Code, or is a salesperson licensed under those sections and employed by a licensed new motor vehicle dealer;

(2) Engage in the business of offering for sale, displaying for sale, or selling at retail or wholesale used motor vehicles or assume to engage in that business, unless the person is licensed as a dealer under sections 4517.01 to 4517.45 of the Revised Code, is a salesperson licensed under those sections and employed by a licensed used motor vehicle dealer or licensed new motor vehicle dealer, or the person holds a construction equipment auction license issued under section 4517.17 of the Revised Code;

(3) Engage in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle, in the manner described in division (M) of section 4517.01 of the Revised Code, unless the person is licensed as a motor vehicle leasing dealer under sections 4517.01 to 4517.45 of the Revised Code;

(4) Engage in the business of motor vehicle auctioning or assume to engage in that business, unless the person is licensed as a motor vehicle auction owner under sections 4517.01 to 4517.45 of the Revised Code and the person uses an auctioneer who is licensed under Chapter 4707. of the Revised Code to conduct the motor vehicle auctions or the person holds a construction equipment auction license issued under section 4517.17 of the Revised Code;

(5) Engage in the business of distributing motor vehicles or assume to engage in that business, unless the person is licensed as a distributor under sections 4517.01 to 4517.45 of the Revised Code;

(6) Make more than five casual sales of motor vehicles in a twelve-month period, commencing with the day of the month in which the first such sale is made, nor provide a location or space for the sale of motor vehicles at a flea market, without obtaining a license as a dealer under sections 4517.01 to 4517.45 of the Revised Code, provided that nothing in this section shall be construed to prohibit the disposition without a license of a motor vehicle originally acquired and held for purposes other than sale, rental, or lease to an employee, retiree, officer, or director of the person making the disposition, to a corporation affiliated with the person making the disposition, or to a person licensed under sections 4517.01 to 4517.45 of the Revised Code;

(7) Engage in the business of auctioning <u>both</u> large construction or transportation equipment and <u>also</u> motor vehicles incident thereto, unless the person is a construction equipment auctioneer or the person is licensed as a motor vehicle auction owner and the person uses an auctioneer who is licensed under Chapter 4707. of the Revised Code to conduct the auction.

(B) Nothing in this section shall be construed to require an auctioneer licensed under sections 4707.01 to 4707.19 of the Revised Code, to obtain a

motor vehicle salesperson's license under sections 4517.01 to 4517.45 of the Revised Code when conducting an auction sale for a licensed motor vehicle dealer on the dealer's premises, or when conducting an auction sale for a licensed motor vehicle auction owner; nor shall such an auctioneer be required to obtain a motor vehicle auction owner's license under sections 4517.01 to 4517.45 of the Revised Code when engaged in auctioning for a licensed motor vehicle auction owner.

The establishment of a construction equipment auction license by Am. Sub. H.B. 114 of the 129th general assembly shall not in any way modify, limit, or restrict in any manner the conduct of auctions by persons licensed under Chapter 4707. of the Revised Code who are acting in compliance with that chapter.

(C) Sections 4517.01 to 4517.45 of the Revised Code do not apply to any of the following:

(1) Persons engaging in the business of selling commercial tractors, trailers, or semitrailers incidentally to engaging primarily in business other than the selling or leasing of motor vehicles;

(2) Mortgagees selling at retail only those motor vehicles that have come into their possession by a default in the terms of a mortgage contract;

(3) The leasing, rental, and interchange of motor vehicles used directly in the rendition of a public utility service by regulated motor carriers.

(D) When a partnership licensed under sections 4517.01 to 4517.45 of the Revised Code is dissolved by death, the surviving partners may operate under the license for a period of sixty days, and the heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person succeeded in possession by that heir, representative, receiver, or trustee in bankruptcy.

(E) No remanufacturer shall engage in the business of selling at retail any new motor vehicle without having written authority from the manufacturer or distributor of the vehicle to sell new motor vehicles and to perform repairs under the terms of the manufacturer's or distributor's new motor vehicle warranty, unless, at the time of the sale of the vehicle, each customer is furnished with a binding agreement ensuring that the customer has the right to have the vehicle serviced or repaired by a new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located within either twenty miles of the remanufacturer's location and place of business or twenty miles of the customer's residence or place of business. If there is no such new motor

vehicle dealer located within twenty miles of the remanufacturer's location and place of business or the customer's residence or place of business, the binding agreement furnished to the customer may be with the new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located nearest to the remanufacturer's location and place of business or the customer's residence or place of business. Additionally, at the time of sale of any vehicle, each customer of the remanufacturer shall be furnished with a warranty issued by the remanufacturer for a term of at least one year.

(F) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor and shall be subject to a mandatory fine of one hundred dollars. If the offender previously has been convicted of or pleaded guilty to a violation of this section, whoever violates this section is guilty of a misdemeanor of the first degree and shall be subject to a mandatory fine of one thousand dollars.

Sec. 4517.04. Each person applying for a new motor vehicle dealer's license shall ~~annually~~ biennially make out and deliver to the registrar of motor vehicles, before the first day of April, and upon a blank to be furnished by the registrar for that purpose, a separate application for license for each county in which the business of selling new motor vehicles is to be conducted. The application shall be in the form prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name of applicant and location of principal place of business;

(B) Name or style under which business is to be conducted and, if a corporation, the state of incorporation;

(C) Name and address of each owner or partner and, if a corporation, the names of the officers and directors;

(D) The county in which the business is to be conducted and the address of each place of business therein;

(E) A statement of the previous history, record, and association of the applicant and of each owner, partner, officer, and director, that shall be sufficient to establish to the satisfaction of the registrar the reputation in business of the applicant;

(F) A statement showing whether the applicant has previously applied for a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license,~~ distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, and the result of the application, and whether the applicant has ever been the holder of any

such license that was revoked or suspended;

(G) If the applicant is a corporation or partnership, a statement showing whether any partner, employee, officer, or director has been refused a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license,~~ distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, or has been the holder of any such license that was revoked or suspended;

(H) A statement of the makes of new motor vehicles to be handled.

The statement required by division (E) of this section shall indicate whether the applicant or, if applicable, any of the applicant's owners, partners, officers, or directors, individually, or as owner, partner, officer, or director of a business entity, has been convicted of, pleaded guilty, or pleaded no contest, in a criminal action, or had a judgment rendered against ~~him~~ the person in a civil action for, a violation of sections 4549.41 to 4549.46 of the Revised Code, of any substantively comparable provisions of the law of any other state, or of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

A true copy of the contract, agreement, or understanding the applicant has entered into or is about to enter into with the manufacturer or distributor of the new motor vehicles the applicant will handle shall be filed with the application. If the contract, agreement, or understanding is not in writing, a written statement of all the terms thereof shall be filed. Each such copy or statement shall bear a certificate signed by each party to the contract, agreement, or understanding, to the effect that the copy or statement is true and complete and contains all of the agreements made or about to be made between the parties.

The application also shall be accompanied by a photograph, as prescribed by the registrar, of each place of business operated, or to be operated, by the applicant.

Sec. 4517.09. Each person applying for a salesperson's license shall ~~annually~~ biennially make out and deliver to the registrar of motor vehicles, before the first day of July and upon a blank to be furnished by the registrar for that purpose, an application for license. The application shall be in the form prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name and post-office address of the applicant;

(B) Name and post-office address of the motor vehicle dealer ~~or manufactured home broker~~ for whom the applicant intends to act as salesperson;

(C) A statement of the applicant's previous history, record, and association, that shall be sufficient to establish to the satisfaction of the registrar the applicant's reputation in business;

(D) A statement as to whether the applicant intends to engage in any occupation or business other than that of a motor vehicle salesperson;

(E) A statement as to whether the applicant has ever had any previous application refused, and whether the applicant has previously had a license revoked or suspended;

(F) A statement as to whether the applicant was an employee of or salesperson for a dealer ~~or manufactured home broker~~ whose license was suspended or revoked;

(G) A statement of the motor vehicle dealer ~~or manufactured home broker~~ named therein, designating the applicant as the dealer's ~~or broker's~~ salesperson.

The statement required by division (C) of this section shall indicate whether the applicant individually, or as an owner, partner, officer, or director of a business entity, has been convicted of, or pleaded guilty to, in a criminal action, or had a judgment rendered against the applicant in a civil action for, a violation of sections 4549.41 to 4549.46 of the Revised Code, of any substantively comparable provisions of the law of any other state, or of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

Sec. 4517.10. At the time the registrar of motor vehicles grants the application of any person for a license as motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ distributor, motor vehicle auction owner, or motor vehicle salesperson, the registrar shall issue to the person a license. The registrar shall prescribe different forms for the licenses of motor vehicle dealers, motor vehicle leasing dealers, ~~manufactured home brokers,~~ distributors, motor vehicle auction owners, and motor vehicle salespersons, and all licenses shall include the name and post-office address of the person licensed.

The fee for a motor vehicle dealer's license~~,~~ and a motor vehicle leasing dealer's license~~, and a manufactured home broker's license~~ shall be fifty dollars~~, and the~~. In addition to the license fee, the registrar shall collect from each applicant for an initial motor vehicle dealer's license and motor vehicle leasing dealer's license a separate fee in an amount equal to the last assessment required by section 4505.181 of the Revised Code for all motor vehicle dealers and motor vehicle leasing dealers. The registrar shall deposit the separate fee into the state treasury to the credit of the title defect rescision fund created in section 1345.52 of the Revised Code. The fee for a

salesperson's license shall be ten dollars. The fee for a motor vehicle auction owner's license shall be one hundred dollars for each location. The fee for a distributor's license shall be one hundred dollars for each distributorship. In all cases, the fee shall accompany the application for license.

The registrar may require each applicant for a license issued under this chapter to pay an additional fee, which shall be used by the registrar to pay the costs of obtaining a record of any arrests and convictions of the applicant from the Ohio bureau of identification and investigation. The amount of the fee shall be equal to that paid by the registrar to obtain such record.

If a motor vehicle dealer~~,~~ or a motor vehicle leasing dealer~~, or a manufactured home broker,~~ has more than one place of business in the county, the dealer ~~or the broker~~ shall make application, in such form as the registrar prescribes, for a certified copy of the license issued to the dealer ~~or manufactured home broker~~ for each place of business operated. In the event of the loss, mutilation, or destruction of a license issued under sections 4517.01 to 4517.65 of the Revised Code, any licensee may make application to the registrar, in such form as the registrar prescribes, for a duplicate copy thereof. The fee for a certified or duplicate copy of a motor vehicle dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's,~~ distributor's, or auction owner's license, is two dollars, and the fee for a duplicate copy of a salesperson's license is one dollar. All fees for such copies shall accompany the applications.

Beginning on ~~the effective date of this amendment~~ September 16, 2004, all motor vehicle dealers' licenses, motor vehicle leasing dealers' licenses, ~~manufactured home broker's licenses,~~ distributors' licenses, auction owners' licenses, and all salespersons' licenses issued or renewed shall expire biennially on a day within the two-year cycle that is prescribed by the registrar, unless sooner suspended or revoked. Before the first day after the day prescribed by the registrar in the year that the license expires, each licensed motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ distributor, and auction owner and each licensed salesperson, in the year in which the license will expire, shall file an application, in such form as the registrar prescribes, for the renewal of such license. The fee ~~provided in this section~~ for ~~the original~~ renewing a motor vehicle dealer's license and a motor vehicle leasing dealer's license shall be fifty dollars. The fee for renewing a salesperson's license shall be ten dollars. The fee for renewing a motor vehicle auction owner's license shall be one hundred dollars for each location. The fee for renewing a distributor's license shall be one hundred dollars for each distributorship. In all cases the license renewal fee shall accompany the renewal application.

Any salesperson's license shall be suspended upon the termination, suspension, or revocation of the license of the motor vehicle dealer ~~or manufactured home broker~~ for whom the salesperson is acting, or upon the salesperson leaving the service of the motor vehicle dealer ~~or manufactured home broker~~; provided that upon the termination, suspension, or revocation of the license of the motor vehicle dealer ~~or manufactured home broker~~ for whom the salesperson is acting, or upon the salesperson leaving the service of a licensed motor vehicle dealer ~~or manufactured home broker~~, the licensed salesperson, upon entering the service of any other licensed motor vehicle dealer ~~or manufactured home broker~~, shall make application to the registrar, in such form as the registrar prescribes, to have the salesperson's license reinstated, transferred, and registered as a salesperson for the other dealer ~~or broker~~. If the information contained in the application is satisfactory to the registrar, the registrar shall have the salesperson's license reinstated, transferred, and registered as a salesperson for the other dealer ~~or broker~~. The fee for the reinstatement and transfer of license shall be two dollars. No license issued to a motor vehicle dealer, motor vehicle leasing dealer, auction owner, ~~manufactured home broker,~~ or salesperson, under sections 4517.01 to 4517.65 of the Revised Code shall be transferable to any other person.

Each motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ distributor, and auction owner shall keep the license or a certified copy thereof and, in the case of a dealer ~~or broker~~, a current list of the dealer's ~~or the broker's~~ licensed salespersons, showing the names, addresses, and serial numbers of their licenses, posted in a conspicuous place in each place of business. Each salesperson shall carry the salesperson's license or a certified copy thereof and shall exhibit such license or copy upon demand to any inspector of the bureau of motor vehicles, state highway patrol trooper, police officer, or person with whom the salesperson seeks to transact business as a motor vehicle salesperson.

The notice of refusal to grant a license shall disclose the reason for refusal.

Sec. 4517.12. (A) The registrar of motor vehicles shall deny the application of any person for a license as a motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ or motor vehicle auction owner and refuse to issue the license if the registrar finds that the applicant:

(1) Has made any false statement of a material fact in the application;

(2) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;

(3) Is of bad business repute or has habitually defaulted on financial

obligations;

(4) Is engaged or will engage in the business of selling at retail any new motor vehicles without having written authority from the manufacturer or distributor thereof to sell new motor vehicles and to perform repairs under the terms of the manufacturer's or distributor's new motor vehicle warranty, except as provided in division (C) of this section and except that a person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor shall not be denied a license pursuant to division (A)(4) of this section;

(5) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in, or leasing, motor vehicles, or in connection with brokering manufactured homes;

(6) Has entered into or is about to enter into a contract or agreement with a manufacturer or distributor of motor vehicles that is contrary to sections 4517.01 to 4517.45 of the Revised Code;

(7) Is insolvent;

(8) Is of insufficient responsibility to ensure the prompt payment of any final judgments that might reasonably be entered against the applicant because of the transaction of business as a motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ or motor vehicle auction owner during the period of the license applied for, or has failed to satisfy any such judgment;

(9) Has no established place of business that, where applicable, is used or will be used for the purpose of selling, displaying, offering for sale, dealing in, or leasing motor vehicles at the location for which application is made;

(10) Has, less than twelve months prior to making application, been denied a motor vehicle dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's,~~ or motor vehicle auction owner's license, or has any such license revoked.

(B) If the applicant is a corporation or partnership, the registrar may refuse to issue a license if any officer, director, or partner of the applicant has been guilty of any act or omission that would be cause for refusing or revoking a license issued to such officer, director, or partner as an individual. The registrar's finding may be based upon facts contained in the application or upon any other information the registrar may have. Immediately upon denying an application for any of the reasons in this section, the registrar shall enter a final order together with the registrar's findings and certify the same to the motor vehicle dealers' and salespersons'

licensing board.

(C) Notwithstanding division (A)(4) of this section, the registrar shall not deny the application of any person and refuse to issue a license if the registrar finds that the applicant is engaged or will engage in the business of selling at retail any new motor vehicles and demonstrates all of the following in the form prescribed by the registrar:

(1) That the applicant has posted a bond, surety, or certificate of deposit with the registrar in an amount not less than one hundred thousand dollars for the protection and benefit of the applicant's customers except that a new motor vehicle dealer who is not exclusively engaged in the business of selling remanufactured vehicles shall not be required to post the bond, surety, or certificate of deposit otherwise required by division (C)(1) of this section;

(2) ~~That, at the time of the sale of the vehicle, each customer of the applicant will be furnished with a binding agreement ensuring that the customer has the right to have the vehicle serviced or repaired by a new motor vehicle dealer who is licensed to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located within either twenty miles of the applicant's location and place of business or twenty miles of the customer's residence or place of business. If there is no such new motor vehicle dealer located within twenty miles of the applicant's location and place of business or the customer's residence or place of business, the binding agreement furnished to the customer may be with the new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located nearest to the remanufacturer's location and place of business or the customer's residence or place of business.~~

~~(3)~~ That, at the time of the sale of the vehicle, each customer of the applicant will be furnished with a warranty issued by the remanufacturer for a term of at least one year;

~~(4)~~(3) That the applicant provides and maintains at the applicant's location and place of business a permanent facility with all of the following:

(a) A showroom with space, under roof, for the display of at least one new motor vehicle;

(b) A service and parts facility for remanufactured vehicles;

(c) Full-time service and parts personnel with the proper training and technical expertise to service the remanufactured vehicles sold by the applicant.

Sec. 4517.13. The registrar of motor vehicles shall deny the application of any person for a license as a distributor and refuse to issue the license if the registrar finds that the applicant:

(A) Has made any false statement of a material fact in the application;

(B) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;

(C) Is of bad business repute or has habitually defaulted on financial obligations;

(D) Is engaged or will engage in the business of distributing any new motor vehicle without having the authority of a contract with the manufacturer of the vehicle;

(E) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles;

(F) Has entered into or is about to enter into a contract or agreement with a manufacturer of motor vehicles that is contrary to sections 4517.01 to 4517.45 of the Revised Code;

(G) Is insolvent;

(H) Is of insufficient responsibility to ensure the prompt payment of any financial judgment that might reasonably be entered against the applicant because of the transaction of business as a distributor during the period of the license applied for, or has failed to satisfy any such judgment;

(I) Has no established place of business that, where applicable, is used or will be used exclusively for the purpose of distributing new motor vehicles at the location for which application is made;

(J) Has, less than twelve months prior to making application, been denied a distributor's, motor vehicle dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's,~~ or motor vehicle auction owner's license, or had any such license revoked.

If the applicant is a corporation or partnership, the registrar may refuse to issue a license if any officer, director, employee, or partner of the applicant has been guilty of any act or omission that would be cause for refusing or revoking a license issued to such officer, director, employee, or partner as an individual. The registrar's finding may be based upon facts contained in the application or upon any other information the registrar may have. Immediately upon denying an application for any of the reasons in this section, the registrar shall enter a final order together with the registrar's findings and certify the same to the motor vehicle dealers board.

Sec. 4517.14. The registrar of motor vehicles shall deny the application of any person for a license as a salesperson and refuse to issue the license if the registrar finds that the applicant:

(A) Has made any false statement of a material fact in the application;

(B) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;

(C) Is of bad business repute or has habitually defaulted on financial obligations;

(D) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles;

(E) Has not been designated to act as salesperson for a motor vehicle dealer ~~or manufactured home broker~~ licensed to do business in this state under section 4517.10 of the Revised Code, or intends to act as salesperson for more than one licensed motor vehicle dealer ~~or manufactured home broker~~ at the same time, except that a licensed salesperson may act as a salesperson at any licensed dealership owned or operated by the same ~~corporation~~ company, regardless of the county in which the dealership's facility is located;

(F) Holds a current motor vehicle dealer's ~~or manufactured home broker's~~ license issued under section 4517.10 of the Revised Code, and intends to act as salesperson for another licensed motor vehicle dealer ~~or manufactured home broker~~;

(G) Has, less than twelve months prior to making application, been denied a salesperson's license or had a salesperson's license revoked.

The registrar may refuse to issue a salesperson's license to an applicant who was salesperson for, or in the employ of, a motor vehicle dealer ~~or manufactured home broker~~ at the time the dealer's ~~or broker's~~ license was revoked. The registrar's finding may be based upon any statement contained in the application or upon any facts within the registrar's knowledge, and, immediately upon refusing to issue a salesperson's license, the registrar shall enter a final order and shall certify the final order together with his findings to the motor vehicle dealers board.

Sec. 4517.23. (A) Any licensed motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ or distributor shall notify the registrar of motor vehicles concerning any change in status as a dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ or distributor during the period for which the dealer, ~~broker,~~ or distributor is licensed, if the change of status concerns any of the following:

(1) Personnel of owners, partners, officers, or directors;

(2) Location of office or principal place of business;

(3) In the case of a motor vehicle dealer, any contract or agreement with any manufacturer or distributor; and in the case of a distributor, any contract or agreement with any manufacturer.

(B) The notification required by division (A) of this section shall be made by filing with the registrar, within fifteen days after the change of status, a supplemental statement in a form prescribed by the registrar showing in what respect the status has been changed. If the change involves a change in any contract or agreement between any manufacturer or distributor, and dealer, or any manufacturer and distributor, the supplemental statement shall be accompanied by such copies of contracts, statements, and certificates as would have been required by sections 4517.01 to 4517.45 of the Revised Code if the change had occurred prior to the licensee's application for license.

The motor vehicle dealers board may adopt a rule exempting from the notification requirement of division (A)(1) of this section any dealer if stock in the dealer or its parent company is publicly traded and if there are public records with state or federal agencies that provide the information required by division (A)(1) of this section.

(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4517.24. (A) No two motor vehicle dealers shall engage in business at the same location, unless they agree to be jointly, severally, and personally liable for any liability arising from their engaging in business at the same location. The agreement shall be filed with the motor vehicle dealers board, and shall also be made a part of the articles of incorporation of each such dealer filed with the secretary of state. Whenever the board has reason to believe that a dealer who has entered into such an agreement has revoked the agreement but continues to engage in business at the same location, the board shall revoke the dealer's license.

(B) ~~This section does not apply to two or more motor vehicle dealers engaged in the business of selling new or used manufactured or mobile homes in the same manufactured home park.~~

~~(C)~~ Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4517.44. (A) No manufacturer or distributor of motor vehicles, dealer in motor vehicles, ~~or manufactured home broker,~~ nor any owner, proprietor, person in control, or keeper of any garage, stable, shop, or other place of business, shall fail to keep or cause to be kept any record required by law.

(B) Whoever violates this section is guilty of a minor misdemeanor.

Sec. 4549.17. (A) No law enforcement officer employed by a law enforcement agency of a municipal corporation, township, or joint ~~township~~ police district shall issue any citation, summons, or ticket for a violation of

section 4511.21 of the Revised Code or a substantially similar municipal ordinance or for a violation of section 5577.04 of the Revised Code or a substantially similar municipal ordinance, if all of the following apply:

(1) The citation, summons, or ticket would be issued for a violation described in division (A) of this section that occurs on a freeway that is part of the interstate system;

(2) The municipal corporation, township, or joint ~~township~~ police district that employs the law enforcement officer has less than eight hundred eighty yards of the freeway that is part of the interstate system within its jurisdiction;

(3) The law enforcement officer must travel outside the boundaries of the municipal corporation, township, or joint ~~township~~ police district that employs ~~him~~ the officer in order to enter onto the freeway;

(4) The law enforcement officer travels onto the freeway for the primary purpose of issuing citations, summonses, or tickets for violations of section 4511.21 of the Revised Code or a substantially similar municipal ordinance or for violations of section 5577.04 of the Revised Code or a substantially similar municipal ordinance.

(B) As used in this section, "interstate system" has the same meaning as in section 5516.01 of the Revised Code.

Sec. 4582.12. (A)(1) Except as otherwise provided in division (E) of section 307.671 of the Revised Code, division (A) of this section does not apply to a port authority educational and cultural facility acquired, constructed, and equipped pursuant to a cooperative agreement entered into under section 307.671 of the Revised Code.

(2)(a) Except as provided in division (C) of this section or except when the port authority elects to construct a building, structure, or other improvement pursuant to a contract made with a construction manager at risk under sections 9.33 to 9.335 of the Revised Code or with a design-build firm under sections 153.65 to 153.73 of the Revised Code, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the higher of one hundred thousand dollars or the amount as adjusted under division (A)(2)(b) of this section and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the jurisdiction of the port authority. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code.

Every contract let shall be in writing and if the contract involves work or construction, it shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections 153.54, 153.57, and 153.571 of the Revised Code.

The port authority may reject any and all bids.

(b) On January 1, 2012, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold level for contracts subject to the bidding requirements contained in division (A)(2)(a) of this section. The director shall adjust this amount according to the average increase for each of the two years immediately preceding the adjustment as set forth in the producer price index for material and supply inputs for new nonresidential construction as determined by the bureau of labor statistics of the United States department of labor or, if that index no longer is published, a generally available comparable index. If there is no resulting increase, the threshold shall remain the same until the next scheduled adjustment on the first day of January of the next even-numbered year.

(B) The board of directors of a port authority by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building, structure, or other improvement under any of the following circumstances:

(1) There exists a real and present emergency that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(2) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(3) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(4) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(5) A single bid is received by the port authority after complying with the provisions of division (A) of this section.

(C)(1) If a contract is to be negotiated and awarded without competitive

bidding for the reason set forth in division (B)(2) of this section, the port authority shall publish a notice calling for technical proposals at least twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(2) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(4) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

~~(D) No contract for the construction or repair of any building, structure, or other improvement and no loan agreement for the borrowing of funds for any such improvement undertaken by a port authority, where the port authority is the contracting entity, shall be executed unless laborers and mechanics employed on such improvements are paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the improvement. The wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for the determination of prevailing wage rates, provided that the requirements of this section do not apply where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in connection with such project and prescribes predetermined minimum wages to be paid to the laborers and mechanics.~~

Sec. 4582.31. (A) A port authority created in accordance with section 4582.22 of the Revised Code may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Adopt an official seal;

(3) Maintain a principal office within its jurisdiction, and maintain such branch offices as it may require;

(4) Acquire, construct, furnish, equip, maintain, repair, sell, exchange, lease to or from, or lease with an option to purchase, convey other interests in real or personal property, or any combination thereof, related to, useful for, or in furtherance of any authorized purpose and operate any property in connection with transportation, recreational, governmental operations, or cultural activities;

(5) Straighten, deepen, and improve any channel, river, stream, or other water course or way which may be necessary or proper in the development

of the facilities of a port authority;

(6) Make available the use or services of any port authority facility to one or more persons, one or more governmental agencies, or any combination thereof;

(7) Issue bonds or notes for the acquisition, construction, furnishing, or equipping of any port authority facility or other permanent improvement that a port authority is authorized to acquire, construct, furnish, or equip, in compliance with Chapter 133. of the Revised Code, except that such bonds or notes may only be issued pursuant to a vote of the electors residing within the area of jurisdiction of the port authority. The net indebtedness incurred by a port authority shall never exceed two per cent of the total value of all property within the territory comprising the port authority as listed and assessed for taxation.

(8) Issue port authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 4582.48 of the Revised Code, for the purpose of providing funds to pay the costs of any port authority facility or facilities or parts thereof;

(9) Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones and establish, operate, and maintain foreign trade zones and to acquire, exchange, sell, lease to or from, lease with an option to purchase, or operate facilities, land, or property therefor in accordance with the "Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 81u;

(10) Enjoy and possess the same rights, privileges, and powers granted municipal corporations under sections 721.04 to 721.11 of the Revised Code;

(11) Maintain such funds as it considers necessary;

(12) Direct its agents or employees, when properly identified in writing, and after at least five days' written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done;

(13) Promote, advertise, and publicize the port authority and its facilities; provide information to shippers and other commercial interests; and appear before rate-making authorities to represent and promote the interests of the port authority;

(14) Adopt rules, not in conflict with general law, it finds necessary or incidental to the performance of its duties and the execution of its powers under sections 4582.21 to 4582.54 of the Revised Code. Any such rule shall

be posted at no less than five public places in the port authority, as determined by the board of directors, for a period of not fewer than fifteen days, and shall be available for public inspection at the principal office of the port authority during regular business hours. No person shall violate any lawful rule adopted and posted as provided in this division.

(15) Do any of the following, in regard to any interests in any real or personal property, or any combination thereof, including, without limitation, machinery, equipment, plants, factories, offices, and other structures and facilities related to, useful for, or in furtherance of any authorized purpose, for such consideration and in such manner, consistent with Article VIII of the Ohio Constitution, as the board in its sole discretion may determine:

(a) Loan moneys to any person or governmental entity for the acquisition, construction, furnishing, and equipping of the property;

(b) Acquire, construct, maintain, repair, furnish, and equip the property;

(c) Sell to, exchange with, lease, convey other interests in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental entity;

(d) Guarantee the obligations of any person or governmental entity.

A port authority may accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board in its discretion may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority.

(16) Sell, lease, or convey other interests in real and personal property, and grant easements or rights-of-way over property of the port authority. The board of directors shall specify the consideration and any terms for the sale, lease, or conveyance of other interests in real and personal property. Any determination made by the board under this division shall be conclusive. The sale, lease, or conveyance may be made without advertising and the receipt of bids.

(17) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for any authorized purpose, pursuant to the procedure provided in sections 163.01 to 163.22 of the Revised Code, if funds equal to the appraised value of the property to be acquired as a result of such proceedings are available for that purpose. However, nothing contained in sections 4582.201 to 4582.59 of the Revised Code shall authorize a port authority to take or disturb property or facilities belonging to any agency or political subdivision of this state, public utility, cable operator, or common carrier, which property or facilities are necessary and convenient in the operation of the agency or political subdivision, public utility, cable

operator, or common carrier, unless provision is made for the restoration, relocation, or duplication of such property or facilities, or upon the election of the agency or political subdivision, public utility, cable operator, or common carrier, for the payment of compensation, if any, at the sole cost of the port authority, provided that:

(a) If any restoration or duplication proposed to be made under this section involves a relocation of the property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and shall not impair the ability of the public utility, cable operator, or common carrier to compete in its original area of operation;

(b) If any restoration or duplication made under this section involves a relocation of the property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in division (A)(15) of this section, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility, cable operator, or common carrier.

As used in division (A)(17) of this section, "cable operator" has the same meaning as in the "Cable Communications Policy Act of 1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 U.S.C. 522, as amended by the "Telecommunications Act of 1996," Pub. L. No. 104-104, 110 Stat. 56.

(18)(a) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under sections 4582.21 to 4582.59 of the Revised Code.

(b)(i) Except as provided in division (A)(18)(c) of this section or except when the port authority elects to construct a building, structure, or other improvement pursuant to a contract made with a construction manager at risk under sections 9.33 to 9.335 of the Revised Code or with a design-build firm under section 153.65 to 153.73 of the Revised Code, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the higher of one hundred thousand dollars or the amount as adjusted under division (A)(18)(b)(ii) of this section, and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. Every contract shall be accompanied by or shall

refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections 153.54, 153.57, and 153.571 of the Revised Code. The port authority may reject any and all bids.

(ii) On January 1, 2012, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold level for contracts subject to the bidding requirements contained in division (A)(18)(b)(i) of this section. The director shall adjust this amount according to the average increase for each of the two years immediately preceding the adjustment as set forth in the producer price index for material and supply inputs for new nonresidential construction as determined by the bureau of labor statistics of the United States department of labor or, if that index no longer is published, a generally available comparable index. If there is no resulting increase, the threshold shall remain the same until the next scheduled adjustment on the first day of January of the next even-numbered year.

(c) The board of directors by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building or structure or other improvement under any of the following circumstances:

(i) There exists a real and present emergency that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(ii) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(iii) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(iv) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(v) A single bid is received by the port authority after complying with the provisions of division (A)(18)(b) of this section.

(d)(i) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A)(18)(c)(ii) of this section, the port authority shall publish a notice calling for technical proposals ~~at least~~

twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(ii) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A)(18)(c)(iv) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

(e)(i) Any purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental entity that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, or any combination thereof, related to, useful for, or in furtherance of an activity contemplated by Section 13 or 16 of Article VIII, Ohio Constitution, shall be made in such manner and subject to such terms and conditions as may be determined by the board of directors in its discretion.

(ii) Division (A)(18)(e)(i) of this section applies to all contracts that are subject to the division, notwithstanding any other provision of law that might otherwise apply, including, without limitation, any requirement of notice, any requirement of competitive bidding or selection, or any requirement for the provision of security.

(iii) Divisions (A)(18)(e)(i) and (ii) of this section do not apply to either of the following: any contract secured by or to be paid from moneys raised by taxation or the proceeds of obligations secured by a pledge of moneys raised by taxation; or any contract secured exclusively by or to be paid exclusively from the general revenues of the port authority. For the purposes of this section, any revenues derived by the port authority under a lease or other agreement that, by its terms, contemplates the use of amounts payable under the agreement either to pay the costs of the improvement that is the subject of the contract or to secure obligations of the port authority issued to finance costs of such improvement, are excluded from general revenues.

(19) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and any other consultants and independent contractors as are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable from any

available funds of the port authority or from funds appropriated for that purpose by a political subdivision creating or participating in the creation of the port authority.

(20) Receive and accept from any state or federal agency grants and loans for or in aid of the construction of any port authority facility or for research and development with respect to port authority facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made;

(21) Engage in research and development with respect to port authority facilities;

(22) Purchase fire and extended coverage and liability insurance for any port authority facility and for the principal office and branch offices of the port authority, insurance protecting the port authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the port authority may agree to provide under any resolution authorizing its port authority revenue bonds or in any trust agreement securing the same;

(23) Charge, alter, and collect rentals and other charges for the use or services of any port authority facility as provided in section 4582.43 of the Revised Code;

(24) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(25) Do all acts necessary or proper to carry out the powers expressly granted in sections 4582.21 to 4582.59 of the Revised Code.

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

(C) Whoever violates division (A)(14) of this section is guilty of a minor misdemeanor.

Sec. 4585.10. The officer holding a writ for the sale of a watercraft, its apparel, or furniture, before ~~he proceeds~~ proceeding to sell it, shall give public notice of the time and place of sale for at least ten days previous thereto or as provided in section 7.16 of the Revised Code, by advertisement in a newspaper ~~published~~ of general circulation in the county, and by advertisement posted in at least five public places in the county. Such sales shall be conducted, and the court shall have the same power over them as sales upon execution.

Sec. 4705.021. (A) As used in this section:

(1) "Disciplinary counsel" means the disciplinary counsel appointed by

the board of commissioners on grievances and discipline of the supreme court under the Rules for the Government of the Bar of Ohio.

(2) "Certified grievance committee" means a duly constituted and organized committee of the Ohio state bar association or of one or more local bar associations of the state that complies with the criteria set forth in rule V, section 3 of the Rules for the Government of the Bar of Ohio.

(3) "Child support order" has the same meaning as in section 3119.01 of the Revised Code.

(B) If an individual who has been admitted to the bar by order of the supreme court in compliance with its published rules is determined pursuant to sections 3123.01 to 3123.07 of the Revised Code by a court or child support enforcement agency to be in default under a support order being administered or handled by a child support enforcement agency, that agency may send a notice listing the name and social security number or other identification number of the individual and a certified copy of the court or agency determination that the individual is in default to the secretary of the board of commissioners on grievances and discipline of the supreme court and to either the disciplinary counsel or the president, secretary, and chairperson of each certified grievance committee if both of the following are the case:

(1) At least ninety days have elapsed since the final and enforceable determination of default;

(2) In the preceding ninety days, the obligor has failed to pay at least fifty per cent of the total monthly obligation due through means other than those described in sections 3123.81 to 3123.85 of the Revised Code.

Sec. 4709.13. (A) The barber board may refuse to issue or renew or may suspend or revoke or impose conditions upon any license issued pursuant to this chapter for any one or more of the following causes:

(1) ~~Conviction of a felony shown by a certified copy of the record of the court of conviction;~~

~~(2)~~ Advertising by means of knowingly false or deceptive statements;

~~(3)~~(2) Habitual drunkenness or possession of or addiction to the use of any controlled drug prohibited by state or federal law;

~~(4)~~(3) Immoral or unprofessional conduct;

~~(5)~~(4) Continuing to be employed in a barber shop wherein rules of the board or department of health are violated;

~~(6)~~(5) Employing any person who does not have a current Ohio license to perform the practice of barbering;

~~(7)~~(6) Owning, managing, operating, or controlling any barber school or portion thereof, wherein the practice of barbering is carried on, whether in

the same building or not, without displaying a sign at all entrances to the places where the barbering is carried on, indicating that the work therein is done by students exclusively;

~~(8)~~(7) Owning, managing, operating, or controlling any barber shop, unless it displays a recognizable sign or barber pole indicating that it is a barber shop, and the sign or pole is clearly visible at the main entrance to the shop;

~~(9)~~(8) Violating any sanitary rules approved by the department of health or the board;

~~(10)~~(9) Employing another person to perform or ~~himself~~ personally perform the practice of barbering in a licensed barber shop unless that person is licensed as a barber under this chapter;

~~(11)~~(10) Gross incompetence.

(B)(1) The board may refuse to renew or may suspend or revoke or impose conditions upon any license issued pursuant to this chapter for conviction of or plea of guilty to a felony committed after the person has been issued a license under this chapter, shown by a certified copy of the record of the court in which the person was convicted or pleaded guilty.

(2) A conviction or plea of guilty to a felony committed prior to being issued a license under this chapter shall not disqualify a person from being issued an initial license under this chapter.

(C) Prior to taking any action under division (A) or (B) of this section, the board shall provide the person with a statement of the charges against ~~him~~ the person and notice of the time and place of a hearing on the charges. The board shall conduct the hearing according to Chapter 119. of the Revised Code. Any person dissatisfied with a decision of the board may appeal the board's decision to the court of common pleas in Franklin county.

~~(C)~~(D) The board may adopt rules in accordance with Chapter 119. of the Revised Code, specifying additional grounds upon which the board may take action under division (A) of this section.

Sec. 4725.34. (A) The state board of optometry shall charge the following nonrefundable fees:

(1) One hundred ~~ten~~ thirty dollars for application for a certificate of licensure;

(2) ~~Twenty-five~~ Forty-five dollars for application for a therapeutic pharmaceutical agents certificate, except when the certificate is to be issued pursuant to division (A)(3) of section 4725.13 of the Revised Code, in which case the fee shall be thirty-five dollars;

(3) One hundred ~~ten~~ thirty dollars for renewal of a certificate of licensure;

(4) ~~Twenty-five~~ Forty-five dollars for renewal of a topical ocular pharmaceutical agents certificate;

(5) ~~Twenty-five~~ Forty-five dollars for renewal of a therapeutic pharmaceutical agents certificate;

(6) ~~Seventy-five~~ One hundred twenty-five dollars for late completion or submission, or both, of continuing optometric education;

(7) ~~Seventy-five~~ One hundred twenty-five dollars for late renewal of one or more certificates that have expired;

(8) Seventy-five dollars for reinstatement of one or more certificates classified as delinquent under section 4725.16 of the Revised Code, multiplied by the number of years the one or more certificates have been classified as delinquent;

(9) Seventy-five dollars for reinstatement of one or more certificates placed on inactive status under section 4725.17 of the Revised Code;

(10) Seventy-five dollars for reinstatement under section 4725.171 of the Revised Code of one or more expired certificates;

(11) Additional fees to cover administrative costs incurred by the board, including fees for replacing licenses issued by the board and providing rosters of currently licensed optometrists. Such fees shall be established at a regular meeting of the board and shall comply with any applicable guidelines or policies set by the department of administrative services or the office of budget and management.

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts specified in division (A) of this section if the fees do not exceed the amounts specified by more than fifty per cent.

(C) All receipts of the board, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 4725.48. (A) Any person who desires to engage in optical dispensing, except as provided in section 4725.47 of the Revised Code, shall file a properly completed written application for an examination with the Ohio optical dispensers board or with the testing service the board has contracted with pursuant to section 4725.49 of the Revised Code. The application for examination shall be made on a form provided by the board or testing service and shall be accompanied by an examination fee the board shall establish by rule. Applicants must return the application to the board or testing service at least sixty days prior to the date the examination is scheduled to be administered.

(B) Except as provided in section 4725.47 of the Revised Code, any person who desires to engage in optical dispensing shall file a properly

completed written application for a license with the board with ~~the appropriate license~~ a licensure application fee ~~as set forth under section 4725.50 of the Revised Code~~ of fifty dollars.

No person shall be eligible to apply for a license under this division, unless the person is at least eighteen years of age, is of good moral character, is free of contagious or infectious disease, has received a passing score, as determined by the board, on the examination administered under division (A) of this section, is a graduate of an accredited high school of any state, or has received an equivalent education and has successfully completed either of the following:

(1) Two years of supervised experience under a licensed dispensing optician, optometrist, or physician engaged in the practice of ophthalmology, up to one year of which may be continuous experience of not less than thirty hours a week in an optical laboratory;

(2) A two-year college level program in optical dispensing that has been approved by the board and that includes, but is not limited to, courses of study in mathematics, science, English, anatomy and physiology of the eye, applied optics, ophthalmic optics, measurement and inspection of lenses, lens grinding and edging, ophthalmic lens design, keratometry, and the fitting and adjusting of spectacle lenses and frames and contact lenses, including methods of fitting contact lenses and post-fitting care.

(C) Any person who desires to obtain a license to practice as an ocularist shall file a properly completed written application with the board accompanied by the appropriate fee and proof that the applicant has met the requirements for licensure. The board shall establish, by rule, the application fee and the minimum requirements for licensure, including education, examination, or experience standards recognized by the board as national standards for ocularists. The board shall issue a license to practice as an ocularist to an applicant who satisfies the requirements of this division and rules adopted pursuant to this division.

Sec. 4725.50. (A) Except for a person who qualifies for licensure as an ocularist, each person who qualifies for licensure under sections 4725.40 to 4725.59 of the Revised Code shall receive from the Ohio optical dispensers board, under its seal, a certificate of licensure entitling ~~him~~ the person to practice as a licensed spectacle dispensing optician, licensed contact lens dispensing optician, or a licensed spectacle-contact lens dispensing optician. The appropriate certificate of licensure shall be issued by the board no later than sixty days after it has notified the applicant of ~~his~~ the applicant's approval for licensure.

(B) ~~The licensure fee shall be fifty dollars for applications submitted in~~

~~January through March; thirty-seven dollars and fifty cents, in April through June; twenty-five dollars, in July through September; and twelve dollars and fifty cents, in October through December.~~

~~(C)~~ Each licensed dispensing optician shall display ~~his~~ the licensed dispensing optician's certificate of licensure in a conspicuous place in ~~his~~ the licensed dispensing optician's office or place of business. If a licensed dispensing optician maintains more than one office or place of business, ~~he~~ the licensed dispensing optician shall display a duplicate copy of such certificate at each location. The board shall issue duplicate copies of the appropriate certificate of licensure for this purpose upon the filing of an application form therefor and the payment of a five-dollar fee for each duplicate copy.

Sec. 4725.52. Any licensed dispensing optician may supervise a maximum of three apprentices who shall be permitted to engage in optical dispensing only under the supervision of the licensed dispensing optician.

~~A person serving~~ To serve as an apprentice, a person shall register ~~annually~~ with the Ohio optical dispensers board either on a form provided by the board or in the form of a statement giving the name and address of the supervising licensed dispensing optician, the location at which the apprentice will be employed, and any other information required by the board. ~~Each registrant~~ For the duration of the apprenticeship, the apprentice shall register annually on the form provided by the board or in the form of a statement.

Each apprentice shall pay ~~a~~ an initial registration fee of ~~ten~~ twenty dollars. For each registration renewal thereafter, each apprentice shall pay a registration renewal fee of twenty dollars.

A person who is gaining experience under the supervision of a licensed optometrist or ophthalmologist that would qualify ~~him~~ the person under division (B)(1) of section 4725.48 of the Revised Code to take the examination for optical dispensing is not required to register with the board.

Sec. 4725.57. An applicant for licensure as a licensed dispensing optician who is licensed or registered in another state shall be accorded the full privileges of practice within this state, upon the payment of a ~~seventy-five~~ fifty-dollar fee and the submission of a certified copy of the license or certificate issued by such other state, without the necessity of examination, if the board determines that the applicant meets the ~~criteria of division (A) of section 4725.48 of the Revised Code and further determines that the educational background or experience of the applicant satisfies the~~ remaining requirements of division (B) of section 4725.48 of the Revised Code. The board may require that the applicant have received a passing

score, as determined by the board, on an examination that is substantially the same as the examination described in division (A) of section 4725.48 of the Revised Code.

Sec. 4729.50. (A) The state board of pharmacy may enter into contracts with private entities under which the entities process applications and renewal applications for wholesale distributors of dangerous drugs and terminal distributors of dangerous drugs. When entering into these contracts, the board shall give preference to entities that are Ohio-based companies.

Any revenue received by the board from contracts entered into under this section shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund. The money may be used for any purpose determined by the board to be relevant to its duties, including the establishment and maintenance of a drug database pursuant to section 4729.75 of the Revised Code.

(B) No enforcement or disciplinary authority granted to the board shall be transferred to a private entity through a contract entered into under this section.

Sec. 4729.52. (A) A person desiring to be registered as a wholesale distributor of dangerous drugs shall file with the executive director of the state board of pharmacy a verified application containing such information as the board requires of the applicant relative to the qualifications to be registered as a wholesale distributor of dangerous drugs set forth in section 4729.53 of the Revised Code and the rules adopted under that section. The board shall register as a wholesale distributor of dangerous drugs each applicant who has paid the required registration fee, if the board determines that the applicant meets the qualifications to be registered as a wholesale distributor of dangerous drugs set forth in section 4729.53 of the Revised Code and the rules adopted under that section.

(B) The board may register and issue to a person who does not reside in this state a registration certificate as a wholesale distributor of dangerous drugs if the person possesses a current and valid wholesale distributor of dangerous drugs registration certificate or license issued by another state that has qualifications for licensure or registration comparable to the registration requirements in this state and pays the required registration fee.

(C) All registration certificates issued pursuant to this section are effective for a period of twelve months from the first day of July of each year. A registration certificate shall be renewed annually by the board for a like period, pursuant to this section and the standard renewal procedure of Chapter 4745. of the Revised Code. A person desiring to renew a registration certificate shall submit an application for renewal and pay the

required renewal fee before the first day of July each year.

(D) Each registration certificate and its application shall describe not more than one establishment or place where the registrant or applicant may engage in the sale of dangerous drugs at wholesale. No registration certificate shall authorize or permit the wholesale distributor of dangerous drugs named therein to engage in the sale of drugs at wholesale or to maintain possession, custody, or control of dangerous drugs for any purpose other than for the registrant's own use and consumption at any establishment or place other than that described in the certificate.

(E)(1) The registration fee is ~~one~~ seven hundred fifty dollars and shall accompany each application for registration. The registration renewal fee is ~~one~~ seven hundred fifty dollars and shall accompany each renewal application.

A registration certificate that has not been renewed in any year by the first day of August may be reinstated upon payment of the renewal fee and a penalty of ~~fifty-five~~ one hundred fifty dollars.

(2) Renewal fees and penalties assessed under division (E)(1) of this section shall not be returned if the applicant fails to qualify for renewal.

(F) The registration of any person as a wholesale distributor of dangerous drugs subjects the person and the person's agents and employees to the jurisdiction of the board and to the laws of this state for the purpose of the enforcement of this chapter and the rules of the board. However, the filing of an application for registration as a wholesale distributor of dangerous drugs by, or on behalf of, any person or the registration of any person as a wholesale distributor of dangerous drugs shall not, of itself, constitute evidence that the person is doing business within this state.

Sec. 4729.552. (A) To be eligible to receive a license as a category III terminal distributor of dangerous drugs with a pain management clinic classification, an applicant shall submit evidence satisfactory to the board that the applicant's pain management clinic will be operated in accordance with the requirements specified in division (B) of this section and that the applicant meets any other applicable requirements under this chapter or Chapter 3719. of the Revised Code.

If the board determines that an applicant meets all of the requirements, the board shall issue to the applicant a license as a category III terminal distributor of dangerous drugs and specify on the license that the terminal distributor is classified as a pain management clinic.

(B) The holder of a terminal distributor license with a pain management clinic classification shall do all of the following:

(1) Be in control of a facility that is owned and operated solely by one

or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) Ensure that any person employed by the facility complies with the requirements for the operation of a pain management clinic established by the state medical board in rules adopted under section 4731.054 of the Revised Code;

(3) Require any person with ownership of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and send the results of the criminal records check directly to the state board of pharmacy for review and decision under section 4729.071 of the Revised Code;

(4) Require all employees of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and ensure that no person is employed who has previously been convicted of, or pleaded guilty to, ~~any felony in this state, another state, or the United States;~~ either of the following:

(a) A theft offense, described in division (K)(3) of section 2913.01 of the Revised Code, that would constitute a felony under the laws of this state, any other state, or the United States;

(b) A felony drug abuse offense, as defined in section 2925.01 of the Revised Code.

(5) Maintain a list of each person with ownership of the facility and notify the state board of pharmacy of any change to that list.

(C) No person shall operate a facility that under this chapter is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification without obtaining and maintaining the license with the classification.

No person who holds a category III license with a pain management clinic classification shall fail to remain in compliance with the requirements of division (A) of this section and any other applicable requirements under this chapter or Chapter 3719. of the Revised Code.

(D) The board may impose a fine of not more than five thousand dollars on a terminal distributor of dangerous drugs license holder who violates division (C) of this section. A separate fine may be imposed for each day the violation continues. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 4731.054. (A) As used in this section:

(1) "Chronic pain" has the same meaning as in section 4731.052 of the Revised Code.

(2) "Controlled substance" has the same meaning as in section 3719.01

of the Revised Code.

(3) "Hospital" means a hospital registered with the department of health under section 3701.07 of the Revised Code.

(4) "Owner" means each person included on the list maintained under division (B)(5) of section 4729.552 of the Revised Code.

~~(4)~~(5)(a) "Pain management clinic" means a facility to which all of the following apply:

(i) The primary component of practice is treatment of pain or chronic pain;

(ii) The majority of patients of the prescribers at the facility are provided treatment for pain or chronic pain that includes the use of controlled substances, tramadol, carisoprodol, or other drugs specified in rules adopted under this section;

(iii) The facility meets any other identifying criteria established in rules adopted under this section.

(b) "Pain management clinic" does not include any of the following:

(i) A hospital ~~registered with the department of health under section 3701.07 of the Revised Code or a facility owned in whole or in part by a hospital~~;

(ii) A facility operated by a hospital for the treatment of pain or chronic pain;

(iii) A physician practice owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(iv) A school, college, university, or other educational institution or program to the extent that it provides instruction to individuals preparing to practice as physicians, podiatrists, dentists, nurses, physician assistants, optometrists, or veterinarians or any affiliated facility to the extent that it participates in the provision of that instruction;

~~(iii)~~(v) A hospice program licensed under Chapter 3712. of the Revised Code;

~~(iv)~~(vi) An ambulatory surgical facility licensed under section 3702.30 of the Revised Code;

(vii) An interdisciplinary pain rehabilitation program with three-year accreditation from the commission on accreditation of rehabilitation facilities.

~~(5)~~(6) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery.

~~(6)~~(7) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(B) Each owner shall supervise, control, and direct the activities of each individual, including an employee, volunteer, or individual under contract, who provides treatment of pain or chronic pain at the clinic or is associated with the provision of that treatment. The supervision, control, and direction shall be provided in accordance with rules adopted under this section.

(C) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Standards and procedures for the operation of a pain management clinic;

(2) Standards and procedures to be followed by a physician who provides care at a pain management clinic;

(3) For purposes of division (A)~~(4)~~(5)(a)(ii) of this section, the other drugs used to treat pain or chronic pain that identify a facility as a pain management clinic;

(4) For purposes of division (A)~~(4)~~(5)(a)(iii) of this section, the other criteria that identify a facility as a pain management clinic;

(5) For purposes of division (B) of this section, standards and procedures to be followed by an owner in providing supervision, direction, and control of individuals at a pain management clinic.

(D) The board may impose a fine of not more than twenty thousand dollars on a physician who fails to comply with rules adopted under this section. The fine may be in addition to or in lieu of any other action that may be taken under section 4731.22 of the Revised Code. The board shall deposit any amounts received under this division in accordance with section 4731.24 of the Revised Code.

Sec. 4731.15. (A)(1) The state medical board also shall regulate the following limited branches of medicine: massage therapy and cosmetic therapy, and to the extent specified in section 4731.151 of the Revised Code, naprapathy and mechanotherapy. The board shall adopt rules governing the limited branches of medicine under its jurisdiction. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(2) As used in this chapter, "cosmetic therapy" means the permanent removal of hair from the human body through the use of electric modalities approved by the board for use in cosmetic therapy, and additionally may include the systematic friction, stroking, slapping, and kneading or tapping of the face, neck, scalp, or shoulders.

(B) A certificate to practice a limited branch of medicine issued by the state medical board is valid for a two-year period, except when an initial certificate is issued for a shorter period or when division (C)(2) of this section is applicable. The certificate may be renewed in accordance with

division (C) of this section.

(C)(1) Except as provided in division (C)(2) of this section, all of the following apply with respect to the renewal of certificates to practice a limited branch of medicine:

(a) Each person seeking to renew a certificate to practice a limited branch of medicine shall apply for biennial registration with the state medical board on a renewal application form prescribed by the board. An applicant for renewal shall pay a biennial registration fee of ~~fifty~~ one hundred dollars.

(b) At least six months before a certificate expires, the board shall mail or cause to be mailed a renewal notice to the certificate holder's last known address.

(c) At least three months before a certificate expires, the certificate holder shall submit the renewal application and biennial registration fee to the board.

(2) Beginning with the 2009 registration period, the board shall implement a staggered renewal system that is substantially similar to the staggered renewal system the board uses under division (B) of section 4731.281 of the Revised Code.

(D) All persons who hold a certificate to practice a limited branch of medicine issued by the state medical board shall provide the board written notice of any change of address. The notice shall be submitted to the board not later than thirty days after the change of address.

(E) A certificate to practice a limited branch of medicine shall be automatically suspended if the certificate holder fails to renew the certificate in accordance with division (C) of this section. Continued practice after the suspension of the certificate to practice shall be considered as practicing in violation of sections 4731.34 and 4731.41 of the Revised Code.

If a certificate to practice has been suspended pursuant to this division for two years or less, it may be reinstated. The board shall reinstate the certificate upon an applicant's submission of a renewal application and payment of the biennial registration fee and the applicable monetary penalty. With regard to reinstatement of a certificate to practice cosmetic therapy, the applicant also shall submit with the application a certification that the number of hours of continuing education necessary to have a suspended certificate reinstated have been completed, as specified in rules the board shall adopt in accordance with Chapter 119. of the Revised Code. The penalty for reinstatement shall be twenty-five dollars.

If a certificate has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4731.222 of the

Revised Code, the board may restore the certificate upon an applicant's submission of a restoration application, the biennial registration fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore to an applicant a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section ~~4731.18~~ 4731.17 of the Revised Code. The penalty for restoration is fifty dollars.

Sec. 4731.16. (A) The state medical board shall ~~conduct examinations of applicants for certification to practice~~ determine the standing of the schools, colleges, or institutions giving instruction in the limited branches of medicine of massage therapy and cosmetic therapy. ~~The examinations shall be conducted under rules adopted by the board and at such times and places as the board may determine. The fee for either examination is two hundred fifty dollars.~~

~~For the purpose of conducting examinations, the board may call to its aid any person of established reputation and known ability in the limited branch of medicine for which the examination is being held. A person called to assist in an examination shall be reimbursed for the person's services. Reimbursement shall be not more than one hundred dollars per day and an amount fixed and allowed by the board for the person's actual and necessary expenses.~~

~~Each examination shall be given in anatomy, physiology, chemistry, bacteriology, pathology, hygiene, diagnosis, and any other subjects appropriate to the limited branch of medicine for which certification is requested as the board may require, except that applicants for certificates to practice massage therapy shall not be examined in pathology.~~

~~If an applicant fails an examination more than twice, in whole or in part, the board may require that the applicant obtain additional training as a condition of being eligible for further examination.~~

(B) The board may administer an examination of competency to practice a limited branch of medicine. If it administers an examination, the board shall establish by rule a fee to cover the cost of administering the examination.

If it does not administer an examination, the board shall adopt rules under section 4731.05 of the Revised Code that specify both of the following:

(1) An examination acceptable to the board as an examination of competency to practice a limited branch of medicine;

(2) The score that constitutes evidence of passing the examination.

Sec. 4731.17. ~~If an applicant passes the examination to practice massage therapy or cosmetic therapy conducted under section 4731.16 of the Revised Code and has paid the fee required under that section,~~ (A) The state medical board shall review all applications received under section 4731.19 of the Revised Code. The board shall determine whether an applicant meets the requirements for a certificate to practice the applicable limited branch of medicine. An affirmative vote of not fewer than six members of the board is required to determine that an applicant meets the requirements for a certificate.

(B) If the board determines that the applicant meets the requirements for a certificate and that the documentation required for a certificate is acceptable, the ~~state medical~~ board shall issue to the applicant the appropriate certificate to practice. ~~Such~~ Each certificate shall be signed by the president and secretary of the board and attested by its seal.

(C) A certificate shall authorize the holder ~~thereof~~ to practice the limited branch of medicine ~~specified therein, but shall not permit the holder to practice any other~~ for which the certificate was issued. No person who holds a certificate to practice a limited branch of medicine issued by the board under this section shall do any of the following:

(1) Practice a limited branch of medicine~~, nor shall it permit the holder to treat~~ other than the limited branch of medicine for which the certificate was issued;

(2) Treat infectious, contagious, or venereal diseases~~, to prescribe~~;

(3) Prescribe or administer drugs~~, or to perform~~;

(4) Perform surgery or practice medicine in any other form.

Sec. 4731.171. In addition to any other eligibility requirement set forth in this chapter, each applicant for a certificate to practice massage therapy or cosmetic therapy shall comply with sections 4776.01 to 4776.04 of the Revised Code. The state medical board shall not grant to an applicant a certificate to practice massage therapy or cosmetic therapy unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section ~~4731.18~~ 4731.17 of the Revised Code.

Sec. 4731.19. (A) ~~The state medical board shall determine the standing of the schools, colleges, or institutions giving instruction in the limited branches of medicine of massage therapy and cosmetic therapy.~~

~~(B) An applicant for~~ A person seeking a certificate to practice a limited branch of medicine shall~~, as a condition of admission to the examination, have~~ file with the state medical board an application in a manner prescribed by the board. The application shall include or be accompanied by evidence

of all of the following:

(1) That the applicant is at least eighteen years of age and of good moral character;

(2) That the applicant has attained high school graduation or its equivalent;

(3) That the applicant holds one of the following:

~~(1)~~(a) A diploma or certificate from a school, college, or institution in good standing as determined by the board, showing the completion of the required courses of instruction;

~~(2)~~(b) A ~~current license, registration, or certificate that is in good standing in another state for massage therapy or cosmetic therapy, as applicable;~~

~~(3) Certification from a national certification body and a~~ diploma or certificate from a school, college, or institution in another state or jurisdiction showing completion of a course of instruction that meets course requirements determined by the board through rules adopted under section 4731.05 of the Revised Code~~.~~

~~The entrance examiner of the board shall determine the sufficiency of the preliminary education of applicants for a certificate to practice massage therapy or cosmetic therapy in the same manner that sufficiency of preliminary education is determined under section 4731.09 of the Revised Code, except that the board may adopt rules defining and establishing for the limited branch of medicine preliminary educational requirements that are less exacting than those prescribed by such section, as the nature of the case may require~~;

(c) For not less than five years preceding application, a current license, registration, or certificate in good standing in another state for massage therapy or cosmetic therapy.

(4) Evidence that the applicant has successfully passed an examination, prescribed in rules described in section 4731.16 of the Revised Code, to determine competency to practice the applicable limited branch of medicine;

(5) An affidavit signed by the applicant attesting to the accuracy and truthfulness of information submitted under this section and consenting to release of information;

(6) Any other information the board requires.

(B) An applicant for a certificate to practice a limited branch of medicine shall comply with the requirements of section 4731.171 of the Revised Code.

(C) At the time of making application for a certificate to practice a limited branch of medicine, the applicant shall pay to the board a fee of one

hundred fifty dollars, no part of which shall be returned. No application shall be considered filed until the board receives the appropriate fee.

(D) The board may investigate the application materials received under this section and contact any agency or organization for recommendations or other information about the applicant.

Sec. 4731.222. Before restoring to good standing a certificate issued under this chapter that has been in a suspended or inactive state for any cause for more than two years, or before issuing a certificate pursuant to section ~~4731.18,~~ 4731.29, 4731.295, 4731.57, or 4731.571 of the Revised Code to an applicant who for more than two years has not been engaged in the practice of medicine, osteopathic medicine, podiatric medicine and surgery, or a limited branch of medicine as an active practitioner, as a participant in a program of graduate medical education, as defined in section 4731.091 of the Revised Code, as a student in a college of podiatry determined by the board to be in good standing, or as a student in a school, college, or institution giving instruction in a limited branch of medicine determined by the board to be in good standing under section 4731.19 of the Revised Code, the state medical board may require the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice.

The authority of the board to impose terms and conditions includes the following:

(A) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;

(B) Restricting or limiting the extent, scope, or type of practice of the applicant.

The board shall consider the moral background and the activities of the applicant during the period of suspension or inactivity, in accordance with section 4731.08 of the Revised Code. The board shall not restore a certificate under this section unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or

preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, and the medicaid program established under Chapter 5111. of the Revised Code~~, and the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code~~.

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or

otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists who are licensed, certificated, or otherwise legally authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item

or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medicaid program established under Chapter 5111. of the Revised Code ~~or the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code~~, the auditor of state also shall report the amount to the department of job and family services.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4733.15. (A) Registration expires ~~annually~~ on the last day of December ~~following initial registration or renewal of registration~~ 2011, and becomes invalid on that date unless renewed ~~pursuant to this section and the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code~~. For renewals after that date, registration expires biennially on the last day of December following initial registration or renewal of registration and becomes invalid on that date unless renewed. Renewal may be effected ~~at any time prior to the date of expiration for a period of one year~~ by the applicant's payment to the treasurer of state of a fee of ~~twenty~~ forty dollars for a renewal of registration as either a professional engineer or professional surveyor and~~, for renewals for calendar year 2008 and thereafter,~~ demonstration of completion of the continuing professional development requirements of section 4733.151 of the Revised Code. When notified as required in this section, a registrant's failure to renew registration shall not deprive the registrant of the right of renewal within the following twelve months, but the fee to renew a registration within twelve months after expiration shall be increased fifty per cent, and the registrant shall certify completion of continuing professional development hours as required in section 4733.151 of the Revised Code.

The state board of registration for professional engineers and surveyors may, upon request, waive the payment of renewal fees or the completion of continuing professional development requirements for a registrant during the period when the registrant is on active duty in connection with any branch of the armed forces of the United States.

(B) Each certificate of authorization issued pursuant to section 4733.16 of the Revised Code shall authorize the holder to provide professional engineering or professional surveying services, through the registered professional engineer or professional surveyor designated as being in responsible charge of the professional engineering or professional surveying practice, from the date of issuance until the last day of June next succeeding the date upon which the certificate was issued, unless the certificate has been revoked or suspended for cause as provided in section 4733.20 of the Revised Code or has been suspended pursuant to section 3123.47 of the Revised Code.

(C) If a registrant fails to renew registration as provided under division (A) of this section, renewal and reinstatement may be effected under rules the board adopts regarding requirements for reexamination or reapplication, and reinstatement penalty fees. The board may require a registrant who fails to renew registration to complete ~~those~~ the required hours of continuing professional development ~~required from the effective date of this section,~~ as a condition of renewal and reinstatement if the registrant seeks renewal and reinstatement under this division ~~on or after January 1, 2009~~.

Sec. 4733.151. (A) ~~Each~~ For registrations expiring on the last day of December 2011, each registrant for renewal ~~for calendar year 2008 and thereafter~~ shall have completed, ~~within the preceding~~ in calendar year 2011, at least fifteen hours of continuing professional development for professional engineers and surveyors. Thereafter, each registrant shall complete at least thirty hours of continuing professional development during the two-year period immediately preceding the biennial renewal expiration date.

(B) The continuing professional development requirement may be satisfied by coursework or activities dealing with technical, ethical, or managerial topics relevant to the practice of engineering or surveying. A registrant may earn continuing professional development hours by completing or teaching university or college level coursework, attending seminars, workshops, or conferences, authoring relevant published papers, articles, or books, receiving patent awards, or actively participating in professional or technical societies serving the engineering or surveying professions.

In the case of the board disputing the content of any credit hours or coursework, then the board shall presume as a matter of law that any credit hours submitted by a registrant, or any coursework or activity submitted for approval, complies with this section if submitted and if a statement signed by a current registrant not otherwise participating in the event, affirms that the material is relevant to the registrant's practice and will assist the registrant's development in the profession.

Credit for university or college level coursework shall be based on the credit established by the university or college. One semester hour as established by the university or college shall be the equivalent of forty-five hours of continuing professional development, and one quarter hour as established by the university or college shall be the equivalent of thirty hours of continuing professional development.

Credit for seminars, workshops, or conferences offering continuing education units shall be based on the units awarded by the organization presenting the seminar, workshop, or conference. A registrant may earn ten continuing professional development hours for each continuing education unit awarded. Each hour of attendance at a seminar, workshop, or conference for which no continuing education units are offered shall be the equivalent of one continuing professional development hour.

A registrant may earn two continuing professional development hours for each year of service as an officer or active committee member of a professional or technical society or association that represents registrants or entities composed of registrants. A registrant may earn ten continuing professional development hours for authoring relevant published papers, articles, or books. A registrant may earn ten continuing professional development hours for each such published paper, article, or book. A registrant may earn ten continuing professional development hours for each patent award.

(C) A person registered as both a professional engineer and professional surveyor shall complete at least ~~five~~ ten of the ~~fifteen~~ thirty hours required under division (A) of this section in engineering-related coursework or activities and at least ~~five~~ ten of those ~~fifteen~~ thirty hours in surveying-related coursework or activities.

(D) A registrant is exempt from the continuing professional development requirements of this section during the first calendar year of registration.

(E) A registrant who completes more than ~~fifteen~~ thirty hours of approved coursework or activities in ~~any calendar year~~ a biennial renewal period may carry forward to the next ~~calendar year~~ biennial renewal period a

maximum of fifteen of the excess hours.

(F) A registrant shall maintain records to demonstrate completion of the continuing professional development requirements specified in this section for a period of ~~three~~ four calendar years beyond the year in which certification of the completion of the requirements is obtained by the registrant. The records shall include all of the following:

(1) A log specifying the type of coursework or activity, its location and duration along with the instructor's name, and the number of continuing professional development hours earned;

(2) Certificates of completion or other evidence verifying attendance.

(G) The records specified in division (F) of this section may be audited at any time by the state board of registration for professional engineers and surveyors. If the board discovers that a registrant has failed to complete coursework or activities, it shall notify the registrant of the deficiencies and allow the registrant six months from the date of the notice to rectify the deficiencies and to provide the board with evidence of satisfactory completion of the continuing professional development requirements. If the registrant fails to provide such evidence within that six-month period, the board may revoke or suspend the registration after offering an adjudication hearing in accordance with Chapter 119. of the Revised Code.

Sec. 4735.01. As used in this chapter:

(A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following:

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds self out as engaged in the business of selling,

exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real

estate.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter.

(I)(1) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

~~(1)~~(a) With reference to real estate situated in this state ~~or any interest in it~~ owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it;

~~(2)~~(b) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a bona fide public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument that has been executed in good faith creating a like bona fide fiduciary obligation;

~~(3)~~(c) As a public officer while performing the officer's official duties;

~~(4)~~(d) As an attorney at law in the performance of the attorney's duties;

~~(5)~~(e) As a person who engages in the brokering of the sale of business assets, not including the ~~negotiation of the~~ sale, lease, exchange, or assignment of any interest in real estate;

~~(6)~~(f) As a person who engages in the sale of manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code, or of

mobile homes as defined in division (O) of section 4501.01 of the Revised Code, provided the sale does not include the negotiation, sale, lease, exchange, or assignment of any interest in real estate;

~~(7)~~(g) As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the Revised Code.

(2) A person, partnership, association, limited liability company, limited liability partnership, or corporation exempt under division (I)(1)(a) of this section shall be limited by the legal interest in the real estate held by that person or entity to performing any of the acts or transactions specified in or comprehended by division (A) of this section.

(J) "~~Physically handicapped~~ Disabled licensee" means a person licensed pursuant to this chapter who is under a severe ~~physical~~ disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker.

(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter.

(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time.

(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, voluntary hold, suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter.

(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation.

(R) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are a part of a larger building or parcel of real estate containing more than four residential units.

(S) "Out-of-state commercial broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation that is licensed to do business as a real estate broker in a jurisdiction other than Ohio.

(T) "Out-of-state commercial salesperson" includes any person affiliated with an out-of-state commercial broker who is not licensed as a real estate salesperson in Ohio.

(U) "Exclusive right to sell or lease listing agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker, the seller, or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement to anyone other than to specifically exempted persons or entities.

(V) "Exclusive agency agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement, unless the property is sold or leased solely through the efforts of the seller or to the specifically exempted persons or entities.

(W) "Exclusive purchaser agency agreement" means an agency agreement between a purchaser and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the purchaser in the purchase or lease of property;

(2) Provides the broker will be compensated in accordance with the terms specified in the exclusive agency agreement or if a property is purchased or leased by the purchaser during the term of the agency agreement unless the property is specifically exempted in the agency agreement.

The agreement may authorize the broker to receive compensation from the seller or the seller's agent and may provide that the purchaser is not obligated to compensate the broker if the property is purchased or leased solely through the efforts of the purchaser.

(X) "Seller" means a party in a real estate transaction who is the potential transferor of property. "Seller" includes an owner of property who is seeking to sell the property and a landlord who is seeking to rent or lease property to another person.

(Y) "Voluntary hold" means the license status in which a license is in the possession of the division of real estate and professional licensing for a period of not more than twelve months pursuant to section 4735.142 of the Revised Code, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

(Z) "Resigned" means the license status in which a license has been voluntarily surrendered to or is otherwise in the possession of the division of real estate and professional licensing, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

(AA) "Bona fide" means made in good faith or without purpose of circumventing license law.

Sec. 4735.02. (A) Except as provided in section 4735.022 of the Revised Code, no person, partnership, association, limited liability company, limited liability partnership, or corporation shall act as a real estate broker or real estate salesperson, or advertise or assume to act as such, without first being licensed as provided in this chapter. No person, partnership, association, limited liability company, limited liability partnership, or corporation shall provide services that require a license under this chapter if the licensee's license is inactive, suspended, placed on voluntary hold, resigned, or a broker's license on deposit, or if the license has been revoked. Nothing contained in this chapter shall be construed as authorizing a real estate broker or salesperson to perform any service constituting the practice of law.

(B) No partnership, association, limited liability company, limited liability partnership, or corporation holding a real estate license shall employ

as an officer, director, manager, or principal employee any person previously holding a license as a real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, whose license has been placed in inactive, voluntary hold, or resigned status, or is suspended, or revoked and who has not thereafter reactivated the license or received a new license.

Sec. 4735.03. There is hereby created the Ohio real estate commission, consisting of five members who shall be appointed by the governor, with the advice and consent of the senate. Four members shall have been engaged in the real estate business as licensed real estate brokers in the state for a period of ten years immediately preceding the appointment. One member shall represent the public. Terms of office shall be for five years, commencing on the first day of July and ending on the thirtieth day of June. Each member shall hold office from the date of appointment until the end of the term for which appointed. No more than three members shall be members of any one political party and no member of the commission concurrently may be a member of the commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code. Each member, before entering upon the duties of office, shall subscribe to and file with the secretary of state the constitutional oath of office. All vacancies which occur shall be filled in the manner prescribed for the regular appointments to the commission. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No member shall hold office for more than two consecutive full terms. Annually, upon the qualification of the member appointed in such year, the commission shall organize by selecting from its members a president and vice-president, and shall do all things necessary and proper to carry out and enforce this chapter. A majority of the members of the commission shall constitute a quorum, but a lesser number may adjourn from time to time. Each member of the commission shall receive an amount fixed pursuant to section 124.14 of the Revised Code for each day employed in the discharge of official duties, and the member's actual and necessary expenses incurred in the discharge of those duties.

The commission or the superintendent of real estate may investigate complaints concerning the violation of section 4735.02 or 4735.25 of the Revised Code and may subpoena witnesses in connection with such

investigations as provided in section 4735.04 of the Revised Code. The commission or the superintendent may make application to the appropriate court for an order enjoining the violation of section 4735.02 or 4735.25 of the Revised Code, and upon a showing by the commission or the superintendent that any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation has violated or is about to violate section 4735.02 or 4735.25 of the Revised Code, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court.

The commission shall:

(A) Adopt canons of ethics for the real estate industry;

(B) Upon appeal by any party affected, or may upon its own motion, review any order or application determination of the superintendent, and may reverse, vacate, or modify any order of the superintendent;

(C) Administer the real estate education and research fund and hear appeals from orders of the superintendent regarding claims against that fund or against the real estate recovery fund;

(D) Direct the superintendent on the content, scheduling, instruction, and offerings of real estate courses for salesperson and broker educational requirements;

(E) Disseminate to licensees and the public, information relative to commission activities and decisions;

(F) Notify licensees of changes in state and federal civil rights laws pertaining to discrimination in the purchase or sale of real estate and relevant case law, and inform licensees that they are subject to disciplinary action if they do not comply with the changes;

(G) Publish and furnish to public libraries and to brokers booklets on housing and remedies available to dissatisfied clients under this chapter and Chapter 4112. of the Revised Code;

(H) Provide training to commission members and employees of the division of real estate and professional licensing on issues relative to the real estate industry, which may include but not be limited to investigative techniques, real estate law, and real estate practices and procedures.

Sec. 4735.05. (A) The Ohio real estate commission is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the commission, or the director may designate any employee of the department as superintendent of real estate and professional licensing to act as executive officer of the commission.

The commission and the real estate appraiser board created pursuant to

section 4763.02 of the Revised Code shall each submit to the director a list of three persons whom the commission and the board consider qualified to be superintendent within sixty days after the office of superintendent becomes vacant. The director shall appoint a superintendent from the lists submitted by the commission and the board, and the superintendent shall serve at the pleasure of the director.

(B) The superintendent, except as otherwise provided, shall do all of the following in regard to this chapter:

(1) Administer this chapter;

(2) Issue all orders necessary to implement this chapter;

(3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;

(4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.

(5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47, 4735.052, or 4735.18 of the Revised Code;

(6) Administer the real estate recovery fund.

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

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.

(3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested party, or, in the case of a deceased broker, subject to the approval by the appropriate probate court, recommend the appointment of, an ancillary trustee who is qualified as determined by the superintendent to conclude the business transactions of the deceased, revoked, or suspended broker;

(4) In conjunction with the enforcement of this chapter, when the superintendent of real estate has reasonable cause to believe that an applicant or licensee has committed a criminal offense, the superintendent of

real estate may request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant or licensee. The superintendent of the bureau of criminal identification and investigation shall obtain information from the federal bureau of investigation as part of the criminal records check of the applicant or licensee. The superintendent of real estate may assess the applicant or licensee a fee equal to the fee assessed for the criminal records check.

(5) In conjunction with the enforcement of this chapter, issue advisory letters in lieu of initiating disciplinary action under section 4735.051 or 4735.052 of the Revised Code or issuing a citation under section 4735.16 or 4735.181 of the Revised Code.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(4) of this section, from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department. Notwithstanding division (D) of section 2317.023 of the Revised Code, all information obtained by investigators or auditors from an informal mediation meeting held pursuant to section 4735.051 of the Revised Code, including but not limited to the agreement to mediate and the accommodation agreement, shall be held in confidence by the superintendent, investigators, auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

Sec. 4735.052. (A) Upon receipt of a written complaint or upon the superintendent's own motion, the superintendent may investigate any person that has allegedly violated section 4735.02 or 4735.25 of the Revised Code, except that the superintendent shall not initiate an investigation, pursuant to this section, of any person who held a ~~valid~~ license on voluntary hold or a suspended or inactive license under this chapter ~~any time during the twelve months preceding~~ on the date of the alleged violation.

(B) If, after investigation, the superintendent determines there exists reasonable evidence of a violation of section 4735.02 or 4735.25 of the Revised Code, within ~~seven~~ fourteen business days after that determination, the superintendent shall send the party who is the subject of the investigation, a written notice, by regular mail, that includes all of the following information:

(1) A description of the activity in which the party allegedly is engaging or has engaged that is a violation of section 4735.02 or 4735.25 of the Revised Code;

(2) The applicable law allegedly violated;

(3) A statement informing the party that a hearing concerning the alleged violation will be held ~~at the next regularly scheduled meeting of the Ohio real estate commission, and a statement giving the date and place of that meeting;~~

~~(4) A statement informing the party that the party or the party's attorney may appear in person at the hearing and present evidence and examine witnesses appearing for and against the party, or the party may submit written testimony stating any positions, arguments, or contentions~~, upon the party's request, before a hearing examiner pursuant to Chapter 119. of the Revised Code.

(C) ~~The commission~~ (1) If a hearing is requested, the hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to ~~division (B)(4) of~~ this section, and determine if there has been a violation of section 4735.02 or 4735.25 of the Revised Code. ~~If~~

(2) After the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, the complainant, and the parties. Within twenty days of receipt of such copy of the written report of findings of fact and conclusions of law, the parties and the division may file with the commission written objections to the report, which shall be considered by the commission before approving, modifying, or disapproving the report.

(3) The commission shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least twenty business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the parties.

(4) The commission shall decide whether to impose disciplinary sanctions upon a party for a violation of section 4735.02 of the Revised Code. If the commission finds that a violation has occurred, the commission may assess a civil penalty, in an amount it determines, not to exceed one

thousand dollars per violation. Each day a violation occurs or continues is a separate violation. The commission shall determine the terms of payment. The commission shall maintain a ~~transcript~~ record of the proceedings of the hearing and issue a written opinion to all parties, citing its findings and grounds for any action taken.

(D) Civil penalties collected under this section shall be deposited in the real estate ~~recovery~~ operating fund, which is created in the state treasury under section ~~4735.12~~ 4735.211 of the Revised Code.

(E) If a party fails to pay a civil penalty assessed pursuant to this section within the time prescribed by the commission, the superintendent shall forward to the attorney general the name of the party and the amount of the civil penalty, for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the party also shall pay any fee assessed by the attorney general for collection of the civil penalty.

(F) The superintendent may reserve the right to bring a civil action against a party that fails to pay a civil penalty for breach of contract in a court of competent jurisdiction.

Sec. 4735.06. (A) Application for a license as a real estate broker shall be made to the superintendent of real estate on forms furnished by the superintendent and filed with the superintendent and shall be signed by the applicant or its members or officers. Each application shall state the name of the person applying and the location of the place of business for which the license is desired, and give such other information as the superintendent requires in the form of application prescribed by the superintendent.

If the applicant is a partnership, limited liability company, limited liability partnership, or association, the names of all the members also shall be stated, and, if the applicant is a corporation, the names of its president and of each of its officers also shall be stated. The superintendent has the right to reject the application of any partnership, association, limited liability company, limited liability partnership, or corporation if the name proposed to be used by such partnership, association, limited liability company, limited liability partnership, or corporation is likely to mislead the public or if the name is not such as to distinguish it from the name of any existing partnership, association, limited liability company, limited liability partnership, or corporation licensed under this chapter, unless there is filed with the application the written consent of such existing partnership, association, limited liability company, limited liability partnership, or corporation, executed by a duly authorized representative of it, permitting the use of the name of such existing partnership, association, limited liability company, limited liability partnership, or corporation.

(B) A fee of one hundred dollars shall accompany the application for a real estate broker's license~~, which fee includes the fee for the initial year of the licensing period, if a license is issued~~. The initial licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. However, if the applicant was an inactive or active salesperson immediately preceding application for a broker's license, then the initial licensing period shall commence at the time the broker's license is issued and ends on the date the licensee's continuing education is due as set when the applicant was a salesperson. The application fee shall be ~~retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one-half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one-half shall be returned to the applicant~~ nonrefundable. A fee of one hundred dollars shall be charged by the superintendent for each successive application made by an applicant. In the case of issuance of a three-year license, upon passing the examination, or upon waiver of the examination requirement, if the superintendent determines it is necessary, the applicant shall submit an additional fee determined by the superintendent based upon the number of years remaining in a real estate salesperson's licensing period.

(C) One dollar of each application fee for a real estate broker's license shall be credited to the real estate education and research fund, which is hereby created in the state treasury. The Ohio real estate commission may use the fund in discharging the duties prescribed in divisions (E), (F), (G), and (H) of section 4735.03 of the Revised Code and shall use it in the advancement of education and research in real estate at any institution of higher education in the state, or in contracting with any such institution or a trade organization for a particular research or educational project in the field of real estate, or in advancing loans, not exceeding ~~eight hundred~~ two thousand dollars, to applicants for salesperson licenses, to defray the costs of satisfying the educational requirements of division (F) of section 4735.09 of the Revised Code. Such loans shall be made according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and they shall be repaid to the fund within three years of the time they are made. No more than ten thousand dollars shall be lent from the fund in any one year.

The governor may appoint a representative from the executive branch to be a member ex officio of the commission for the purpose of advising on research requests or educational projects. The commission shall report to the

general assembly on the third Tuesday after the third Monday in January of each year setting forth the total amount contained in the fund and the amount of each research grant that it has authorized and the amount of each research grant requested. A copy of all research reports shall be submitted to the state library of Ohio and the library of the legislative service commission.

(D) If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate broker's examination, pursuant to division (A) of section 4735.07 of the Revised Code, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(2) of section 4735.10 of the Revised Code.

Sec. 4735.07. (A) The superintendent of real estate, with the consent of the Ohio real estate commission, may enter into agreements with recognized national testing services to administer the real estate broker's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of such examination.

(B) No applicant for a real estate broker's license shall take the broker's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude, or if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant's activities and employment record since the adjudication show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will again violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) Has been a licensed real estate broker or salesperson for at least two years; during at least two of the five years preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; and has completed one of the following:

(a) At least twenty real estate transactions, in which property was sold for another by the applicant while acting in the capacity of a real estate broker or salesperson;

(b) Such equivalent experience as is defined by rules adopted by the commission.

(6)(a) If licensed as a real estate salesperson prior to August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Thirty hours of classroom instruction in real estate practice;

(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Thirty hours of classroom instruction in real estate appraisal;

(iv) Thirty hours of classroom instruction in real estate finance;

(v) Three quarter hours, or its equivalent in semester hours, in financial management;

(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;

(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;

(viii) Three quarter hours, or its equivalent in semester hours, in business law.

(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Forty hours of classroom instruction in real estate practice;

(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Twenty hours of classroom instruction in real estate appraisal;

(iv) Twenty hours of classroom instruction in real estate finance;

(v) The training in the amount of hours specified under divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section.

(c) Division (B)(6)(a) or (b) of this section does not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), (vi), (vii), and (viii) or division (B)(6)(b)(v) of this section do not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 3, 1984.

(7) If licensed as a real estate salesperson on or after January 3, 1984, satisfactorily has completed a minimum of two years of post-secondary education, or its equivalent in semester or quarter hours, at an institution of higher education, and has fulfilled the requirements of division (B)(6)(a) or (b) of this section. The requirements of division (B)(6)(a) or (b) of this section may be included in the two years of post-secondary education, or its equivalent in semester or quarter hours, that is required by this division.

(C) Each applicant for a broker's license shall be examined in the principles of real estate practice, Ohio real estate law, and financing and appraisal, and as to the duties of real estate brokers and real estate salespersons, the applicant's knowledge of real estate transactions and instruments relating to them, and the canons of business ethics pertaining to them. The commission from time to time shall promulgate such canons and

cause them to be published in printed form.

(D) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101. The contents of an examination shall be consistent with the requirements of division (B)(6) of this section and with the other specific requirements of this section. An applicant who has completed the requirements of division (B)(6) of this section at the time of application shall be examined no later than twelve months after the applicant is notified of admission to the examination.

(E) The superintendent may waive one or more of the requirements of this section in the case of an application from a nonresident real estate broker pursuant to a reciprocity agreement with the licensing authority of the state from which the nonresident applicant holds a valid real estate broker license.

(F) There shall be no limit placed on the number of times an applicant may retake the examination.

(G)(1) ~~No~~ Not earlier than the date of issue of a real estate broker's license to a licensee, but not later than twelve months after the date of issue of a real estate broker's license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction ~~in real estate brokerage at an institution of higher education or any other institution~~ that shall be completed in schools, seminars, and educational institutions that ~~is~~ are approved by the commission. ~~That instruction shall include, but not be limited to, current issues in managing a real estate company or office~~ Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If the required proof of completion is not submitted to the superintendent within twelve months of the date a license is issued under this section, the license of the real estate broker is suspended automatically without the taking of any action by the superintendent. The broker's license shall not be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent if the licensee fails to submit proof of completion of the education requirements specified under division (G)(1) of this section within twelve months of the date the license is suspended.

(2) If the license of a real estate broker is suspended pursuant to division (G)(1) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. However, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if all of the following occur:

(a) That broker subsequently submits satisfactory proof to the superintendent that the broker has complied with the requirements of division (G)(1) of this section and requests that the broker's license as a real estate broker be reactivated;

(b) The superintendent then reactivates the broker's license as a real estate broker;

(c) The associated real estate salesperson intends to continue to be associated with that broker and otherwise is in compliance with this chapter.

Sec. 4735.09. (A) Application for a license as a real estate salesperson shall be made to the superintendent of real estate on forms furnished by the superintendent and signed by the applicant. The application shall be in the form prescribed by the superintendent and shall contain such information as is required by this chapter and the rules of the Ohio real estate commission. The application shall be accompanied by the recommendation of the real estate broker with whom the applicant is associated or with whom the applicant intends to be associated, certifying that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, which conviction or adjudication the applicant has not disclosed to the superintendent, and recommending that the applicant be admitted to the real estate salesperson examination.

(B) A fee of sixty dollars shall accompany the application, which fee includes the fee for the initial year of the licensing period, if a license is issued. The initial year of the licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. The application fee shall be ~~retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one-half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one-half shall be returned to the applicant~~ nonrefundable. A fee of sixty dollars shall be charged by the superintendent for each successive application made by the

applicant. One dollar of each application fee shall be credited to the real estate education and research fund.

(C) There shall be no limit placed on the number of times an applicant may retake the examination.

(D) The superintendent, with the consent of the commission, may enter into an agreement with a recognized national testing service to administer the real estate salesperson's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of the examination.

If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate salesperson's examination, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(1) of section 4735.10 of the Revised Code.

(E) The superintendent shall issue a real estate salesperson's license when satisfied that the applicant has received a passing score on each portion of the salesperson's examination as determined by rule by the real estate commission, except that the superintendent may waive one or more of the requirements of this section in the case of an applicant who is a licensed real estate salesperson in another state pursuant to a reciprocity agreement with the licensing authority of the state from which the applicant holds a valid real estate salesperson's license.

(F) No applicant for a salesperson's license shall take the salesperson's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude or, if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the

superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to this chapter, or, if the applicant has violated such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) If born after the year 1950, has a high school diploma or its equivalent as recognized by the state department of education;

(6)~~(a) If beginning instruction prior to August 1, 2001, has successfully completed at an institution of higher education all of the following:~~

~~(i) Thirty hours of classroom instruction in real estate practice;~~

~~(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.~~

~~(iii) Thirty hours of classroom instruction in real estate appraisal;~~

~~(iv) Thirty hours of classroom instruction in real estate finance.~~

~~(b) Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the classroom instruction required by division (F)(6)(a) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.~~

~~(7) If beginning instruction, as determined by the superintendent, on or after August 1, 2001, has~~ Has successfully completed at an institution of higher education all of the following:

(a) Forty hours of classroom instruction in real estate practice;

(b) Forty hours of classroom instruction that includes the subjects of

Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(c) Twenty hours of classroom instruction in real estate appraisal;

(d) Twenty hours of classroom instruction in real estate finance.

(G) ~~No~~ Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the prelicensure classroom instruction required by division (F)(6) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.

(H) Not earlier than the date of issue of a real estate salesperson's license to a licensee, but not later than twelve months after the date of issue of a real estate salesperson license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion~~, at an institution of higher education or any other institution~~ of ten hours of classroom instruction that shall be completed in schools, seminars, and educational institutions approved by the commission~~, of ten hours of classroom instruction in real estate courses that cover current issues regarding consumers, real estate practice, ethics, and real estate law~~. Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If proof of completion of the required instruction is not submitted within twelve months of the date a license is issued under this section, the licensee's license is suspended automatically without the taking of any action by the superintendent. The superintendent immediately shall notify the broker with whom such salesperson is associated of the suspension of the salesperson's license. A salesperson whose license has been suspended under this division shall have twelve months after the date of the suspension of the salesperson's license to submit proof of successful completion of the instruction required under this division. No such license shall be reactivated by the superintendent until it is established, to the satisfaction of the

superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent when the licensee fails to submit the required proof of completion of the education requirements under division ~~(G)~~(H) of this section within twelve months of the date the license is suspended.

~~(H)~~(I) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. ~~12101~~ 12189. The contents of an examination shall be consistent with the classroom instructional requirements of division (F)(6) ~~or (7)~~ of this section. An applicant who has completed the classroom instructional requirements of division (F)(6) ~~or (7)~~ of this section at the time of application shall be examined no later than twelve months after the applicant is notified of the applicant's admission to the examination.

Sec. 4735.10. (A)(1) The Ohio real estate commission may adopt reasonable rules in accordance with Chapter 119. of the Revised Code, necessary for implementing the provisions of this chapter relating, but not limited to, the following:

(a) The form and manner of filing applications for ~~license~~ licensure;

(b) Times and form of examination for license;

(c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;

(d) Specifying the process by which a licensee may place the licensee's license on voluntary hold or resigned status;

(e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;

(f) Clarification of the activities that require a license under this chapter.

(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:

(a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;

(b) ~~By not later than January 1, 2004, a~~ A three-year license and a three-year license renewal system;

(c) Standards for the approval of the ten hour postlicensure courses as required by division (H) of section 4735.07 and division (H) of section

4735.09 of the Revised Code, courses of study required for licenses, ~~or~~ courses offered in preparation for license examinations, or courses required as continuing education for licenses.

(d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.

(e) Requirements for trust accounts and property management accounts. The rules shall specify that:

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.

(f) Notice of renewal forms and filing deadlines;

(g) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;

(4) Approval of applications of brokers to place their licenses ~~on deposit~~ in an inactive status and to become salespersons under section 4735.13 of the Revised Code;

(5) Appointment of hearing examiners under section 119.09 of the Revised Code;

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of

examination, under sections 4735.27 and 4735.28 of the Revised Code;

(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.

If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.

(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.

Sec. 4735.13. (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state. A post office box address is not a definite place of business for purposes of this section. The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive, voluntary hold, or resigned status or until the salesperson leaves the brokerage or is terminated. The broker shall keep each salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in divisions (G) and (H) of this section, immediately upon the salesperson's leaving the association or termination of the association of a real estate salesperson with the broker, the broker shall return the salesperson's license to the superintendent of real estate.

The failure of a broker to return the license of a real estate salesperson or broker who leaves or who is terminated, via certified mail return receipt requested, within three business days of the receipt of a written request from the superintendent for the return of the license, is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(C) Any licensee ~~who~~ shall notify the superintendent in writing within fifteen days of any of the following occurrences:

(1) The licensee is convicted of a felony ~~or~~.

(2) The licensee is convicted of a crime involving moral turpitude ~~or of violating~~.

(3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination in housing~~, or any court that issues a finding of an unlawful~~.

(4) The licensee is found to have engaged in a discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code ~~or that convicts a~~.

(5) The licensee ~~of a violation of~~ is found to have violated any municipal civil rights law pertaining to housing discrimination~~, shall notify the superintendent of the conviction or finding within fifteen days. If~~.

(6) The licensee is the subject of an order by the department of commerce, the department of insurance, or the department of agriculture revoking or permanently surrendering any professional license, certificate, or registration.

(7) The licensee is the subject of an order by any government agency concerning real estate, financial matters, or the performance of fiduciary duties with respect to any license, certificate, or registration.

If a licensee fails to notify the superintendent within the required time, the superintendent immediately may ~~revoke~~ suspend the license of the licensee.

Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.

(D) In case of any change of business location, a broker shall give notice ~~in writing~~ to the superintendent, on a form prescribed by the superintendent, within thirty days after the change of location, whereupon the superintendent shall issue new licenses for the unexpired period without charge. If a broker changes a business location without giving the required notice and without receiving new licenses that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and

shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. One dollar of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. One dollar of the fee shall be credited to the real estate education and research fund.

~~No~~ A licensed real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation ~~that is a licensed real estate broker~~ shall ~~perform any acts~~ only act as a real estate broker ~~other than as the agent of the~~ for such partnership, association, limited liability company, limited liability partnership, or corporation~~, and such broker shall not have any real estate salespersons associated with the broker~~.

(G) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within

twelve months of the licensee's first birthday after discharge. The ~~commission~~ superintendent shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(H) If a licensed real estate salesperson submits an application to the superintendent to leave the association of one broker to associate with a different broker, the broker possessing the licensee's license need not return the salesperson's license to the superintendent. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Sec. 4735.14. (A) Each license issued under this chapter, shall be valid without further recommendation or examination until it is placed in an inactive, voluntary hold, or resigned status, is revoked or suspended, or such license expires by operation of law.

(B) Except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each licensed broker, brokerage, or salesperson shall file, on or before the date the Ohio real estate commission has adopted by rule for that licensee in accordance with division (A)(2)(f) of section 4735.10 of the Revised Code, a notice of renewal on a form prescribed by the superintendent of real estate. The notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the ~~most current~~ personal residence address of each broker or salesperson ~~as filed with the superintendent by the licensee and the place of business address of the brokerage~~ that is on file with the division. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the brokerage's business address on file with the division. A licensee shall not renew the licensee's license any earlier than two months prior to the filing deadline.

(C) Except as otherwise provided in division (B) of this section, the license of any real estate broker, brokerage, or salesperson that fails to file a notice of renewal on or before the filing deadline of each ensuing year shall be suspended automatically without the taking of any action by the superintendent. A suspended license may be reactivated within twelve months of the date of suspension, provided that the renewal fee plus a penalty fee of fifty per cent of the renewal fee is paid to the superintendent. Failure to reactivate the license as provided in this division shall result in automatic revocation of the license without the taking of any action by the superintendent. No person, partnership, association, corporation, limited

liability company, or limited partnership shall engage in any act or acts for which a real estate license is required while that entity's license is placed in an inactive, voluntary hold, or resigned status, or is suspended, or revoked. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code to provide to licensees notice of suspension or revocation or both.

(D) Each licensee shall notify the commission of a change in personal residence address. A licensee's failure to notify the commission of a change in personal residence address does not negate the requirement to file the license renewal by the required deadline established by the commission by rule under division (A)(2)(f) of section 4735.10 of the Revised Code.

(E) The superintendent shall not renew a license if the licensee fails to comply with section 4735.141 of the Revised Code or is otherwise not in compliance with this chapter.

(F) The superintendent shall make notice of successful renewal available electronically to licensees as soon as practicable, but not later than thirty days after receipt by the division of a complete application and renewal fee. This notice shall serve as a notice of renewal for purposes of section 4745.02 of the Revised Code.

Sec. 4735.141. (A) Except as otherwise provided in this division and except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty hours of continuing education, as prescribed by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any ~~physically handicapped~~ disabled licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons

of ethics for the real estate industry as adopted by the commission. The required proof of completion shall be submitted on or before the licensee's birthday that falls in the third year of that continuing education reporting period. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section. The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and shall not be limited to institutions providing two-year or four-year degrees. Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension, and such notification shall be sent by regular mail to the personal residence address of the licensee that is on file with the division. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No such license shall be reactivated until it is established, to the satisfaction of the superintendent, that the requirements of this section have been met. If the requirements of this section are not met within twelve months from the date the license was suspended, the license shall be revoked automatically without the taking of any action by the superintendent.

(D) If the license of a real estate broker is suspended pursuant to division (C) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. ~~However, the~~ A sole broker shall notify affiliated salespersons of the suspension in writing within three days of receiving the notice required by division (C) of this section.

(1) The suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if ~~all of the following occur:~~

~~(1) That~~ that broker subsequently submits proof to the superintendent that the broker has complied with the requirements of this section and requests that the broker's license as a real estate broker be reactivated~~.~~

~~(2) The~~, and the superintendent then reactivates the broker's license as a

real estate broker.

~~(3) The associated real estate salesperson intends to continue to be associated with that broker, has complied with the requirements of this section, and otherwise is in compliance with this chapter.~~

(2) If the real estate salesperson submits an application to leave the association of the suspended broker in order to associate with a different broker, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Any person whose license is reactivated pursuant to this division shall ~~submit proof satisfactory to the superintendent that the person has completed thirty hours of continuing education, as prescribed by the Ohio real estate commission, on or before the third year following the licensee's birthday occurring immediately after reactivation~~ comply with the requirements of this section and otherwise be in compliance with this chapter.

(E) Any licensee who is a ~~physically handicapped~~ disabled licensee at any time during the last three months of the third year of the licensee's continuing education reporting period may receive an extension of time as deemed appropriate by the superintendent to submit proof to the superintendent that the licensee has satisfactorily completed the required thirty hours of continuing education. To receive an extension of time, the licensee shall submit a request to the division of real estate for the extension and proof satisfactory to the commission that the licensee was a ~~physically handicapped~~ disabled licensee at some time during the last three months of the three-year reporting period. The proof shall include, but is not limited to, a signed statement by the licensee's attending physician describing the ~~physical~~ disability, certifying that the licensee's disability is of such a nature as to prevent the licensee from attending any instruction lasting at least three hours in duration, and stating the expected duration of the ~~physical~~ disability. The licensee shall request the extension and provide the physician's statement to the division no later than one month prior to the end of the licensee's three-year continuing education reporting period, unless the ~~physical~~ disability did not arise until the last month of the three-year reporting period, in which event the licensee shall request the extension and provide the physician's statement as soon as practical after the occurrence of the ~~physical~~ disability. A licensee granted an extension pursuant to this division who is no longer a ~~physically handicapped~~ disabled licensee and who submits proof of completion of the continuing education during the

extension period, shall submit, for future continuing education reporting periods, proof of completion of the continuing education requirements according to the schedule established in division (A) of this section.

(F) The superintendent shall not renew a license if the licensee fails to comply with this section, and the licensee shall be required to pay the penalty fee provided in section 4735.14 of the Revised Code.

(G) A licensee shall submit proof of completion of the required continuing education with the licensee's notice of renewal. The proof shall be submitted in the manner provided by the superintendent.

Sec. 4735.142. (A) Any person licensed under section 4735.07 or 4735.09 of the Revised Code, at any time prior to the date the licensee is required to file a notice of renewal pursuant to division (B) of section 4735.14 of the Revised Code may apply to the superintendent of real estate and professional licensing to place the licensee's license on voluntary hold or a resigned status.

(B) If the superintendent has placed a license on voluntary hold pursuant to a request made under division (A) of this section, the licensee who requested that the licensee's license be placed on voluntary hold may apply to the superintendent to reactivate that license within twelve months after the date the license is placed on voluntary hold. The superintendent shall reactivate that license if the licensee complies with the requirements for such reactivation that are specified in rules adopted by the Ohio real estate commission pursuant to division (A) of section 4735.10 of the Revised Code and satisfies all of the following requirements:

(1) The licensee complies with the postlicensure education requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable;

(2) The licensee complies with the continuing education requirements specified in section 4735.141 of the Revised Code;

(3) The licensee renews the licensee's license in accordance with section 4735.14 of the Revised Code and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the commission.

(C) If a licensee does not apply to reactivate a license on voluntary hold pursuant to division (B) of this section during the twelve-month time period specified in that division or does not satisfy the requirements specified in that division during that twelve-month period, the superintendent shall consider that license to be in a resigned status. The superintendent shall not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to this division wishes to

obtain an active license, the person shall apply for an active license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable.

(D) A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division ~~(G)~~(H) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to voluntarily resign the licensee's license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to a request made under this division wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or in the rules adopted by the commission pursuant to division (A) of section 4735.10 of the Revised Code.

(E) If placing a broker's license on voluntary hold or a resigned status will result in the closure of the broker's brokerage, the broker, within three days after applying to the superintendent to place the license on voluntary hold or a resigned status, shall provide to each salesperson associated with that broker a written notice stating that fact.

(F) This section does not apply to any licensee whose license has been suspended pursuant to division (F) of section 4735.181 of the Revised Code or due to disciplinary action ordered by the commission pursuant to section 4735.051 of the Revised Code.

Sec. 4735.15. (A) The nonrefundable fees for reactivation or transfer of a license shall be as follows:

(1) Reactivation or transfer of a broker's license into or out of a partnership, association, limited liability company, limited liability partnership, or corporation or from one partnership, association, limited liability company, limited liability partnership, or corporation to another partnership, association, limited liability company, limited liability partnership, or corporation, twenty-five dollars. An application for such transfer shall be made to the superintendent of real estate on forms provided by the superintendent.

(2) Reactivation or transfer of a license by a real estate salesperson, twenty-five dollars.

(B) Except as may otherwise be specified pursuant to division (F) of this section, the nonrefundable fees for a branch office license, license renewal, late filing, and foreign real estate dealer and salesperson license are as

follows per year for each year of a licensing period:

(1) Branch office license, fifteen dollars;

(2) Renewal of a real estate broker's license, sixty dollars. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the full broker's renewal fee shall be required for each member of such partnership, association, limited liability company, limited liability partnership, or corporation that is a real estate broker. If the real estate broker has not less than eleven nor more than twenty real estate salespersons associated with the broker, an additional fee of sixty-four dollars shall be assessed to the brokerage. For every additional ten real estate salespersons or fraction of that number, the brokerage assessment fee shall be increased in the amount of thirty-seven dollars.

(3) Renewal of a real estate salesperson's license, forty-five dollars;

(4) Renewal of a real estate broker's or salesperson's license filed within twelve months after the licensee's renewal date, an additional late filing penalty of fifty per cent of the required fee;

(5) Foreign real estate dealer's license and each renewal of the license, thirty dollars per salesperson employed by the dealer, but not less than one hundred fifty dollars;

(6) Foreign real estate salesperson's license and each renewal of the license, fifty dollars.

(C) All fees collected under this section shall be paid to the treasurer of state. One dollar of each such fee shall be credited to the real estate education and research fund, except that for fees that are assessed only once every three years, three dollars of each triennial fee shall be credited to the real estate education and research fund.

(D) In all cases, the fee and any penalty shall accompany the application for the license, license transfer, or license reactivation or shall accompany the filing of the renewal.

(E) The commission may establish by rule reasonable fees for services not otherwise established by this chapter.

(F) The commission may adopt rules that provide for a reduction in the fees established in divisions (B)(2) and (3) of this section.

Sec. 4735.16. (A) Every real estate broker licensed under this chapter ~~shall have and maintain a definite place of business in this state and~~ shall erect or maintain a sign on the business premises plainly stating that the licensee is a real estate broker. If the real estate broker maintains one or more branch offices, the real estate broker shall erect or maintain a sign at each branch office plainly stating that the licensee is a real estate broker.

(B)(1) Any licensed real estate broker or salesperson who advertises to

buy, sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, ~~including, but not limited to, any licensed real estate broker or salesperson who advertises to sell, exchange, or lease real estate that the licensee owns~~ with respect to property the licensee does not own, shall be identified in the advertisement by name and ~~by indicating that the licensee is a real estate broker or real estate salesperson. Except a real estate salesperson who advertises the sale, exchange, or lease of real estate that the salesperson owns and that is not listed for sale, exchange, or lease with a real estate broker, any real estate salesperson who advertises, as provided in this section, also shall indicate in the advertisement the name of the broker under whom the salesperson is licensed and the fact that the salesperson's broker is a real estate broker. The name of the broker shall be displayed in equal prominence with the name of the salesperson in the advertisement~~ indicate the name of the brokerage with which the licensee is affiliated.

(2) Any licensed real estate broker or sales person who advertises to sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, with respect to property that the licensee owns, shall be identified in the advertisement by name and indicate that the property is agent owned, and if the property is listed with a real estate brokerage, the advertisement shall also indicate the name of the brokerage with which the property is listed.

(3) The name of the brokerage shall be displayed in equal prominence with the name of the salesperson in the advertisement. For purposes of this section, "brokerage" means the name the real estate company or sole broker is doing business as, or if the real estate company or sole broker does not use such a name, the name of the real estate company or sole broker as licensed.

(4) A real estate broker who is representing a seller under an exclusive right to sell or lease listing agreement shall not advertise such property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker.

~~(3)~~(5) If any real estate broker or real estate salesperson advertises in a manner other than as provided in this section or the rules adopted under this section, that advertisement is prima-facie evidence of a violation under division (A)(21) of section 4735.18 of the Revised Code.

When the superintendent determines that prima-facie evidence of a violation of division (A)(21) of section 4735.18 of the Revised Code or any of the rules adopted thereunder exists, the superintendent may do either of the following:

(a) Initiate disciplinary action under section 4735.051 of the Revised

Code for a violation of division (A)(21) of section 4735.18 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(b) Personally, or by certified mail, serve a citation upon the licensee.

(C)(1) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of two hundred dollars per violation, not to exceed two thousand five hundred dollars per citation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(2) If any licensee is cited three times within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

(3) If a licensee fails to request a hearing within thirty days of the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(4) Unless otherwise indicated, the licensee named in a final citation must meet all requirements contained in the final citation within thirty days of the effective date of that citation.

(5) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (C)(4) of this section.

(D) A real estate broker or salesperson obtaining the signature of a party to a listing or other agreement involved in a real estate transaction shall furnish a copy of the listing or other agreement to the party immediately after obtaining the party's signature. Every broker's office shall prominently display in the same immediate area as licenses are displayed a statement that it is illegal to discriminate against any person because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, national origin, military status as defined in that section, disability as defined in that section, or ancestry in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services and that blockbusting also is illegal. The statement shall bear the United States department of housing and urban development equal housing logo, shall contain the information that the broker and the broker's salespersons are licensed by the division of real estate and professional licensing and that the division can assist with any consumer complaints or inquiries, and shall explain the provisions of section 4735.12 of the Revised Code. The

statement shall provide the division's address and telephone number. The Ohio real estate commission shall provide by rule for the wording and size of the statement. The pamphlet required under section 4735.03 of the Revised Code shall contain the same statement that is required on the statement displayed as provided in this section and shall be made available by real estate brokers and salespersons to their clients. The commission shall provide the wording and size of the pamphlet.

Sec. 4735.17. Licenses may be issued under sections 4735.01 to 4735.23 of the Revised Code, to nonresidents of this state and to foreign corporations, subject to the following additional requirements:

(A) The licensee, if a broker, shall maintain an active place of business in this state. A post office box is not an active place of business for purposes of this section.

(B) Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this state in which a cause of action may arise or in which the plaintiff may reside by the service of any process or pleading authorized by the laws of this state on the superintendent of real estate. The consent shall stipulate that such service shall be taken and held in all courts as valid and binding as if proper service had been made upon the applicant in this state. The instrument containing such consent shall be authenticated by signature or by corporate seal. All applications of firms or corporations shall be accompanied by a certified copy of the resolution of the proper officers or managing board authorizing the proper officer to execute them. A duplicate copy of any process or pleading served on the superintendent shall be immediately forwarded by certified mail to the main office of the licensee against which that process or pleading is directed.

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised Code, the superintendent of real estate, upon the superintendent's own motion, may investigate the conduct of any licensee. Subject to section 4735.32 of the Revised Code, the Ohio real estate commission shall~~, pursuant to section 4735.051 of the Revised Code,~~ impose disciplinary sanctions upon any licensee who, whether or not acting in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found to have been convicted of a felony or a crime of moral turpitude, and ~~shall, pursuant to section 4735.051 of the Revised Code,~~ may impose disciplinary sanctions upon any licensee who, in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found guilty of:

(1) Knowingly making any misrepresentation;

(2) Making any false promises with intent to influence, persuade, or induce;

(3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;

(4) Acting for more than one party in a transaction except as permitted by and in compliance with section 4735.71 of the Revised Code;

(5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;

(6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;

(7)(a) By final adjudication by a court, a violation of any municipal or federal civil rights law relevant to the protection of purchasers or sellers of real estate or, by final adjudication by a court, any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the licensee's practice as a licensed real estate broker or salesperson;

(b) A second or subsequent violation of any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code or any second or subsequent violation of municipal or federal civil rights laws relevant to purchasing or selling real estate whether or not there has been a final adjudication by a court, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate. For any second offense under this division, the commission shall suspend for a minimum of two months or revoke the license of the broker or salesperson. For any subsequent offense, the commission shall revoke the license of the broker or salesperson.

(8) Procuring a license under this chapter, for the licensee or any salesperson by fraud, misrepresentation, or deceit;

(9) Having violated or failed to comply with any provision of sections 4735.51 to 4735.74 of the Revised Code or having willfully disregarded or violated any other provisions of this chapter;

(10) As a real estate broker, having demanded, without reasonable cause, other than from a broker licensed under this chapter, a commission to which the licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;

(11) Except as permitted under section 4735.20 of the Revised Code,

having paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate broker or salesperson under this chapter or anyone not operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;

(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;

(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;

(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;

(17) Having advertised or placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;

(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;

(19) Having negotiated the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor, or tenant knowing that such seller, purchaser, lessor, or tenant is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;

(20) Having offered real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular;

(23) Having published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers;

(24) Having failed to keep complete and accurate records of all transactions for a period of three years from the date of the transaction, such records to include copies of listing forms, earnest money receipts, offers to purchase and acceptances of them, records of receipts and disbursements of all funds received by the licensee as broker and incident to the licensee's transactions as such, and records required pursuant to divisions (C)(4) and (5) of section 4735.20 of the Revised Code, and any other instruments or papers related to the performance of any of the acts set forth in the definition of a real estate broker;

(25) Failure of a real estate broker or salesperson to furnish all parties involved in a real estate transaction true copies of all listings and other agreements to which they are a party, at the time each party signs them;

(26) Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent. Checks drawn on such special or trust bank accounts are deemed to meet the conditions imposed by section 1349.21 of the Revised Code. Funds deposited in the trust or special account in connection with a purchase agreement shall be maintained in accordance with section 4735.24 of the Revised Code.

(27) Failure to maintain at all times a special or trust bank account in a depository in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from any other account maintained by the broker. The name, account number, and location of the depository shall be submitted in writing to the superintendent. This account may earn interest, which shall be paid to the property owners on a pro rata basis.

Division (A)(27) of this section does not apply to brokers who are not engaged in the management of real property on behalf of real property owners.

(28) Having failed to put definite expiration dates in all written agency agreements to which the broker is a party;

(29) Having an unsatisfied final judgment or lien in any court of record against the licensee arising out of the licensee's conduct as a licensed broker or salesperson;

(30) Failing to render promptly upon demand a full and complete statement of the expenditures by the broker or salesperson of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson for the purpose of performing duties as a licensee under this chapter in conjunction with the real estate transaction;

(31) Failure within a reasonable time, after the receipt of the commission by the broker, to render an accounting to and pay a real estate salesperson the salesperson's earned share of it;

(32) Performing any service for another constituting the practice of law, as determined by any court of law;

(33) Having been adjudicated incompetent for the purpose of holding the license by a court, as provided in section 5122.301 of the Revised Code. A license revoked or suspended under this division shall be reactivated upon proof to the commission of the removal of the disability.

(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker, or a real estate salesperson, who was not then licensed as a real estate broker or real estate salesperson under this chapter or who was not then operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(35) Having knowingly inserted or participated in inserting any materially inaccurate term in a document, including naming a false consideration;

(36) Having failed to inform the licensee's client of the existence of an offer or counteroffer or having failed to present an offer or counteroffer in a timely manner, unless otherwise instructed by the client, provided the instruction of the client does not conflict with any state or federal law;

(37) Having failed to comply with section 4735.24 of the Revised Code.

(B) Whenever the commission, pursuant to section 4735.051 of the Revised Code, imposes disciplinary sanctions for any violation of this section, the commission also may impose such sanctions upon the broker with whom the salesperson is affiliated if the commission finds that the broker had knowledge of the salesperson's actions that violated this section.

(C) The commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any foreign real estate dealer or salesperson who, in that capacity or in handling the dealer's or salesperson's

own property, is found guilty of any of the acts or omissions specified or comprehended in division (A) of this section insofar as the acts or omissions pertain to foreign real estate. If the commission imposes such sanctions upon a foreign real estate salesperson for a violation of this section, the commission also may suspend or revoke the license of the foreign real estate dealer with whom the salesperson is affiliated if the commission finds that the dealer had knowledge of the salesperson's actions that violated this section.

(D) The commission may suspend, in whole or in part, the imposition of the penalty of suspension of a license under this section.

~~(E) The commission immediately shall notify the real estate appraiser board of any disciplinary action taken under this section against a licensee who also is a state certified real estate appraiser under Chapter 4763. of the Revised Code.~~

Sec. 4735.181. (A) No real estate broker or salesperson licensed pursuant to this chapter shall fail to comply with divisions (B) or (D) of section 4735.13, division (D) of section 4735.14, or sections 4735.55, 4735.56, and 4735.58 of the Revised Code or any rules adopted under those divisions or sections.

(B) When the superintendent determines that a licensee has violated division (A) of this section, the superintendent may do either of the following:

(1) Initiate disciplinary action under section 4735.051 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(2) Personally, or by certified mail, serve a citation and impose sanctions in accordance with this section upon the licensee.

(C) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of up to two hundred dollars per violation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(D) If any licensee is cited three times under this section within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

If a licensee fails to request a hearing within thirty days after the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(E) Unless otherwise indicated, the licensee named in a final citation under this section must meet all requirements contained in the final citation within thirty days after the effective date of that citation.

(F) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (E) of this section.

Sec. 4735.182. If a check or other draft instrument used to pay any fee required under this chapter is returned to the superintendent ~~for insufficient funds~~ unpaid by the financial institution upon which it is drawn for any reason, the superintendent shall notify the ~~licensee~~ entity or person that the check or other draft instrument was returned for insufficient funds ~~and~~.

(A) If the check or draft instrument was submitted by a licensee, the superintendent shall also notify the licensee that the licensee's license will be suspended unless the licensee, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the licensee does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent ~~for insufficient funds~~ unpaid by the financial institution upon which it is drawn for any reason, the license shall be suspended immediately without a hearing and the licensee shall cease activity as a licensee under this chapter.

(B) If the check or draft instrument was remitted by a person or entity applying to qualify foreign real estate or renew a property registration, the superintendent shall also notify the applicant that registration will be suspended, unless the applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of the fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the property registration shall be suspended immediately without a hearing and the applicant shall cease activity.

(C) If the check or draft instrument was remitted by an applicant for licensure, that application shall automatically be rejected or approval withdrawn, unless the applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn.

(D) If the check or draft instrument was remitted by an education course provider or course provider applicant, that application shall automatically be

rejected or approval withdrawn, unless applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn.

Sec. 4735.19. The Ohio real estate commission shall keep a record of its proceedings and, upon application of an interested party, or upon its own motion and notice to the interested parties, may ~~reverse, vacate, or modify~~ hold a hearing to consider reversing, vacating, or modifying its own orders. An application ~~to the commission to reverse, vacate, or modify an order~~ shall be filed with the division within fifteen days after the mailing of the notice of the order of the commission to the interested parties ~~pursuant to section 119.09 of the Revised Code~~. The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing the circumstances in which an interested party may request reconsideration.

Any applicant~~, licensee,~~ or ~~complainant,~~ respondent dissatisfied with an order of the commission may appeal in accordance with Chapter 119. of the Revised Code.

Sec. 4735.20. (A) Except as provided in divisions (B), (C), and (G) of this section, no licensed real estate broker or licensed foreign real estate dealer shall pay a commission, fee, or other compensation for performing any of the acts specified in section 4735.01 of the Revised Code to any person who is not a licensed real estate broker or a licensed real estate salesperson or to any person who is not a licensed foreign real estate dealer or a licensed foreign real estate salesperson.

(B) A licensed real estate broker or licensed foreign real estate dealer may pay a commission to a licensed real estate broker or licensed foreign real estate dealer of another state or country and may receive a commission from a licensed real estate broker or licensed foreign real estate dealer of another state or country, but only when done in accordance with rules adopted by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code.

(C) A licensed real estate broker may pay all or part of a fee, commission, or other compensation earned by an affiliated licensee to a partnership, association, limited liability company, limited liability partnership, or corporation that is not licensed as a real estate broker on the condition that all of the following conditions are satisfied:

(1) At least one of the partners, members, officers, or shareholders of

the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation holds a valid and active license issued under this chapter.

(2) At least one of the partners, members, officers, or shareholders of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation is the affiliated licensee who earned the fee, commission, or other compensation.

(3) The unlicensed partnership, association, limited liability company, limited liability partnership, or corporation does not engage in any of the acts specified in division (A) of section 4735.01 of the Revised Code.

(4) The broker verifies that the affiliated licensee complies with divisions (C)(1) and (2) of this section and keeps a record of this verification for a period of three years after the date of verification.

(5) The broker keeps a record of all of the following information for each transaction, for a period of three years after the date of the transaction:

(a) The name of the affiliated licensee who earned the fee, commission, or other compensation;

(b) The amount of the fee, commission, or other compensation that was earned;

(c) The name of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation to which the broker paid the affiliated licensee's fee, commission, or other compensation.

(D) Compliance with division (C) of this section does not relieve a broker described in that division of any obligations to supervise an affiliated licensee, or of any other requirements of this chapter or rules adopted pursuant to this chapter.

(E) Compliance with division (C) of this section does not render a broker described in that division or an affiliated licensee exempt from sections 4735.051, 4735.18, ~~or~~ and 4735.32 of the Revised Code, or immune from personal liability in a civil action against the broker or affiliated licensee for a violation of this chapter.

(F) No broker shall pay a fee, commission, or other compensation that is due to an affiliated licensee to a third-party creditor of the affiliated licensee.

(G) Any owner of any interest in foreign real estate may refer a prospective buyer to the person who sold the owner that foreign real estate with the expectation of receiving valuable consideration, if all of the following conditions are satisfied:

(1) The person who sold the owner that foreign real estate is selling qualified foreign real estate pursuant to section 4735.25 of the Revised Code.

(2) Any fee, commission, or other valuable consideration promised or collected during any period consisting of twelve consecutive months does not exceed one thousand dollars.

(3) The owner does not engage in referring prospective buyers of foreign real estate pursuant to this section in the ordinary course of business or as a regular business practice.

(4) The owner does not show the foreign real estate, discuss terms or conditions of purchasing the foreign real estate, or otherwise participate in negotiations with regard to the offering or sale of the foreign real estate.

(5) If a foreign real estate transaction is consummated with a buyer who was referred by the owner to the person who sold the owner that foreign real estate, the occurrence of the referral shall be disclosed by the person who sold the owner that foreign real estate.

(H) The suspension or revocation of a real estate broker's or foreign real estate dealer's license automatically shall suspend every real estate salesperson's or foreign real estate salesperson's license granted to any person by virtue of association with the broker or dealer whose license has been suspended or revoked, pending a change of broker or dealer and the issuance of a new license. Such new license shall be issued without charges, if granted during the same year in which the original license was granted.

(I) A violation of this section is cause for imposing disciplinary sanctions in accordance with the proceedings specified in sections 4735.051, 4735.18, and 4735.32 of the Revised Code.

(J) For purposes of this section, "affiliated licensee" means a person who holds a valid and active license issued under this chapter and who is associated with the broker that is paying a fee, commission, or other compensation at the time that that fee, commission, or other compensation is earned.

Sec. 4735.21. No right of action shall accrue to any person, partnership, association, or corporation for the collection of compensation for the performance of the acts mentioned in section 4735.01 of the Revised Code, without alleging and proving that such person, partnership, association, or corporation was licensed as a real estate broker or foreign real estate dealer. Nothing contained in this section shall prevent a right of action from accruing after the expiration of a real estate or foreign real estate license if the act giving rise to the cause of action was performed by a licensee prior to such expiration.

No real estate ~~salesman~~ salesperson or foreign real estate ~~salesman~~ salesperson shall collect any money in connection with any real estate or foreign real estate brokerage transaction, whether as a commission, deposit,

payment, rental, or otherwise, except in the name of and with the consent of the licensed real estate broker or licensed foreign real estate dealer under whom ~~he~~ the salesperson is licensed at the time the sales person earned the commission. Nor shall any real estate ~~salesman~~ salesperson or foreign real estate ~~salesman~~ salesperson commence or maintain any action for a commission or other compensation in connection with a real estate or foreign real estate brokerage transaction, against any person except a person licensed as a real estate broker or foreign real estate dealer under whom ~~he~~ the salesperson is licensed as a ~~salesman~~ salesperson at the time the cause of action arose.

A salesperson licensed under this chapter shall not sell, assign, or otherwise transfer the salesperson's interest in a commission or any portion thereof to an unlicensed person or entity. If a salesperson makes such assignment or transfer, the broker shall not pay the transferee or assignee any portion of the commission. No cause of action shall arise on behalf of any person against a broker for not paying an assignee or transferee any portion of such an assignment or transfer.

Sec. 4735.211. All fines imposed under section 4735.051 of the Revised Code, and all fees and charges collected under sections 4735.06, 4735.09, 4735.13, 4735.15, 4735.25, 4735.27, 4735.28, and 4735.29 of the Revised Code, except such fees as are paid to the real estate education and research fund and real estate recovery fund as provided in this chapter, shall be paid into the state treasury to the credit of the division of real estate operating fund, which is hereby created. All operating expenses of the division of real estate shall be paid from the division of real estate operating fund.

The division of real estate operating fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. Such assessments shall be paid from the division of real estate operating fund to the division of administration fund.

If funds in the division of real estate operating fund are determined by the director of commerce to be in excess of those necessary to fund all the expenses of the division in any biennium, ~~he shall~~ the director may pay the excess funds to the real estate education and research fund.

Sec. 4735.32. (A)(1) The Ohio real estate commission or the superintendent of real estate may commence, at any time within three years from the date on which an alleged violation of a provision of this or another chapter of the Revised Code occurred, any investigation that relates to the conduct of a licensed real estate broker, real estate salesperson, foreign real

estate dealer, or foreign real estate salesperson, that is authorized pursuant to section 1349.11, 4735.051, 4735.052, or 4735.18, or any other section of the Revised Code, and that is for purposes of determining whether ~~the~~ a licensee, unlicensed person, or unlicensed entity has violated a provision of this or another chapter of the Revised Code and whether, as a consequence, ~~the~~ a licensee's license should be suspended or revoked, or other disciplinary action taken, as provided in this or another chapter of the Revised Code. If such an investigation is not commenced within the three-year period, it shall be barred, and neither the commission nor the superintendent shall suspend or revoke the license of any licensee, or take other disciplinary action against any licensee, unlicensed person, or unlicensed entity because of the alleged violation of a provision of this or another chapter of the Revised Code that could have been the subject of the barred investigation.

(2) For purposes of division (A)(1) of this section, if an investigation that is authorized by section 4735.051 of the Revised Code is involved, it shall be considered to be commenced as of the date on which a person files ~~a~~ the complaint with the division of real estate ~~pursuant to division (A) of that section~~.

(B) This section does not affect any criminal or civil liability that a licensed real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, or any unlicensed person, may have under this or another chapter of the Revised Code or under the common law of this state.

Sec. 4735.55. (A) Each written agency agreement shall contain all of the following:

(1) An expiration date;

(2) A statement that it is illegal, pursuant to the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, ancestry, military status as defined in that section, disability as defined in that section, or national origin or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services;

(3) A statement defining the practice known as "blockbusting" and stating that it is illegal;

(4) A copy of the United States department of housing and urban

development equal housing opportunity logotype, as set forth in 24 C.F.R. 109.30, as amended.

(B) Each written agency agreement shall contain a place for the licensee and the client to sign and date the agreement.

(C) A licensee shall furnish a copy of any written agency agreement to a client in a timely manner after the licensee and the client have signed and dated it.

Sec. 4735.58. (A)(1) A licensee who is a purchaser's agent or a seller's subagent working with a purchaser shall present the agency disclosure statement described in section 4735.57 of the Revised Code to the purchaser and request the purchaser to sign and date the statement no later than the preparation of an offer to purchase or lease, or a written request for a proposal to lease. The licensee shall deliver the statement signed by the purchaser to the seller's agent, or to the seller if the seller is not represented by an agent. Prior to presenting the seller with either a written offer to purchase or lease, or a written request for a proposal to lease, the seller's agent, or the purchaser's agent if the seller is not represented by an agent, shall present the agency disclosure statement to the seller and request the seller to sign and date the statement.

(2) A licensee shall indicate the accurate agency relationship on the agency disclosure statement.

(B) A licensee selling property at auction shall, prior to the auction, verbally disclose to the audience that the licensee represents the seller in the real estate transaction. The licensee shall provide the agency disclosure statement described in section 4735.57 of the Revised Code to the successful bidder prior to the bidder's signing a purchase contract.

(C) Evidence that a licensee has failed to comply with this section constitutes prima-facie evidence of misconduct in violation of division (A)(6) of section 4735.18 of the Revised Code.

(D) The disclosure requirements of this section do not apply in any of the following situations:

(1) The rental or leasing of residential premises as defined in section 5321.01 of the Revised Code, if the rental or lease agreement can be performed in eighteen months or less;

(2) The referral of a prospective purchaser or seller to another licensee;

(3) Transactions involving the sale, lease, or exchange of foreign real estate as defined in division (E) of section 4735.01 of the Revised Code;

(4) Transactions involving the sale of a cemetery lot or a cemetery interment right.

(E) The licensee is obligated to perform all duties imposed on a real

estate agent at common law except to the extent the duties are inconsistent with the duties prescribed in this chapter or are otherwise modified by agreement.

Sec. 4735.59. To change the party a licensee represents in a real estate transaction after an agency disclosure statement has been signed and dated or following verbal disclosure of the agency relationship, the licensee shall obtain written consent from the party originally represented to represent another party in the transaction. The licensee shall promptly notify all persons who had been notified of the original relationship.

The Ohio real estate commission may adopt rules in accordance with Chapter 119. of the Revised Code to provide for required disclosures when a licensee terminates an agency relationship and becomes a principal in the transaction.

Sec. 4735.62. In representing any client in an agency or subagency relationship, the licensee shall be a fiduciary of the client and shall use the licensee's best efforts to further the interest of the client including, but not limited to, doing all of the following:

(A) Exercising reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;

(B) Performing the terms of any written agency agreement;

(C) Following any lawful instructions of the client;

(D) Performing all duties specified in this chapter in a manner that is loyal to the interest of the client;

(E) Complying with all requirements of this chapter and other applicable statutes, rules, and regulations, including the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended;

(F) Disclosing to the client any material facts of the transaction of which the licensee is aware or should be aware in the exercise of reasonable skill and care and that are not confidential information pursuant to a current or prior agency or dual agency relationship;

(G) Advising the client to obtain expert advice related to material matters when necessary or appropriate;

(H) Accounting in a timely manner for all moneys and property received in which the client has or may have an interest;

(I) Keeping confidential all confidential information, unless the licensee is permitted to disclose the information pursuant to division (B) of section 4735.74 of the Revised Code. This requirement includes not disclosing confidential information to any licensee who is not an agent of the client.

Sec. 4735.68. (A) A licensee is not liable to any party for false

information that the licensee's client provided to the licensee and that the licensee in turn provided to another party in the real estate transaction, unless the licensee had actual knowledge that the information was false or acted with reckless disregard for the truth.

(B) No cause of action shall arise on behalf of any person against a client for any misrepresentation a licensee made while representing that client unless the client had actual knowledge of the licensee's misrepresentation.

(C) Knowledge of or information contained in a brokerage or an affiliated or past licensee's transaction records of any current or previous defect, adverse condition, or repair in real property shall not be imputed to that broker or to other licensees affiliated with that broker. No cause of action based on imputed knowledge shall accrue on behalf of any person against a broker or affiliated licensee for failure to disclose such defects, adverse condition, or repair.

Sec. 4735.71. (A) No licensee or brokerage shall participate in a dual agency relationship described in section 4735.70 of the Revised Code unless both the seller and the purchaser in the transaction have full knowledge of the dual representation and consent in writing to the dual representation on the agency disclosure statement described in section 4735.57 of the Revised Code. Before a licensee obtains the consent of any party to a dual agency relationship, the licensee shall disclose to both the purchaser and the seller all relevant information necessary to enable each party to make an informed decision as to whether to consent to the dual agency relationship. If, after consent is obtained, there is a material change in the information disclosed to the purchaser and the seller, the licensee shall disclose the change of information to the purchaser and the seller and give them an opportunity to revoke their consent.

(B) No brokerage shall participate in a dual agency relationship described in division (C) of section 4735.70 of the Revised Code, unless each of the following conditions is met:

(1) The brokerage has established a procedure under section 4735.54 of the Revised Code under which licensees, including management level licensees, who represent one client will not have access to and will not obtain confidential information concerning another client of the brokerage involved in the dual agency transaction.

(2) Each licensee fulfills the licensee's duties exclusively to the licensee's client.

(C) No salesperson or broker licensed under this chapter shall participate in a dual agency relationship in which the licensee is a party to

the transaction, either personally or as an officer or member of a partnership, association, limited liability company, limited liability partnership, or corporation that has an interest in the real property that is the subject of the transaction or an entity that has an intention of purchasing, leasing, or exchanging the real property.

Sec. 4735.74. Unless otherwise agreed in writing, a licensee owes no further duty to a client after performance of all duties or after any contract has terminated or expired, except for both of the following:

(A) Providing the client with an accounting of all moneys and property relating to the transaction;

(B) Keeping confidential all information received during the course of the transaction unless~~;~~:

(1) The client permits disclosure;

(2) Disclosure is required by law or by court order;

(3) The information becomes public from a source other than the licensee;

(4) The information is necessary to prevent a crime the client intends to commit;

(5) Disclosure is necessary to defend the brokerage or its licensees against an accusation of wrongful conduct or to establish or defend a claim that a commission is owed on a transaction.

(6) Disclosure is regarding sales information requested by a registered appraiser assistant or a licensed or certified appraiser for the purposes of performing an appraisal. No cause of action shall arise on behalf of any person against a licensee for releasing information pursuant to this division.

Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees:

(1) To apply as a sanitarian-in-training, eighty dollars;

(2) For sanitarians-in-training to apply for registration as sanitarians, eighty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(3) For persons other than sanitarians-in-training to apply for registration as sanitarians, including persons meeting the requirements of section 4736.16 of the Revised Code, one hundred sixty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be ~~seventy-four~~ eighty dollars.

(5) The renewal fee for sanitarians-in-training shall be ~~seventy-four~~ eighty dollars.

(6) For late application for renewal, ~~twenty-seven~~ an additional fifty dollars.

The board of sanitarian registration, with the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent.

(B) The board of sanitarian registration shall charge separate fees for examinations as required by section 4736.08 of the Revised Code, provided that the fees are not in excess of the actual cost to the board of conducting the examinations.

(C) The board of sanitarian registration may adopt rules establishing fees for all of the following:

(1) Application for the registration of a training agency approved under rules adopted by the board pursuant to section 4736.11 of the Revised Code and for the annual registration renewal of an approved training agency~~.~~;

(2) Application for the review of continuing education hours submitted for the board's approval by approved training agencies or by registered sanitarians or sanitarians-in-training;

(3) Additional copies of pocket identification cards and wall certificates.

Sec. 4740.14. (A) There is hereby created within the department of commerce the residential construction advisory committee consisting of nine persons the director of commerce appoints. ~~Of the advisory committee's members, three~~ The advisory committee shall be made up of the following members:

(1) Three shall be general contractors who have recognized ability and experience in the construction of residential buildings~~, two~~.

(2) Two shall be building officials who have experience administering and enforcing a residential building code~~, one~~.

(3) One, chosen from a list of three names the Ohio fire chief's association submits, shall be from the fire service certified as a fire safety inspector who has at least ten years of experience enforcing fire or building codes~~, one~~.

(4) One shall be a residential contractor who has recognized ability and experience in the remodeling and construction of residential buildings~~, one~~.

(5) One shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings~~, and one~~.

(6) One, chosen from a list of three names the Ohio municipal league

submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department.

(B) ~~The director shall make appointments to the advisory committee within ninety days after May 27, 2005.~~

Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. ~~The director shall fill a vacancy~~ Vacancies shall be filled in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term.

(C) The advisory committee shall do all of the following:

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it may model on a residential building code a national model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code;

(2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code;

(3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code;

(4) Advise the board regarding the interpretation of the state residential building code;

(5) Provide other assistance the committee considers necessary;

(6) Provide the board with a written report of the committee's findings for each consideration required by division (D) of this section.

(D) The committee shall not make its recommendation to the board pursuant to divisions (C)(1), (2), and (4) of this section until the advisory committee has considered all of the following:

(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building code;

(3) The technical feasibility of the residential building code;

(4) The financial impact that the residential building code may have on

the public's ability to purchase affordable housing.

(E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code.

(F) Members of the advisory committee shall receive no salary for the performance of their duties as members, but shall receive their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee and shall receive a per diem for each day in attendance at an official meeting of the committee, to be paid from the labor operating fund in the state treasury, using fees collected in connection with residential buildings pursuant to division (F)(2) of section 3781.102 of the Revised Code and deposited in that fund.

(G) The advisory committee is not subject to divisions (A) and (B) of section 101.84 of the Revised Code.

Sec. 4757.31. (A) Subject to division (B) of this section, the counselor, social worker, and marriage and family therapist board shall establish, and may from time to time adjust, fees to be charged for the following:

(1) Examination for licensure as a professional clinical counselor, professional counselor, marriage and family therapist, independent marriage and family therapist, social worker, or independent social worker;

(2) Initial licenses of professional clinical counselors, professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, and independent social workers, except that the board shall charge only one fee to a person who fulfills all requirements for more than one of the following initial licenses: an initial license as a social worker or independent social worker, an initial license as a professional counselor or professional clinical counselor, and an initial license as a marriage and family therapist or independent marriage and family therapist;

(3) Initial certificates of registration of social work assistants;

(4) Renewal and late renewal of licenses of professional clinical counselors, professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, and independent social workers and renewal and late renewal of certificates of registration of social work assistants;

(5) Verification, to another jurisdiction, of a license or registration issued by the board;

(6) Continuing education programs offered by the board to licensees or registrants;

(7) Approval of continuing education programs;

(8) Approval of continuing education providers to be authorized to offer continuing education programs without prior approval from the board for each program offered;

(9) Issuance of a replacement copy of any wall certificate issued by the board.

(B) The fees charged under division (A)(1) of this section shall be established in amounts sufficient to cover the direct expenses incurred in examining applicants for licensure. The fees charged under divisions (A)(2) to ~~(6)~~(9) of this section shall be nonrefundable and shall be established in amounts sufficient to cover the necessary expenses in administering this chapter and rules adopted under it that are not covered by fees charged under division (A)(1) or (C) of this section. The renewal fee for a license or certificate of registration shall not be less than the initial fee for that license or certificate. The fees charged for licensure and registration and the renewal of licensure and registration may differ for the various types of licensure and registration, but shall not exceed one hundred twenty-five dollars each, unless the board determines that amounts in excess of one hundred twenty-five dollars are needed to cover its necessary expenses in administering this chapter and rules adopted under it and the amounts in excess of one hundred twenty-five dollars are approved by the controlling board.

(C) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the chairperson or executive director of the board, or both, as authorized by the board.

Sec. 4776.01. As used in this chapter:

(A) "License" means any of the following:

(1) An authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency described in division (C)(1) of this section to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity, or to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction.

(2) An authorization evidenced by a license or certificate that is issued by a licensing agency described in division (C)(2) of this section pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code to a licensee or to an applicant for an initial license by which the licensee or

initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity over which the licensing agency has jurisdiction.

(B) "Licensee" means the person to whom the license is issued by a licensing agency.

(C) "Licensing agency" means any of the following:

(1) The board authorized by Chapters 4701., 4717., 4725., 4729., 4730., 4731., 4732., 4734., 4740., 4741., 4755., 4757., 4759., 4760., 4761., 4762., and 4779. of the Revised Code to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specified equipment, machinery, or premises.

(2) The state dental board, relative to its authority to issue a license pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code.

(D) "Applicant for an initial license" includes persons seeking a license for the first time and persons seeking a license by reciprocity, endorsement, or similar manner of a license issued in another state.

(E) "Applicant for a restored license" includes persons seeking restoration of a certificate under section 4730.14, 4731.281, 4760.06, or 4762.06 of the Revised Code.

(F) "Criminal records check" has the same meaning as in ~~division (E) of~~ section 109.572 of the Revised Code.

Sec. 4906.01. As used in Chapter 4906. of the Revised Code:

(A) "Person" means an individual, corporation, business trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.

(B)(1) "Major utility facility" means:

~~(1)~~(a) Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;

~~(2)~~(b) An electric transmission line and associated facilities of a design capacity of one hundred twenty-five kilovolts or more;

~~(3)~~(c) A gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of one hundred twenty-five pounds per square inch.

(2) "Major utility facility" does not include ~~electric~~ gas or natural gas transmission lines over which an agency of the United States has exclusive jurisdiction, any solid waste facilities as defined in section 6123.01 of the Revised Code, or either of the following as defined by the power siting board:

(a) Electric, gas, natural gas distributing lines and gas or natural gas gathering lines and associated facilities ~~as defined by the power siting board, nor gas or natural gas transmission lines over which an agency of the United States has exclusive jurisdiction, nor any solid waste facilities as defined in section 6123.01 of the Revised Code~~;

(b) Any manufacturing facility that creates byproducts that may be used in the generation of electricity.

(C) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility, but does not include surveying changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

(D) "Certificate" means a certificate of environmental compatibility and public need issued by the power siting board under section 4906.10 of the Revised Code or a construction certificate issued by the board under rules adopted under division (E) of section 4906.03 of the Revised Code.

Sec. 4911.02. (A) The consumers' counsel shall be appointed by the consumers' counsel governing board, and shall hold office at the pleasure of the board.

(B)(1) The counsel may sue or be sued and has the powers and duties granted ~~him~~ the counsel under this chapter, and all necessary powers to carry out the purposes of this chapter.

(2) Without limitation because of enumeration, the counsel:

(a) Shall have all the rights and powers of any party in interest appearing before the public utilities commission regarding examination and cross-examination of witnesses, presentation of evidence, and other matters;

(b) May take appropriate action with respect to residential consumer complaints concerning quality of service, service charges, and the operation of the public utilities commission;

(c) May institute, intervene in, or otherwise participate in proceedings in both state and federal courts and administrative agencies on behalf of the residential consumers concerning review of decisions rendered by, or failure to act by, the public utilities commission;

(d) May conduct long range studies concerning various topics relevant to the rates charged to ~~residenial~~ residential consumers.

(C) The counsel shall follow the policies of the state as set forth in Chapter 4929. of the Revised Code that involve supporting retail natural gas competition.

Sec. 4911.021. The consumers' counsel shall not operate a telephone

call center for consumer complaints. Any calls received by the consumers' counsel concerning consumer complaints shall be forwarded to the public utilities commission's call center.

Sec. 4927.17. (A) Except as provided in sections 4927.07 and 4927.12 of the Revised Code ~~and, if applicable, under rules adopted by the public utilities commission for the pilot program for community voicemail service created in S.B. 162 of the 128th general assembly~~, a telephone company shall provide at least fifteen days' advance notice to its affected customers of any material change in the rates, terms, and conditions of a service and any change in the company's operations that are not transparent to customers and may impact service.

(B) A telephone company shall inform its customers of the commission's toll-free number and e-mail address on all bills and disconnection notices and any residential customers of the office of the consumers' counsel's toll-free number and e-mail address on all residential bills and disconnection notices.

Sec. 4928.20. (A) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, on or after the starting date of competitive retail electric service, it may aggregate in accordance with this section the retail electrical loads located, respectively, within the municipal corporation, township, or unincorporated area of the county and, for that purpose, may enter into service agreements to facilitate for those loads the sale and purchase of electricity. The legislative authority or board also may exercise such authority jointly with any other such legislative authority or board. For customers that are not mercantile customers, an ordinance or resolution under this division shall specify whether the aggregation will occur only with the prior, affirmative consent of each person owning, occupying, controlling, or using an electric load center proposed to be aggregated or will occur automatically for all such persons pursuant to the opt-out requirements of division (D) of this section. The aggregation of mercantile customers shall occur only with the prior, affirmative consent of each such person owning, occupying, controlling, or using an electric load center proposed to be aggregated. Nothing in this division, however, authorizes the aggregation of the retail electric loads of an electric load center, as defined in section 4933.81 of the Revised Code, that is located in the certified territory of a nonprofit electric supplier under sections 4933.81 to 4933.90 of the Revised Code or an electric load center served by transmission or distribution facilities of a municipal electric utility.

(B) If an ordinance or resolution adopted under division (A) of this section specifies that aggregation of customers that are not mercantile customers will occur automatically as described in that division, the ordinance or resolution shall direct the board of elections to submit the question of the authority to aggregate to the electors of the respective municipal corporation, township, or unincorporated area of a county at a special election on the day of the next primary or general election in the municipal corporation, township, or county. The legislative authority or board shall certify a copy of the ordinance or resolution to the board of elections not less than ninety days before the day of the special election. No ordinance or resolution adopted under division (A) of this section that provides for an election under this division shall take effect unless approved by a majority of the electors voting upon the ordinance or resolution at the election held pursuant to this division.

(C) Upon the applicable requisite authority under divisions (A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

(D) No legislative authority or board, pursuant to an ordinance or resolution under divisions (A) and (B) of this section that provides for automatic aggregation of customers that are not mercantile customers as described in division (A) of this section, shall aggregate the electrical load of any electric load center located within its jurisdiction unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the aggregation program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation program the opportunity to opt out of the program every three years, without paying a switching fee. Any such person that opts out before the commencement of the aggregation program pursuant to the stated procedure shall default to the standard service offer provided under section 4928.14 or division (D) of section 4928.35 of the Revised Code until the

person chooses an alternative supplier.

(E)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.41 of the Revised Code.

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in, respectively, the township or the unincorporated area of the county who voted for the office of governor at the preceding general election for that office in that area.

(F) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail electric service it provides and commission authority under this chapter.

(G) This section does not apply in the case of a municipal corporation that supplies such aggregated service to electric load centers to which its municipal electric utility also supplies a noncompetitive retail electric service through transmission or distribution facilities the utility singly or jointly owns or operates.

(H) A governmental aggregator shall not include in its aggregation the accounts of any of the following:

(1) A customer that has opted out of the aggregation;

(2) A customer in contract with a certified electric services company;

(3) A customer that has a special contract with an electric distribution utility;

(4) A customer that is not located within the governmental aggregator's governmental boundaries;

(5) Subject to division (C) of section 4928.21 of the Revised Code, a customer who appears on the "do not aggregate" list maintained under that section.

(I) Customers that are part of a governmental aggregation under this

section shall be responsible only for such portion of a surcharge under section 4928.144 of the Revised Code that is proportionate to the benefits, as determined by the commission, that electric load centers within the jurisdiction of the governmental aggregation as a group receive. The proportionate surcharge so established shall apply to each customer of the governmental aggregation while the customer is part of that aggregation. If a customer ceases being such a customer, the otherwise applicable surcharge shall apply. Nothing in this section shall result in less than full recovery by an electric distribution utility of any surcharge authorized under section 4928.144 of the Revised Code.

(J) On behalf of the customers that are part of a governmental aggregation under this section and by filing written notice with the public utilities commission, the legislative authority that formed or is forming that governmental aggregation may elect not to receive standby service within the meaning of division (B)(2)(d) of section 4928.143 of the Revised Code from an electric distribution utility in whose certified territory the governmental aggregation is located and that operates under an approved electric security plan under that section. Upon the filing of that notice, the electric distribution utility shall not charge any such customer to whom competitive retail electric generation service is provided by another supplier under the governmental aggregation for the standby service. Any such consumer that returns to the utility for competitive retail electric service shall pay the market price of power incurred by the utility to serve that consumer plus any amount attributable to the utility's cost of compliance with the alternative energy resource provisions of section 4928.64 of the Revised Code to serve the consumer. Such market price shall include, but not be limited to, capacity and energy charges; all charges associated with the provision of that power supply through the regional transmission organization, including, but not limited to, transmission, ancillary services, congestion, and settlement and administrative charges; and all other costs incurred by the utility that are associated with the procurement, provision, and administration of that power supply, as such costs may be approved by the commission. The period of time during which the market price and alternative energy resource amount shall be so assessed on the consumer shall be from the time the consumer so returns to the electric distribution utility until the expiration of the electric security plan. However, if that period of time is expected to be more than two years, the commission may reduce the time period to a period of not less than two years.

(K) The commission shall adopt rules to encourage and promote large-scale governmental aggregation in this state. For that purpose, the

commission shall conduct an immediate review of any rules it has adopted for the purpose of this section that are in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008. Further, within the context of an electric security plan under section 4928.143 of the Revised Code, the commission shall consider the effect on large-scale governmental aggregation of any nonbypassable generation charges, however collected, that would be established under that plan, except any nonbypassable generation charges that relate to any cost incurred by the electric distribution utility, the deferral of which has been authorized by the commission prior to the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008.

Sec. 4929.26. (A)(1) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, in accordance with this section and except as otherwise provided in division (A)(2) of this section, the legislative authority or board may aggregate automatically, subject to the opt-out requirements of division (D) of this section, competitive retail natural gas service for the retail natural gas loads that are located, respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code, a rule or order adopted or issued by the commission under Chapter 4905. of the Revised Code, or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised Code. An ordinance or a resolution adopted under this section shall expressly state that it is adopted pursuant to the authority conferred by this section. The legislative authority or board also may exercise its authority under this section jointly with any other such legislative authority or board. For the purpose of the aggregation, the legislative authority or board may enter into service agreements to facilitate the sale and purchase of the service for the retail natural gas loads.

(2)(a) No aggregation under an ordinance or resolution adopted under division (A)(1) of this section shall include the retail natural gas load of any person that meets any of the following criteria:

(i) The person is both a distribution service customer and a mercantile customer on the date of commencement of service to the aggregated load, or the person becomes a distribution service customer after that date and also is a mercantile customer.

(ii) The person is supplied with commodity sales service pursuant to a

contract with a retail natural gas supplier that is in effect on the effective date of the ordinance or resolution.

(iii) The person is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the commission under this chapter or Chapter 4905. of the Revised Code.

(b) Nothing in division (A)(2)(a) of this section precludes a governmental aggregation under this section from permitting the retail natural gas load of a person described in division (A)(2)(a) of this section from being included in the aggregation upon the expiration of any contract or aggregation as described in division (A)(2)(a)(ii) or (iii) of this section or upon the person no longer being a customer as described in division (A)(2)(a)(i) of this section or qualifying to be included in an aggregation described under division (A)(2)(a)(iii) of this section.

(B) An ordinance or resolution adopted under division (A) of this section shall direct the board of elections to submit the question of the authority to aggregate to the electors of the respective municipal corporation, township, or unincorporated area of a county at a special election on the day of the next primary or general election in the municipal corporation, township, or county. The legislative authority or board shall certify a copy of the ordinance or resolution to the board of elections not less than ninety days before the day of the special election. No ordinance or resolution adopted under division (A) of this section that provides for an election under this division shall take effect unless approved by a majority of the electors voting upon the ordinance or resolution at the election held pursuant to this division.

(C) Upon the applicable requisite authority under divisions (A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

(D) No legislative authority or board, pursuant to an ordinance or resolution under divisions (A) and (B) of this section, shall aggregate any retail natural gas load located within its jurisdiction unless it in advance clearly discloses to the person whose retail natural gas load is to be so

aggregated that the person will be enrolled automatically in the aggregation and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation the opportunity to opt out of the aggregation every two years, without paying a switching fee. Any such person that opts out of the aggregation pursuant to the stated procedure shall default to the natural gas company providing distribution service for the person's retail natural gas load, until the person chooses an alternative supplier.

(E)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.41 of the Revised Code.

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in the township or the unincorporated area of the county, respectively, who voted for the office of governor at the preceding general election for that office in that area.

(F) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of natural gas, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail natural gas service it provides and commission authority under this chapter.

Sec. 4929.27. (A)(1) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, in accordance with this section and except as otherwise provided in division (A)(2) of this section, the legislative authority or board may aggregate, with the prior consent of each person whose retail natural gas load is proposed to be aggregated, competitive retail natural gas service for any such retail natural gas load that is located,

respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code, a rule or order adopted or issued by the commission under Chapter 4905. of the Revised Code, or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised Code. An ordinance or a resolution adopted under this section shall expressly state that it is adopted pursuant to the authority conferred by this section. The legislative authority or board also may exercise such authority jointly with any other such legislative authority or board. For the purpose of the aggregation, the legislative authority or board may enter into service agreements to facilitate the sale and purchase of the service for the retail natural gas loads.

(2)(a) No aggregation under an ordinance or resolution adopted under division (A)(1) of this section shall include the retail natural gas load of any person that meets either of the following criteria:

(i) The person is supplied with commodity sales service pursuant to a contract with a retail natural gas supplier that is in effect on the effective date of the ordinance or resolution.

(ii) The person is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the commission under this chapter or Chapter 4905. of the Revised Code.

(b) Nothing in division (A)(2)(a) of this section precludes a governmental aggregation under this section from permitting the retail natural gas load of a person described in division (A)(2)(a) of this section from being included in the aggregation upon the expiration of any contract or aggregation as described in division (A)(2)(a)(i) or (ii) of this section or upon the person no longer qualifying to be included in an aggregation.

(B) Upon the applicable requisite authority under division (A) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

(C)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to division (A) of this section,

resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.41 of the Revised Code.

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to division (A) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in the township or the unincorporated area of the county, respectively, who voted for the office of governor at the preceding general election for that office in that area.

(D) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of natural gas, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail natural gas service it provides and commission authority under this chapter.

Sec. 4931.40. As used in sections 4931.40 to 4931.70 of the Revised Code:

(A) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1.

(B) "Basic 9-1-1" means a 9-1-1 system in which a caller provides information on the nature of and the location of an emergency, and the personnel receiving the call must determine the appropriate emergency service provider to respond at that location.

(C) "Enhanced 9-1-1" means a 9-1-1 system capable of providing both enhanced wireline 9-1-1 and wireless enhanced 9-1-1.

(D) "Enhanced wireline 9-1-1" means a 9-1-1 system in which the wireline telephone network, in providing wireline 9-1-1, automatically routes the call to emergency service providers that serve the location from which the call is made and immediately provides to personnel answering the 9-1-1 call information on the location and the telephone number from which the call is being made.

(E) "Wireless enhanced 9-1-1" means a 9-1-1 system that, in providing wireless 9-1-1, has the capabilities of phase I and, to the extent available, phase II enhanced 9-1-1 services as described in 47 C.F.R. 20.18 (d) to (h).

(F)(1) "Wireless service" means federally licensed commercial mobile

service as defined in 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3, and includes service provided by any wireless, two-way communications device, including a radio-telephone communications line used in cellular telephone service or personal communications service, a network radio access line, or any functional or competitive equivalent of such a radio-telephone communications or network radio access line.

(2) Nothing in sections 4931.40 to 4931.70 of the Revised Code applies to paging or any service that cannot be used to call 9-1-1.

(G) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.

(H) "Wireless 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireless service provider.

(I) "Wireline 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireline service provider.

(J) "Wireline service provider" means a facilities-based provider of wireline service to one or more end-users in this state.

(K) "Wireline service" means basic local exchange service, as defined in section 4927.01 of the Revised Code, that is transmitted by means of interconnected wires or cables by a wireline service provider authorized by the public utilities commission.

(L) "Wireline telephone network" means the selective router and data base processing systems, trunking and data wiring cross connection points at the public safety answering point, and all other voice and data components of the 9-1-1 system.

(M) "Subdivision" means a county, municipal corporation, township, township fire district, joint fire district, township police district, joint police district, joint ambulance district, or joint emergency medical services district that provides emergency service within its territory, or that contracts with another municipal corporation, township, or district or with a private entity to provide such service; and a state college or university, port authority, or park district of any kind that employs law enforcement officers that act as the primary police force on the grounds of the college or university or port authority or in the parks operated by the district.

(N) "Emergency service" means emergency law enforcement, firefighting, ambulance, rescue, and medical service.

(O) "Emergency service provider" means the state highway patrol and an emergency service department or unit of a subdivision or that provides

emergency service to a subdivision under contract with the subdivision.

(P) "Public safety answering point" means a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.

(Q) "Customer premises equipment" means telecommunications equipment, including telephone instruments, on the premises of a public safety answering point that is used in answering and responding to 9-1-1 system calls.

(R) "Municipal corporation in the county" includes any municipal corporation that is wholly contained in the county and each municipal corporation located in more than one county that has a greater proportion of its territory in the county to which the term refers than in any other county.

(S) "Board of county commissioners" includes the legislative authority of a county established under Section 3 of Article X, Ohio Constitution, or Chapter 302. of the Revised Code.

(T) "Final plan" means a final plan adopted under division (B) of section 4931.44 of the Revised Code and, except as otherwise expressly provided, an amended final plan adopted under section 4931.45 of the Revised Code.

(U) "Subdivision served by a public safety answering point" means a subdivision that provides emergency service for any part of its territory that is located within the territory of a public safety answering point whether the subdivision provides the emergency service with its own employees or pursuant to a contract.

(V) A township's population includes only population of the unincorporated portion of the township.

(W) "Telephone company" means a company engaged in the business of providing local exchange telephone service by making available or furnishing access and a dial tone to persons within a local calling area for use in originating and receiving voice grade communications over a switched network operated by the provider of the service within the area and gaining access to other telecommunications services. "Telephone company" includes a wireline service provider and a wireless service provider unless otherwise expressly specified. For purposes of sections 4931.52 and 4931.53 of the Revised Code, "telephone company" means a wireline service provider.

Sec. 4931.51. (A)(1) For the purpose of paying the costs of establishing, equipping, and furnishing one or more public safety answering points as part

of a countywide 9-1-1 system effective under division (B) of section 4931.44 of the Revised Code and paying the expense of administering and enforcing this section, the board of county commissioners of a county, in accordance with this section, may fix and impose, on each lot or parcel of real property in the county that is owned by a person, municipal corporation, township, or other political subdivision and is improved, or is in the process of being improved, reasonable charges to be paid by each such owner. The charges shall be sufficient to pay only the estimated allowed costs and shall be equal in amount for all such lots or parcels.

(2) For the purpose of paying the costs of operating and maintaining the answering points and paying the expense of administering and enforcing this section, the board, in accordance with this section, may fix and impose reasonable charges to be paid by each owner, as provided in division (A)(1) of this section, that shall be sufficient to pay only the estimated allowed costs and shall be equal in amount for all such lots or parcels. The board may fix and impose charges under this division pursuant to a resolution adopted for the purposes of both divisions (A)(1) and (2) of this section or pursuant to a resolution adopted solely for the purpose of division (A)(2) of this section, and charges imposed under division (A)(2) of this section may be separately imposed or combined with charges imposed under division (A)(1) of this section.

(B) Any board adopting a resolution under this section pursuant to a final plan initiating the establishment of a 9-1-1 system or pursuant to an amendment to a final plan shall adopt the resolution within sixty days after the board receives the final plan for the 9-1-1 system pursuant to division (C) of section 4931.43 of the Revised Code. The board by resolution may change any charge imposed under this section whenever the board considers it advisable. Any resolution adopted under this section shall declare whether securities will be issued under Chapter 133. of the Revised Code in anticipation of the collection of unpaid special assessments levied under this section.

(C) The board shall adopt a resolution under this section at a public meeting held in accordance with section 121.22 of the Revised Code. Additionally, the board, before adopting any such resolution, shall hold at least two public hearings on the proposed charges. Prior to the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall include a listing of the charges proposed in the resolution and the date, time, and location of each of the hearings. The board shall hear any person who

wishes to testify on the charges or the resolution.

(D) No resolution adopted under this section shall be effective sooner than thirty days following its adoption nor shall any such resolution be adopted as an emergency measure. The resolution is subject to a referendum in accordance with sections 305.31 to 305.41 of the Revised Code unless, in the resolution, the board of county commissioners directs the board of elections of the county to submit the question of imposing the charges to the electors of the county at the next primary or general election in the county occurring not less than ninety days after the resolution is certified to the board. No resolution shall go into effect unless approved by a majority of those voting upon it in any election allowed under this division.

(E) To collect charges imposed under division (A) of this section, the board of county commissioners shall certify them to the county auditor of the county who then shall place them upon the real property duplicate against the properties to be assessed, as provided in division (A) of this section. Each assessment shall bear interest at the same rate that securities issued in anticipation of the collection of the assessments bear, is a lien on the property assessed from the date placed upon the real property duplicate by the auditor, and shall be collected in the same manner as other taxes.

(F) All money collected by or on behalf of a county under this section shall be paid to the county treasurer of the county and kept in a separate and distinct fund to the credit of the county. The fund shall be used to pay the costs allowed in division (A) of this section and specified in the resolution adopted under that division. In no case shall any surplus so collected be expended for other than the use and benefit of the county.

Sec. 4931.52. (A) This section applies only to a county that meets both of the following conditions:

(1) A final plan for a countywide 9-1-1 system either has not been approved in the county under section 4931.44 of the Revised Code or has been approved but has not been put into operation because of a lack of funding;

(2) The board of county commissioners, at least once, has submitted to the electors of the county the question of raising funds for a 9-1-1 system under section 4931.51, 5705.19, or 5739.026 of the Revised Code, and a majority of the electors has disapproved the question each time it was submitted.

(B) A board of county commissioners may adopt a resolution imposing a monthly charge on telephone access lines to pay for the equipment costs of establishing and maintaining no more than three public safety answering points of a countywide 9-1-1 system, which public safety answering points

shall be only twenty-four-hour dispatching points already existing in the county. The resolution shall state the amount of the charge, which shall not exceed fifty cents per month, and the month the charge will first be imposed, which shall be no earlier than four months after the special election held pursuant to this section. Each residential and business telephone company customer within the area served by the 9-1-1 system shall pay the monthly charge for each of its residential or business customer access lines or their equivalent.

Before adopting a resolution under this division, the board of county commissioners shall hold at least two public hearings on the proposed charge. Before the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall state the amount of the proposed charge, an explanation of the necessity for the charge, and the date, time, and location of each of the hearings.

(C) A resolution adopted under division (B) of this section shall direct the board of elections to submit the question of imposing the charge to the electors of the county at a special election on the day of the next primary or general election in the county. The board of county commissioners shall certify a copy of the resolution to the board of elections not less than ninety days before the day of the special election. No resolution adopted under division (B) of this section shall take effect unless approved by a majority of the electors voting upon the resolution at an election held pursuant to this section.

In any year, the board of county commissioners may impose a lesser charge than the amount originally approved by the electors. The board may change the amount of the charge no more than once a year. The board may not impose a charge greater than the amount approved by the electors without first holding an election on the question of the greater charge.

(D) Money raised from a monthly charge on telephone access lines under this section shall be deposited into a special fund created in the county treasury by the board of county commissioners pursuant to section 5705.12 of the Revised Code, to be used only for the necessary equipment costs of establishing and maintaining no more than three public safety answering points of a countywide 9-1-1 system pursuant to a resolution adopted under division (B) of this section. In complying with this division, any county may seek the assistance of the public utilities commission with regard to operating and maintaining a 9-1-1 system.

(E) Pursuant to the voter approval required by division (C) of this

section, the final plan for a countywide 9-1-1 system that will be funded through a monthly charge imposed in accordance with this section shall be amended by the existing 9-1-1 planning committee, and the amendment of such a final plan is not an amendment of a final plan for the purpose of division (A) of section 4931.45 of the Revised Code.

Sec. 4931.53. (A) This section applies only to a county that has a final plan for a countywide 9-1-1 system that either has not been approved in the county under section 4931.44 of the Revised Code or has been approved but has not been put into operation because of a lack of funding.

(B) A board of county commissioners may adopt a resolution imposing a monthly charge on telephone access lines to pay for the operating and equipment costs of establishing and maintaining no more than one public safety answering point of a countywide 9-1-1 system. The resolution shall state the amount of the charge, which shall not exceed fifty cents per month, and the month the charge will first be imposed, which shall be no earlier than four months after the special election held pursuant to this section. Each residential and business telephone company customer within the area of the county served by the 9-1-1 system shall pay the monthly charge for each of its residential or business customer access lines or their equivalent.

Before adopting a resolution under this division, the board of county commissioners shall hold at least two public hearings on the proposed charge. Before the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall state the amount of the proposed charge, an explanation of the necessity for the charge, and the date, time, and location of each of the hearings.

(C) A resolution adopted under division (B) of this section shall direct the board of elections to submit the question of imposing the charge to the electors of the county at a special election on the day of the next primary or general election in the county. The board of county commissioners shall certify a copy of the resolution to the board of elections not less than ninety days before the day of the special election. No resolution adopted under division (B) of this section shall take effect unless approved by a majority of the electors voting upon the resolution at an election held pursuant to this section.

In any year, the board of county commissioners may impose a lesser charge than the amount originally approved by the electors. The board may change the amount of the charge no more than once a year. The board shall not impose a charge greater than the amount approved by the electors

without first holding an election on the question of the greater charge.

(D) Money raised from a monthly charge on telephone access lines under this section shall be deposited into a special fund created in the county treasury by the board of county commissioners pursuant to section 5705.12 of the Revised Code, to be used only for the necessary operating and equipment costs of establishing and maintaining no more than one public safety answering point of a countywide 9-1-1 system pursuant to a resolution adopted under division (B) of this section. In complying with this division, any county may seek the assistance of the public utilities commission with regard to operating and maintaining a 9-1-1 system.

(E) Nothing in sections 4931.40 to 4931.53 of the Revised Code precludes a final plan adopted in accordance with those sections from being amended to provide that, by agreement included in the plan, a public safety answering point of another countywide 9-1-1 system is the public safety answering point of a countywide 9-1-1 system funded through a monthly charge imposed in accordance with this section. In that event, the county for which the public safety answering point is provided shall be deemed the subdivision operating the public safety answering point for purposes of sections 4931.40 to 4931.53 of the Revised Code, except that, for the purpose of division (D) of section 4931.41 of the Revised Code, the county shall pay only so much of the costs associated with establishing, equipping, furnishing, operating, or maintaining the public safety answering point specified in the agreement included in the final plan.

(F) Pursuant to the voter approval required by division (C) of this section, the final plan for a countywide 9-1-1 system that will be funded through a monthly charge imposed in accordance with this section, or that will be amended to include an agreement described in division (E) of this section, shall be amended by the existing 9-1-1 planning committee, and the amendment of such a final plan is not an amendment of a final plan for the purpose of division (A) of section 4931.45 of the Revised Code.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial assistance program established under Chapter 5115. of the Revised Code.

(2) " Supplemental nutrition assistance program" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

(3) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

(4) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

(5) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

(6) "Public assistance expenditures" means expenditures for all of the following:

(a) Ohio works first;

(b) County administration of Ohio works first;

(c) Prevention, retention, and contingency;

(d) County administration of prevention, retention, and contingency;

(e) Disability financial assistance;

(f) County administration of disability financial assistance;

(g) County administration of the supplemental nutrition assistance program;

(h) County administration of medicaid.

(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and county administration of that program during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of the supplemental nutrition assistance program and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of

the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ~~ten~~ five per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ~~ten~~ five per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the department of development, by a fraction, the numerator of which is the estimate of

average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of the supplemental nutrition assistance program and medicaid that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

(e) Other procedures and requirements necessary to implement this section.

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code~~, "public~~:

(1) "Public assistance" ~~includes, in addition to Ohio works first,~~ means any or all of the following:

~~(1)~~(a) Ohio works first;

(b) Prevention, retention, and contingency;

~~(2) Medicaid;~~

~~(3)~~(c) Disability financial assistance;

~~(4)~~(d) General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.

(2) "Medical assistance" means medical assistance provided pursuant to, or under programs established by, section 5101.49, sections 5101.50 to 5101.529, Chapter 5111., or any other provision of the Revised Code.

(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., ~~5111.,~~ or 5115. of the Revised Code, the director of job and family services ~~shall~~ may furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be

disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A ~~or under Title XIX~~ of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(D)~~(1)~~ The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. ~~The~~

(E) On the request of the director of job and family services, the auditor of state may conduct an audit of an individual who receives medical assistance. If the auditor decides to conduct an audit, the auditor shall enter into an interagency agreement with the department of job and family services that specifies that the auditor agrees to comply with section 5101.271 of the Revised Code with respect to any information the auditor receives pursuant to the audit.

(F) The auditor shall review the information described in division (D) of this section to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., ~~5111.,~~ and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services ~~and~~, the attorney general, ~~to the district director of job and family services of the district through which public assistance was received,~~ and ~~to~~ the county director of job and family services and county prosecutor of the county through which public assistance was received.

~~(2)~~(G) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with ~~the~~ sections 5101.27 and 5101.271 of the Revised Code and adopts rules of the director of job and family services restricting the disclosure of

information regarding recipients of public assistance or medical assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

~~(3)~~(H) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this ~~division~~ section shall be borne by the auditor of state.

Sec. 5101.182. As part of the procedure for the determination of overpayment to a recipient of public assistance ~~under Chapter 5107., 5111., or 5115.~~ pursuant to section 5101.181 of the Revised Code, the director of job and family services ~~shall~~ may semiannually, at times determined jointly by the auditor of state and the tax commissioner, furnish to the tax commissioner in computer format the name and social security number of each individual who receives public assistance. Within sixty days after receiving the name and social security number of a recipient of public assistance, the commissioner shall inform the auditor of state whether the individual filed an Ohio individual income tax return, separate or joint, as provided by section 5747.08 of the Revised Code, for either or both of the two taxable years preceding the year in which the director furnished the names and social security numbers to the commissioner. If the individual did so file, at the same time the commissioner shall also inform the auditor of state of the amount of the federal adjusted gross income as reported on such returns and of the addresses on such returns. The commissioner shall also advise the auditor of state whether such returns were filed on a joint basis, as provided in section 5747.08 of the Revised Code, in which case the federal adjusted gross income as reported may be that of the individual or the individual's spouse.

If the auditor of state determines that further investigation is needed, the auditor of state may request the commissioner to determine whether the individual filed income tax returns for any previous taxable years in which the individual received public assistance and for which the tax department retains income tax returns. Within fourteen days of receipt of the request, the commissioner shall inform the auditor of state whether the individual filed an individual income tax return for the taxable years in question, of the amount of the federal adjusted gross income as reported on such returns, of the addresses on such returns, and whether the returns were filed on a joint or separate basis.

If the auditor of state determines that further investigation is needed of a recipient of public assistance who filed an Ohio individual income tax return, the auditor of state may request a certified copy of the Ohio

individual income tax return or returns of that person for the taxable years described above, together with any other documents the commissioner has concerning the return or returns. Within fourteen days of receipt of such a request in writing, the commissioner shall forward the returns and documents to the auditor of state.

The director of job and family services, ~~district director of job and family services,~~ county director of job and family services, county prosecutor, attorney general, auditor of state, or any agent or employee of those officials having access to any information or documents furnished by the commissioner pursuant to this section shall not divulge or use any such information except for the purpose of determining overpayment of public assistance, or for an audit, investigation, or prosecution, or in accordance with a proper judicial order. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state or county board, commission, or agency.

Sec. 5101.183. (A) ~~The~~ Except as provided in section 5111.12 of the Revised Code, the director of job and family services, in accordance with section 111.15 of the Revised Code, may adopt rules under which county ~~departments of job and~~ family services ~~or public children services~~ agencies shall take action to recover the cost of ~~social~~ the following benefits and services:

(1) Benefits or services provided to any of the following:

~~(1)~~(a) Persons who were not eligible for ~~social~~ the benefits or services but who secured ~~social~~ the benefits or services through fraud or misrepresentation;

~~(2)~~(b) Persons who were eligible for ~~social~~ the benefits or services but who intentionally diverted the benefits or services to other persons who were not eligible for the benefits or services.

(2) Any benefits or services provided by a county family services agency for which recovery is required or permitted by federal law for the federal programs administered by the agency.

(B) A county ~~department of job and~~ family services ~~or public children services~~ agency may bring a civil action against a recipient of ~~social~~ benefits or services to recover any costs described in division (A) of this section.

(C) A county ~~department of job and~~ family services ~~or public children services~~ agency shall retain any money it recovers under division (A) of this section and shall use the money ~~for the provision of social~~ to meet a family services duty, except that, if federal law requires the department of job and family services to return any portion of the money so recovered to the

federal government, the county ~~department or~~ family services agency shall pay that portion to the department of job and family services.

Sec. 5101.244. (A) If the department of job and family services determines that a grant awarded to a county grantee in a grant agreement entered into under section 5101.21 of the Revised Code, an allocation, advance, or reimbursement the department makes to a county family services agency, or a cash draw a county family services agency makes exceeds the allowable amount for the grant, allocation, advance, reimbursement, or cash draw, the department may ~~adjust~~ take one or more of the following actions to recover the excess amount:

(1) The department may adjust, offset, withhold, or reduce an allocation, cash draw, advance, reimbursement, or other financial assistance to the county grantee or county family services agency as necessary to recover the excess amount ~~of the excess grant, allocation, advance, reimbursement, or cash draw~~.

(2) The department may enter into an agreement with the county grantee or county family services agency for repayment of the excess amount by the grantee or agency. The department may require that the repayment include interest on the excess amount, calculated from the day that the excess occurred at a rate not exceeding the rate per annum prescribed by section 5703.47 of the Revised Code.

(3) The department may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against the county grantee or county family services agency to recover the excess amount. ~~The~~

(B) In taking an action authorized under this section, the department is not required to ~~make the adjustment, offset, withholding, or reduction~~ take the action in accordance with section 5101.24 of the Revised Code.

(C) The director of job and family services may adopt rules under section 111.15 of the Revised Code as necessary to implement this section. The director shall adopt the rules as if they were internal management rules.

Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code:

(A) "County agency" means a county department of job and family services or a public children services agency.

(B) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor,

regardless of whether the individual has departed from the individual's usual place of residence.

(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the department of job and family services, a county agency, or an entity performing duties on behalf of the department or a county agency.

(D) "Law enforcement agency" means the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

(E) "Medical assistance ~~provided under a public assistance program~~" means medical assistance provided pursuant to, or under ~~the~~ programs established ~~under sections~~ by, section 5101.49, sections 5101.50~~, 5101.51, 5101.52, and 5101.5211 to 5101.5216~~ to 5101.529, Chapter 5111., or any other provision of the Revised Code.

(F) "Medical assistance recipient" means an applicant for or recipient or former recipient of medical assistance.

(G) "Public assistance" means financial assistance~~, medical assistance,~~ or social services that are not medical assistance provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., ~~5111.,~~ or 5115. of the Revised Code or an executive order issued under section 107.17 of the Revised Code.

~~(G)~~(H) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.27. (A) Except as permitted by this section, section ~~5101.272~~ 5101.273, 5101.28, or 5101.29 of the Revised Code, or ~~the~~ rules adopted under ~~division (A) of~~ section 5101.30 of the Revised Code, or when required by federal law, no person or government entity shall solicit, disclose, receive, use, or knowingly permit, or participate in the use of any information regarding a public assistance recipient for any purpose not directly connected with the administration of a public assistance program.

(B) To the extent permitted by federal law, the department of job and family services and county agencies shall do all of the following:

(1) Release information regarding a public assistance recipient for purposes directly connected to the administration of the program to a

government entity responsible for administering that public assistance program;

(2) Provide information regarding a public assistance recipient to a law enforcement agency for the purpose of any investigation, prosecution, or criminal or civil proceeding relating to the administration of that public assistance program;

(3) Provide, for purposes directly connected to the administration of a program that assists needy individuals with the costs of public utility services, information regarding a recipient of financial assistance provided under a program administered by the department or a county agency pursuant to Chapter 5107. or 5108. of the Revised Code or sections 5115.01 to 5115.07 of the Revised Code to an entity administering the public utility services program.

(C) To the extent permitted by federal law and section 1347.08 of the Revised Code, the department and county agencies shall provide access to information regarding a public assistance recipient to all of the following:

(1) The recipient;

(2) The authorized representative;

(3) The legal guardian of the recipient;

(4) The attorney of the recipient, if the attorney has written authorization that complies with section ~~5101.271~~ 5101.272 of the Revised Code from the recipient.

(D) To the extent permitted by federal law and subject to division (E) of this section, the department and county agencies may do both of the following:

(1) Release information about a public assistance recipient if the recipient gives voluntary, written authorization that complies with section ~~5101.271~~ 5101.272 of the Revised Code;

(2) Release information regarding a public assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need or for the purpose of protecting children to a government entity responsible for administering a children's protective services program.

(E) Except when the release is required by division (B), (C), or (D)(2) of this section, the department or county agency shall release the information only in accordance with the authorization. The department or county agency shall provide, at no cost, a copy of each written authorization to the individual who signed it.

(F) ~~The department or county agency may release information under division (D) of this section concerning the receipt of medical assistance~~

~~provided under a public assistance program only if all of the following conditions are met:~~

~~(1) The release of information is for purposes directly connected to the administration of or provision of medical assistance provided under a public assistance program;~~

~~(2) The information is released to persons or government entities that are subject to standards of confidentiality and safeguarding information substantially comparable to those established for medical assistance provided under a public assistance program;~~

~~(3) The department or county agency has obtained an authorization consistent with section 5101.271 of the Revised Code.~~

~~(G) Information concerning the receipt of medical assistance provided under a public assistance program may be released only if the release complies with this section and rules adopted by the department pursuant to section 5101.30 of the Revised Code or, if more restrictive, the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as amended, and regulations adopted by the United States department of health and human services to implement the act.~~

~~(H)~~ The department of job and family services may adopt rules defining "authorized representative" for purposes of division (C)(2) of this section.

Sec. 5101.271. (A) Except as permitted by this section, section 5101.273, or rules adopted under section 5101.30 of the Revised Code, or when required by federal law, no person or government entity shall use or disclose information regarding a medical assistance recipient for any purpose not directly connected with the administration of the medical assistance program.

(B) Both of the following shall be considered to be purposes directly connected with the administration of the medical assistance program:

(1) Treatment, payment, or other operations or activities authorized by 42 C.F.R. Chapter IV;

(2) Any administrative function or duty the department of job and family services performs alone or jointly with a federal government entity, another state government entity, or a local government entity implementing a provision of federal law.

(C) The department or a county agency may disclose information regarding a medical assistance recipient to any of the following:

(1) The recipient or the recipient's authorized representative;

(2) The recipient's legal guardian in accordance with division (C) of section 2111.13 of the Revised Code;

(3) The attorney of the recipient, if the department or county agency has obtained authorization from the recipient, the recipient's authorized representative, or the recipient's legal guardian that meets all requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d et seq., as amended, regulations promulgated by the United States department of health and human services to implement the act, section 5101.272 of the Revised Code, and any rules the director of job and family services adopts under section 5101.30 of the Revised Code;

(4) A health information or health records management entity that has executed with the department a business associate agreement required by 45 C.F.R 164.502(e)(2) and has been authorized by the recipient, the recipient's authorized representative, or the recipient's legal guardian to receive the recipient's electronic health records in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code;

(5) A court if pursuant to a written order of the court.

(D) The department may receive from county departments of job and family services information regarding any medical assistance recipient for purposes of training and verifying the accuracy of eligibility determinations for medical assistance. The department may assemble information received under this division into a report if the report is in a form specified by the department. Information received and assembled into a report under this division shall remain confidential and not be subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code.

(E) The department shall notify courts in this state regarding its authority, under division (C)(5) of this section, to disclose information regarding a medical assistance recipient pursuant to a written court order.

Sec. ~~5101.271~~ 5101.272. (A) For the purposes of ~~section~~ sections 5101.27 and 5101.271 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following:

(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;

(3) The name or other specific identification of the person or governmental entity to which the information may be released;

(4) A description of each purpose of the requested use or disclosure of the information;

(5) The date on which the authorization expires or an event related

either to the individual who is the subject of the request or to the purposes of the requested use or disclosure, the occurrence of which will cause the authorization to expire;

(6) A statement that the information used or disclosed pursuant to the authorization may be disclosed by the recipient of the information and may no longer be protected from disclosure;

(7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed;

(8) If signed by an authorized representative, a description of the representative's authority to act for the individual;

(9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with one of the following:

(a) A description of how the individual or authorized representative may revoke the authorization;

(b) If the department of job and family services' privacy notice contains a description of how the individual or authorized representative may revoke the authorization, a reference to that privacy notice.

(10) A statement that treatment, payment, enrollment, or eligibility for public assistance or medical assistance cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the public assistance or medical assistance program.

(B) An authorization for the release of information regarding a medical assistance recipient to the recipient's attorney under division (C)(3) of section 5101.271 of the Revised Code may include a provision specifically authorizing the release of the recipient's electronic health records, if any, in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code.

(C) When an individual requests information pursuant to section 5101.27 or 5101.271 of the Revised Code regarding the individual's receipt of public assistance or medical assistance and does not wish to provide a statement of purpose, the statement "at request of the individual" is a sufficient description for purposes of division (A)(4) of this section.

Sec. ~~5101.272~~ 5101.273. ~~Not later than August 31, 2007, the director of job and family services shall submit a report to the general assembly on the costs and potential three-year cost savings associated with participation in the federally-administered public assistance reporting information system. If cost savings are indicated in the report, not later than October 1, 2007, the~~ The department of job and family services shall enter into any necessary agreements with the United States department of health and human services

and neighboring states to join and participate as an active member in the public assistance reporting information system. The department may disclose information regarding a public assistance recipient or medical assistance recipient to the extent necessary to participate as an active member in the public assistance reporting information system.

Sec. 5101.28. (A)(1) On request of the department of job and family services or a county agency, a law enforcement agency shall provide information regarding public assistance recipients to enable the department or county agency to determine, for eligibility purposes, whether a recipient or a member of a recipient's assistance group is a fugitive felon or violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under state or federal law.

(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with division (F) of this section.

(B) To the extent permitted by federal law, the department and county agencies shall provide information~~, except information directly related to the receipt of medical assistance or medical services,~~ regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

(C) Information about a public assistance recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in damages

in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. "Employee" has the same meaning as in division (B) of section 2744.01 of the Revised Code. This section does not affect any immunity or defense that the county agencies and their employees may be entitled to under another section of the Revised Code or the common law of this state, including section 2744.02 and division (A)(6) of section 2744.03 of the Revised Code.

(E) To the extent permitted by federal law, the department and county agencies shall provide access to information to the auditor of state acting pursuant to Chapter 117. or sections 5101.181 and 5101.182 of the Revised Code and to any other government entity authorized by federal law to conduct an audit of, or similar activity involving, a public assistance program.

(F) The auditor of state shall prepare an annual report on the outcome of the agreements required under division (A) of this section. The report shall include the number of fugitive felons, probation and parole violators, and violators of community control sanctions and post-release control sanctions apprehended during the immediately preceding year as a result of the exchange of information pursuant to that division. The auditor of state shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The state department, county agencies, and law enforcement agencies shall cooperate with the auditor of state's office in gathering the information required under this division.

(G) To the extent permitted by federal law, the department of job and family services, county departments of job and family services, and employees of the departments may report to a public children services agency or other appropriate agency information on known or suspected physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment, of a child receiving public assistance, if circumstances indicate that the child's health or welfare is threatened.

(H) As used in this section:

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

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

Sec. 5101.30. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code implementing sections 5101.26 to 5101.30 of the Revised Code and governing the custody,

use, disclosure, and preservation of the information generated or received by the department of job and family services, county agencies, other state and county entities, contractors, grantees, private entities, or officials participating in the administration of public assistance or medical assistance programs. The rules shall comply with applicable federal statutes and regulations. ~~The~~

(1) The rules shall specify conditions and procedures for the release of information~~. The rules shall comply with applicable federal statutes and regulations. To the extent permitted by federal law~~ which may include, among other conditions and procedures, both of the following:

~~(1) The rules may permit~~ (a) Permitting providers of services or assistance under public assistance programs limited access to information that is essential for the providers to render services or assistance or to bill for services or assistance rendered. The department of aging, when investigating a complaint under section 173.20 of the Revised Code, shall be granted any limited access permitted in the rules pursuant to division (A)(1) of this section.

~~(2) The rules may permit~~ (b) Permitting a contractor, grantee, or other state or county entity limited access to information that is essential for the contractor, grantee, or entity to perform administrative or other duties on behalf of the department or county agency. A contractor, grantee, or entity given access to information pursuant to division (A)(2) of this section is bound by the director's rules, and disclosure of the information by the contractor, grantee, or entity in a manner not authorized by the rules is a violation of section 5101.27 of the Revised Code.

(2) The rules may define who is an "authorized representative" for purposes of sections 5101.27, 5101.271, and 5101.272 of the Revised Code.

(B) Whenever names, addresses, or other information relating to public assistance recipients is held by any agency other than the department or a county agency, that other agency shall adopt rules consistent with sections 5101.26 to 5101.30 of the Revised Code to prevent the publication or disclosure of names, lists, or other information concerning those recipients.

Sec. 5101.341. (A) The Ohio commission on fatherhood annually shall elect a chairperson from among its members. ~~The~~

(B) The governor shall appoint an individual to serve as the commission's executive director. The executive director shall serve at the pleasure of the governor and shall report to the director of job and family services or the director's designee.

The governor shall fix the executive director's salary on the basis of the executive director's experience and the executive director's responsibilities

and duties. The executive director shall be in the unclassified civil service.

The department of job and family services shall provide staff and other support services as necessary for the commission to fulfill its duties.

~~(B)~~(C) The commission may accept gifts, grants, donations, contributions, benefits, and other funds from any public agency or private source to carry out any or all of the commission's duties. The funds shall be deposited into the Ohio commission on fatherhood fund, which is hereby created in the state treasury. All gifts, grants, donations, contributions, benefits, and other funds received by the commission pursuant to this division shall be used solely to support the operations of the commission.

Sec. 5101.342. The Ohio commission on fatherhood shall do both of the following:

(A) Organize a state summit on fatherhood every four years;

(B)~~(1)~~ Prepare a report each year that ~~identifies~~ does the following:

(1) Identifies resources available to fund fatherhood-related programs and explores the creation of initiatives to do the following:

(a) Build the parenting skills of fathers;

(b) Provide employment-related services for low-income, noncustodial fathers;

(c) Prevent premature fatherhood;

(d) Provide services to fathers who are inmates in or have just been released from imprisonment in a state correctional institution, as defined in section 2967.01 of the Revised Code, or in any other detention facility, as defined in section 2921.01 of the Revised Code, so that they are able to maintain or reestablish their relationships with their families;

(e) Reconcile fathers with their families;

(f) Increase public awareness of the critical role fathers play.

(2) Describes the commission's expectations for the outcomes of fatherhood-related programs and initiatives and the methods the commission uses for conducting annual measures of those outcomes.

(C) The portion of the report prepared pursuant to division (B)(2) of this section shall be prepared by the commission in collaboration with the director of job and family services.

(D) The commission shall submit each report prepared pursuant to division (B)~~(1)~~ of this section to the president and minority leader of the senate, speaker and minority leader of the house of representatives, governor, and chief justice of the supreme court. The first report is due not later than one year after the last of the initial appointments to the commission is made under section 5101.341 of the Revised Code.

Sec. 5101.35. (A) As used in this section:

(1) "Agency" means the following entities that administer a family services program:

(a) The department of job and family services;

(b) A county department of job and family services;

(c) A public children services agency;

(d) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services or a county department of job and family services or public children services agency.

(2) "Appellant" means an applicant, participant, former participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program.

(3) "Family services program" means assistance provided under a Title IV-A program as defined in section 5101.80 of the Revised Code or under Chapter 5104., 5111., or 5115. or section ~~173.35~~ 5119.69, 5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the Revised Code, other than assistance provided under section 5101.46 of the Revised Code by the department of mental health, the department of developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of developmental disabilities.

(B) Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. A state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. Any person designated to make an administrative appeal decision on behalf of the director shall have been admitted to the practice of law in this state. An administrative appeal

decision is the final decision of the department and is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the department may take action pursuant to section 5101.24 of the Revised Code. If another agency fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may appeal to the court of common pleas of the county in which the person resides, or to the court of common pleas of Franklin county if the person does not reside in this state.

(2) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal.

(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following:

(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held.

(2) Administrative appeals under division (C) of this section;

(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under division (D) of this section.

(G) The department of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code establishing an appeals process for an appellant who appeals a decision or order regarding a Title IV-A program identified under division (A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code that is different from the appeals process established by this section. The different appeals process may include having a state agency that administers the Title IV-A program pursuant to an interagency agreement entered into under section 5101.801 of the Revised Code administer the appeals process.

(H) If an appellant receiving medicaid through a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code is appealing a denial of medicaid services based on lack of medical necessity or other clinical issues regarding coverage by the health insuring corporation, the person hearing the appeal may order an independent medical review if that person determines that a review is necessary. The review shall be performed by a health care professional with appropriate clinical expertise in treating the recipient's condition or disease. The department shall pay the costs associated with the review.

A review ordered under this division shall be part of the record of the hearing and shall be given appropriate evidentiary consideration by the person hearing the appeal.

(I) The requirements of Chapter 119. of the Revised Code apply to a state hearing or administrative appeal under this section only to the extent, if any, specifically provided by rules adopted under this section.

Sec. 5101.37. (A) The department of job and family services and each county department of job and family services and child support enforcement agency may ~~make~~ conduct any audits or investigations that are necessary in the performance of their duties, and to that end they shall have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or

papers.

The department and each county department and agency shall keep a record of their audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions.

Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code.

(B) In conducting hearings pursuant to Chapters 3119., 3121., and 3123. or pursuant to division (B) of section 5101.35 of the Revised Code, the department and each child support enforcement agency have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers. The department and each agency shall keep a record of those hearings stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions.

The issuance of a subpoena by the department or a child support enforcement agency to enforce attendance and testimony of witnesses and the production of books or papers at a hearing is discretionary and the department or agency is not required to pay the fees of witnesses for attendance and travel.

(C) Any judge of any division of the court of common pleas, upon application of the department or a county department or child support enforcement agency, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, county department, or agency, by a judgment for contempt or otherwise, in the same manner as in cases before those courts.

(D) Until an audit report is formally released by the department of job and family services, the audit report or any working paper or other document or record prepared by the department and related to the audit that is the subject of the audit report is not a public record under section 149.43 of the Revised Code.

(E) The director of job and family services may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug

addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated as follows:

(a) Seventy-two and one-half per cent to the department of job and family services;

(b) Twelve and ninety-three one-hundreths per cent to the department of mental health;

(c) Fourteen and fifty-seven one-hundreths per cent to the department of developmental disabilities.

(2) Each of the state ~~department~~ departments shall, subject to the approval of the controlling board, develop ~~formulas~~ a formula for the distribution of ~~their~~ the Title XX ~~appropriations~~ funds appropriated to the department to ~~their~~ its respective local agencies. The ~~formulas~~ formula developed by each state department shall take into account all of the following for each of its respective local agencies:

(a) The total population of the area that is served by the respective local agency~~, the~~;

(b) The percentage of the population in the area served that falls below the federal poverty guidelines~~, and the~~;

(c) The respective local agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend ~~no~~ for state administrative costs not more than three per cent of ~~its~~ the Title XX ~~appropriation for state administrative costs~~ funds appropriated to the department. ~~Each of the department's respective local agencies shall expend no more than fourteen per cent of its Title XX appropriation~~

Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

(4) The department of job and family services shall expend ~~no~~ for the training of the following not more than two per cent of ~~its~~ the Title XX ~~appropriation for the training of the following~~ funds appropriated to the department:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual

reports.

(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) ~~The~~ Except with respect to the matters for which each of the state departments must adopt rules under division (C)(3) of this section, the department of job and family services may adopt any rules it considers necessary to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised

Code.

Sec. 5101.47. (A) Except as provided in ~~division~~ divisions (B) and (C) of this section, the ~~director~~ department of job and family services may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for one or more of the following:

(1) The medicaid program established by Chapter 5111. of the Revised Code;

(2) The children's health insurance program parts I, II, and III provided for under sections 5101.50~~, 5101.51, and 5101.52~~ to 5101.529 of the Revised Code;

(3) Publicly funded child care provided under Chapter 5104. of the Revised Code;

(4) The supplemental nutrition assistance program administered by the department ~~of job and family services~~ pursuant to section 5101.54 of the Revised Code;

(5) Other programs the director of job and family services determines are supportive of children, adults, or families;

(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities.

(B) To the extent permitted by federal law, the department may enter into agreements with one or more other state agencies, local government entities, or political subdivisions to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities on behalf of the department with respect to the medicaid program and the children's health insurance program.

(C) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services.

~~(C)~~(D) Subject to division ~~(B)~~(C) of this section, if the ~~director~~ department elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply:

(1) An individual seeking services under the program may apply for the program to the ~~director~~ department or to the entity that state law governing the program authorizes to accept applications for the program.

(2) The ~~director~~ department is subject to federal statutes and regulations

and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program.

~~(D)~~(E) The director may adopt rules as necessary to implement this section.

Sec. 5101.57. (A) As used in this section:

(1) "Nontherapeutic abortion" has the same meaning as in section 124.85 of the Revised Code.

(2) "Political subdivision" means any body corporate and politic that is responsible for governmental activities in a geographic area smaller than the state, except that "political subdivision" does not include either of the following:

(a) A municipal corporation;

(b) A county that has adopted a charter under Section 3 of Article X, Ohio Constitution, to the extent that it is exercising the powers of local self-government as provided in that charter and is subject to Section 3 of Article XVIII, Ohio Constitution.

(3) "Public facility" means any institution, structure, equipment, or physical asset that is owned, leased, or controlled by this state or any agency, institution, instrumentality, or political subdivision thereof. "Public facility" includes any state university, state medical college, health district, joint hospital, or public hospital agency.

(B) No public facility shall be used for the purpose of performing or inducing a nontherapeutic abortion.

Sec. 5101.571. As used in sections 5101.571 to 5101.591 of the Revised Code:

(A) "Information" means all of the following:

(1) An individual's name, address, date of birth, and social security number;

(2) The group or plan number, or other identifier, assigned by a third party to a policy held by an individual or a plan in which the individual participates and the nature of the coverage;

(3) Any other data the director of job and family services specifies in rules adopted under section 5101.591 of the Revised Code.

(B) "Medical assistance" means medical items or services provided under any of the following:

(1) Medicaid, as defined in section 5111.01 of the Revised Code;

(2) The children's health insurance program part I, part II, and part III established under sections 5101.50, 5101.51, and 5101.52 of the Revised Code~~;~~

~~(3) The children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code~~.

(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency.

(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under Chapter 5107. of the Revised Code.

(E)(1) Subject to division (E)(2) of this section, and except as provided in division (E)(3) of this section, "third party" means all of the following:

(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code;

(b) A person or governmental entity providing coverage for medical services or items to individuals on a self-insurance basis;

(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;

(d) A group health plan as defined in 29 U.S.C. 1167;

(e) A service benefit plan as referenced in 42 U.S.C. 1396a(a)(25);

(f) A managed care organization;

(g) A pharmacy benefit manager;

(h) A third party administrator;

(i) Any other person or governmental entity that is, by law, contract, or agreement, responsible for the payment or processing of a claim for a medical item or service for a public assistance recipient or participant.

(2) Except when otherwise provided by 42 U.S.C. 1395y(b), a person or governmental entity listed in division (E)(1) of this section is a third party even if the person or governmental entity limits or excludes payments for a medical item or service in the case of a public assistance recipient.

(3) "Third party" does not include the program for medically handicapped children established under section 3701.023 of the Revised Code.

Sec. 5101.573. (A) Subject to divisions (B) and (C) of this section, a third party shall do all of the following:

(1) Accept the department of job and family services' right of recovery under section 5101.58 of the Revised Code and the assignment of rights to the department that are described in section 5101.59 of the Revised Code;

(2) Respond to an inquiry by the department regarding a claim for payment of a medical item or service that was submitted to the third party not later than ~~three~~ six years after the date of the provision of such medical item or service;

(3) Not charge a fee to do either of the following for a claim described

in division (A)(2) of this section:

(a) Determine whether the claim should be paid;

(b) Process the claim.

(4) Pay a claim described in division (A)(2) of this section;

~~(4)~~(5) Not deny a claim submitted by the department solely on the basis of the date of submission of the claim, type or format of the claim form, or a failure by the medical assistance recipient who is the subject of the claim to present proper documentation of coverage at the time of service, if both of the following are true:

(a) The claim was submitted by the department not later than ~~three~~ six years after the date of the provision of the medical item or service.

(b) An action by the department to enforce its right of recovery under section 5101.58 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim.

~~(5)~~(6) Consider the department's payment of a claim for a medical item or service to be the equivalent of the medical assistance recipient having obtained prior authorization for the item or service from the third party;

~~(6)~~(7) Not deny a claim described in division (A)~~(5)~~(6) of this section that is submitted by the department solely on the basis of the medical assistance recipient's failure to obtain prior authorization for the medical item or service.

(B) For purposes of the requirements in division (A) of this section, a third party shall treat a managed care organization as the department for a claim in which both of the following are true:

(1) The individual who is the subject of the claim received a medical item or service through a managed care organization that has entered into a contract with the department of job and family services under section 5111.17 of the Revised Code;

(2) The department has assigned its right of recovery for the claim to the managed care organization.

(C) The time limitations associated with the requirements in divisions (A)(2) and ~~(A)(4)~~(5) of this section apply only to submissions of claims to, and payments of claims by, a health insurer to which 42 U.S.C. 1396a(a)(25)(I) applies.

Sec. 5101.58. (A) The acceptance of public assistance gives an automatic right of recovery to the department of job and family services and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the public assistance recipient or participant. When an action or claim is brought against a third party by a public assistance recipient or participant, any

payment, settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of job and family services or county department of job and family services. Except in the case of a recipient or participant who receives medical assistance through a managed care organization, the department's or county department's claim shall not exceed the amount of medical assistance paid by a department on behalf of the recipient or participant. A payment, settlement, compromise, judgment, or award that excludes the cost of medical assistance paid for by a department shall not preclude a department from enforcing its rights under this section.

(B) In the case of a recipient or participant who receives medical assistance through a managed care organization, the amount of the department's or county department's claim shall be the amount the managed care organization pays for medical assistance rendered to the recipient or participant, even if that amount is more than the amount a department pays to the managed care organization for the recipient's or participant's medical assistance.

(C) A recipient or participant, and the recipient's or participant's attorney, if any, shall cooperate with the departments. In furtherance of this requirement, the recipient or participant, or the recipient's or participant's attorney, if any, shall, not later than thirty days after initiating informal recovery activity or filing a legal recovery action against a third party, provide written notice of the activity or action to the department of job and family services when medical assistance under medicaid ~~or the children's buy-in program~~ has been paid.

(D) The written notice that must be given under division (C) of this section shall disclose the identity and address of any third party against whom the recipient or participant has or may have a right of recovery.

(E) No settlement, compromise, judgment, or award or any recovery in any action or claim by a recipient or participant where the departments have a right of recovery shall be made final without first giving the appropriate departments written notice as described in division (C) of this section and a reasonable opportunity to perfect their rights of recovery. If the departments are not given the appropriate written notice, the recipient or participant and, if there is one, the recipient's or participant's attorney, are liable to reimburse the departments for the recovery received to the extent of medical payments made by the departments.

(F) The departments shall be permitted to enforce their recovery rights against the third party even though they accepted prior payments in discharge of their rights under this section if, at the time the departments

received such payments, they were not aware that additional medical expenses had been incurred but had not yet been paid by the departments. The third party becomes liable to the department of job and family services or county department of job and family services as soon as the third party is notified in writing of the valid claims for recovery under this section.

(G)(1) Subject to division (G)(2) of this section, the right of recovery of a department does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a recipient or participant in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient or participant from the recipient's or participant's own resources.

(2) Reasonable attorneys' fees, not to exceed one-third of the total judgment, award, settlement, or compromise, plus costs and other expenses incurred by the recipient or participant in securing the judgment, award, settlement, or compromise, shall first be deducted from the total judgment, award, settlement, or compromise. After fees, costs, and other expenses are deducted from the total judgment, award, settlement, or compromise, the department of job and family services or appropriate county department of job and family services shall receive no less than one-half of the remaining amount, or the actual amount of medical assistance paid, whichever is less.

(H) A right of recovery created by this section may be enforced separately or jointly by the department of job and family services or the appropriate county department of job and family services. To enforce their recovery rights, the departments may do any of the following:

(1) Intervene or join in any action or proceeding brought by the recipient or participant or on the recipient's or participant's behalf against any third party who may be liable for the cost of medical assistance paid;

(2) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical assistance paid;

(3) Initiate legal proceedings in conjunction with any injured, diseased, or disabled recipient or participant or the recipient's or participant's attorney or representative.

(I) A recipient or participant shall not assess attorney fees, costs, or other expenses against the department of job and family services or a county department of job and family services when the department or county department enforces its right of recovery created by this section.

(J) The right of recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.20 and 5115.07 of the Revised Code, but includes

payments made by a third party under contract with a person having a duty to support.

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes an adult care facility licensed pursuant to Chapter ~~3722.~~ 5119. of the Revised Code, but does not include other institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment.

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to

consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory

committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a

requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:

(a) Nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;

(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;

(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;

(e) Medical supplies and the use of medical appliances;

(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;

(g) Any of the foregoing items and services which:

(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;

(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of

the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this

section.

(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult.

Sec. 5101.98. (A) There is hereby created in the state treasury the military injury relief fund, which shall consist of money contributed to it under section 5747.113 of the Revised Code, of incentive grants authorized by the "Jobs for Veterans Act," 116 Stat. 2033 (2002), and of contributions made directly to it. Any person or entity may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code.

(B) Upon application, the director of job and family services shall grant money in the fund to individuals injured while in active service as a member of the armed forces of the United States while serving under operation Iraqi freedom, operation new dawn, or operation enduring freedom and to individuals diagnosed with post-traumatic stress disorder while serving, or after having served, in operation Iraqi freedom, operation new dawn, or operation enduring freedom.

(C) An individual who receives a grant under this section is precluded from receiving additional grants under this section during the same state fiscal year but is not precluded from being considered for or receiving other assistance offered by the department of job and family services.

(D) The director shall adopt rules under Chapter 119. of the Revised Code establishing:

(1) Forms and procedures by which individuals may apply for a grant under this section;

(2) Criteria for reviewing, evaluating, and approving or denying grant applications;

(3) Criteria for determining the amount of grants awarded under this section;

(4) Definitions and standards applicable to determining whether an individual meets the requirements established in division (B) of this section;

(5) The process for appealing eligibility determinations; and

(6) Any other rules necessary to administer the grant program established in this section.

(E) An eligibility determination, a grant approval, or a grant denial

made under this section may not be appealed under Chapter 119., section 5101.35, or any other provision of the Revised Code.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.

(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care.

(E) "Career pathways model" means an alternative pathway to meeting the requirements for a child care staff member or administrator that uses one framework to integrate the pathways of formal education, training, experience, and specialized credentials, and certifications, and that allows the member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.

(F) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

~~(F)~~(G) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child care pursuant to this chapter and any rules adopted under it.

~~(G)~~(H) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

~~(H)~~(I) "Child" includes an infant, toddler, preschool child, or school child.

~~(I)~~(J) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990),

42 U.S.C. 9858, as amended.

~~(J)~~(K) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

~~(K)~~(L) "Child care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

~~(L)~~(M) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child care, but not publicly funded child care, if all of the following apply:

(a) An organized religious body provides the child care;

(b) A parent, custodian, or guardian of at least one child receiving child care is on the premises and readily accessible at all times;

(c) The child care is not provided for more than thirty days a year;

(d) The child care is provided only for preschool and school children.

~~(M)~~(N) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care.

~~(N)~~(O) "Child care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child care;

(3) Provision of timely referrals of available child care providers to families seeking child care;

(4) Recruitment of child care providers;

(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child care in the community;

(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;

(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;

(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family day-care homes.

~~(O)~~(P) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

~~(P)~~(Q) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child care or publicly funded child care for children on a temporary, irregular basis.

~~(Q)~~(R) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

~~(R)~~(S) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

~~(S)~~(T) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

~~(T)~~(U) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, and is licensed as a child day-care center.

~~(U)~~(V) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

~~(V)~~(W) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.

~~(W)~~(X) "Infant" means a child who is less than eighteen months of age.

~~(X)~~(Y) "In-home aide" means a person who does not reside with the child but provides care in the child's home and is certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

~~(Y)~~(Z) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to

develop an indicator checklist.

~~(Z)~~(AA) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, ~~number of available child-care staff members,~~ amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies. For the purposes of a provisional license issued under this chapter, the director shall also consider the number of available child-care staff members when determining "license capacity" for the provisional license.

~~(AA)~~(BB) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

~~(BB)~~(CC) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

~~(CC)~~(DD) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

~~(DD)~~(EE) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

~~(EE)~~(FF) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

~~(FF)~~(GG) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child care or publicly funded child care for no more than four hours a day for any child.

~~(GG)~~(HH) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any

other buildings on the grounds used for such activities.

~~(HH)~~(II) "Preschool child" means a child who is three years old or older but is not a school child.

~~(II)~~(JJ) "Protective child care" means publicly funded child care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are otherwise ineligible for publicly funded child care.

~~(JJ)~~(KK) "Publicly funded child care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including funds available under the child care block grant act, Title IV-A, and Title XX, distributed by the department of job and family services.

~~(KK)~~(LL) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

~~(LL)~~(MM) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

~~(MM)~~(NN) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

~~(NN)~~(OO) "Serious risk noncompliance" means a licensure or certification rule violation that leads to a great risk of harm to, or death of, a child, and is observable, not inferable.

(PP) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

~~(OO)~~(QQ) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

~~(PP)~~(RR) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended.

~~(QQ)~~(SS) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

~~(RR)~~(TT) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" and "type A home" do not include any child day camp.

~~(SS)~~(UU) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" and "type B home" do not include any child day camp.

Sec. 5104.011. (A) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of child day-care centers, including, but not limited to, parent cooperative centers, part-time centers, drop-in centers, and school child centers, which rules shall reflect the various forms of child care and the needs of children receiving child care or publicly funded child care and shall include specific rules for school child care centers that are developed in consultation with the department of education. The rules shall not require an existing school facility that is in compliance with applicable building codes to undergo an additional building code inspection or to have structural modifications. The

rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the center are safe and sanitary including, but not limited to, the physical environment, the physical plant, and the equipment of the center;

(3) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, ~~including, but not limited to,~~ that may include any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, ~~renewing,~~ denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial ~~and renewal~~ license application fees;

(12) Procedures for receiving, recording, and responding to complaints about centers;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.

(16) ~~Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;~~

~~(17)~~ Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;

~~(18)~~(17) A procedure for reporting of injuries of children that occur at the center;

~~(19)~~(18) Any other procedures and standards necessary to carry out this chapter.

(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that are not available for the care of children, as determined by the director, in meeting the space requirement of this division, and bathrooms shall be counted in determining square footage only if they are used exclusively by children enrolled in the center, except that the exclusion of hallways, kitchens, storage areas, bathrooms not used exclusively by children enrolled in the center, and any other areas not available for the care of children from the minimum of thirty-five square feet of usable indoor floor space shall not apply to:

(a) Centers licensed prior to or on September 1, 1986, that continue under licensure after that date;

(b) Centers licensed prior to or on September 1, 1986, that are issued a new license after that date solely due to a change of ownership of the center.

(2) The child day-care center shall have on the site a safe outdoor play

space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The director may exempt a center from the requirement of this division, if an outdoor play space is not available and if all of the following are met:

(a) The center provides an indoor recreation area that has not less than sixty square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty square feet of space, and that is separate from the indoor space required under division (B)(1) of this section.

(b) The director has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation.

(c) The children are closely supervised during play and while traveling to and from the area.

The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children.

(3) The child day-care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size, by age category of children, are as follows:

Age Category of Children	Maximum Number of Children Per Child-Care Staff Member	Maximum Group Size
(a) Infants:		

(i) Less than twelve months old	5:1, or 12:2 if two child-care staff members are in the room	12
(ii) At least twelve months old, but less than eighteen months old	6:1	12
(b) Toddlers:		
(i) At least eighteen months old, but less than thirty months old	7:1	14
(ii) At least thirty months old, but less than three years old	8:1	16
(c) Preschool children:		
(i) Three years old	12:1	24
(ii) Four years old and five years old who are not school children	14:1	28
(d) School children:		
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but is less than eleven years old	18:1	36
(ii) Eleven through fourteen years old	20:1	40

Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size requirements of the younger age group shall apply when age groups are combined.

(4)(a) The child day-care center administrator shall show the director both of the following:

(i) Evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state;

(ii) Evidence of having completed at least two years of training in an accredited college, university, or technical college, including courses in child development or early childhood education, ~~or~~ at least two years of experience in supervising and giving daily care to children attending an organized group program, or the equivalent based on a designation as an "early childhood professional level three" under the career pathways model of the quality-rating program established under section 5104.30 of the Revised Code.

(b) In addition to the requirements of division (B)(4)(a) of this section and except as provided in division (B)(4)(c) of this section, any administrator employed or designated ~~on or after September 1, 1986,~~ as such prior to the effective date of this section, as amended, shall show evidence of~~, and any administrator employed or designated prior to September 1, 1986, shall show evidence~~ at least one of the following within six years after ~~such~~ the date of~~, at least one of the following~~ employment or designation:

(i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

(iii) A child development associate credential issued by the national child development associate credentialing commission;

(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education.

(c) For the purposes of division (B)(4)(b) of this section, any administrator employed or designated as such prior to the effective date of this section, as amended, may also show evidence of an administrator's

credential as approved by the department of job and family services in lieu of, or in addition to, the evidence required under division (B)(4)(b) of this section. The evidence of an administrator's credential must be shown to the director not later than one year after the date of employment or designation.

(d) In addition to the requirements of division (B)(4)(a) of this section, any administrator employed or designated as such on or after the effective date of this section, as amended, shall show evidence of at least one of the following not later than one year after the date of employment or designation:

(i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

(iii) A child development associate credential issued by the national child development associate credentialing commission;

(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(v) An administrator's credential as approved by the department of job and family services.

(5) All child-care staff members of a child day-care center shall be at least eighteen years of age, and shall furnish the director evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state or evidence of completion of a training program approved by the department of job and family services or state board of education, except as follows:

(a) A child-care staff member may be less than eighteen years of age if the staff member is either of the following:

(i) A graduate of a two-year vocational child-care training program approved by the state board of education;

(ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to

high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(b) A child-care staff member shall be exempt from the educational requirements of this division if the staff member:

(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; ~~or~~

(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter;

(iii) Is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code or has graduated from a nonchartered, nonpublic school in Ohio.

(6) Every child care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention, recognition, and management of communicable diseases, until a total of forty-five hours of training has been completed, unless the staff member furnishes one of the following to the director:

(a) Evidence of an associate or higher degree in child development or early childhood education from an accredited college, university, or technical college;

(b) A license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(c) Evidence of a child development associate credential;

(d) Evidence of a preprimary credential from the American Montessori society or the association Montessori internationale. For the purposes of division (B)(6) of this section, "hour" means sixty minutes.

~~(7) The administrator of each child day-care center shall prepare at least once annually and for each group of children at the center a roster of names and telephone numbers of parents, custodians, or guardians of each group of~~

~~children attending the center and upon request shall furnish the roster for each group to the parents, custodians, or guardians of the children in that group. The administrator may prepare a roster of names and telephone numbers of all parents, custodians, or guardians of children attending the center and upon request shall furnish the roster to the parents, custodians, or guardians of the children who attend the center. The administrator shall not include in any roster the name or telephone number of any parent, custodian, or guardian who requests the administrator not to include the parent's, custodian's, or guardian's name or number and shall not furnish any roster to any person other than a parent, custodian, or guardian of a child who attends the center.~~

(C)(1) Each child day-care center shall have on the center premises and readily available at all times at least one child-care staff member who has completed a course in first aid ~~and~~, one staff member who has completed a course in prevention, recognition, and management of communicable diseases which is approved by the state department of health, and a staff member who has completed a course in child abuse recognition and prevention training which is approved by the department of job and family services.

(2) The administrator of each child day-care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential, ~~except as otherwise provided in division (B)(7) of this section and~~ except that they shall be disclosed by the administrator to the director upon request for the purpose of administering and enforcing this chapter and rules adopted pursuant to this chapter. Neither the center nor the licensee, administrator, or employees of the center shall be civilly or criminally liable in damages or otherwise for records disclosed to the director by the administrator pursuant to this division. It shall be a defense to any civil or criminal charge based upon records disclosed by the administrator to the director that the records were disclosed pursuant to this division.

(3)(a) Any parent who is the residential parent and legal custodian of a child enrolled in a child day-care center and any custodian or guardian of such a child shall be permitted unlimited access to the center during its hours of operation for the purposes of contacting their children, evaluating the care provided by the center, evaluating the premises of the center, or for other purposes approved by the director. A parent of a child enrolled in a child day-care center who is not the child's residential parent shall be permitted unlimited access to the center during its hours of operation for

those purposes under the same terms and conditions under which the residential parent of that child is permitted access to the center for those purposes. However, the access of the parent who is not the residential parent is subject to any agreement between the parents and, to the extent described in division (C)(3)(b) of this section, is subject to any terms and conditions limiting the right of access of the parent who is not the residential parent, as described in division (I) of section 3109.051 of the Revised Code, that are contained in a parenting time order or decree issued under that section, section 3109.12 of the Revised Code, or any other provision of the Revised Code.

(b) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a parenting time order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section 3109.051 of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(c) Upon entering the premises pursuant to division (C)(3)(a) or (b) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or guardian's presence.

(D) The director of job and family services, in addition to the rules adopted under division (A) of this section, shall adopt rules establishing minimum requirements for child day-care centers. The rules shall include, but not be limited to, the requirements set forth in divisions (B) and (C) of this section. Except as provided in section 5104.07 of the Revised Code, the rules shall not change the square footage requirements of division (B)(1) or (2) of this section; the maximum number of children per child-care staff member and maximum group size requirements of division (B)(3) of this section; the educational and experience requirements of division (B)(4) of this section; the age, educational, and experience requirements of division (B)(5) of this section; the number and type of inservice training hours required under division (B)(6) of this section; ~~or the requirement for at least annual preparation of a roster for each group of children of names and telephone numbers of parents, custodians, or guardians of each group of~~

~~children attending the center that must be furnished upon request to any parent, custodian, or guardian of any child in that group required under division (B)(7) of this section;~~ however, the rules shall provide procedures for determining compliance with those requirements.

(E)(1) When age groups are combined, the maximum number of children per child-care staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives services in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the older age group established under division (B)(3) of this section shall apply.

(2) The maximum number of toddlers or preschool children per child-care staff member in a room where children are napping shall be twice the maximum number of children per child-care staff member established under division (B)(3) of this section if all the following criteria are met:

(a) At least one child-care staff member is present in the room.

(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (E)(2) of this section is in effect for no more than ~~one and one-half~~ two hours during a twenty-four-hour day.

(F) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including, but not limited to, parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school child type A homes, which shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home;

(3) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home;

(4) Standards for a program of activities, and for play equipment,

materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, ~~renewing,~~ denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial ~~and renewal~~ license application fees;

(12) Procedures for receiving, recording, and responding to complaints about type A homes;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(16) ~~Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;~~

~~(17)~~ Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child

is receiving child care or publicly funded child care in the type A home;

~~(18)~~(17) Standards for the maximum number of children per child-care staff member;

~~(19)~~(18) Requirements for the amount of usable indoor floor space for each child;

~~(20)~~(19) Requirements for safe outdoor play space;

~~(21)~~(20) Qualifications and training requirements for administrators and for child-care staff members;

~~(22)~~(21) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

~~(23)~~(22) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;

~~(24)~~(23) Any other procedures and standards necessary to carry out this chapter.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of type B family day-care homes.

(1) The rules shall include all of the following:

(a) Procedures, standards, and other necessary provisions for granting limited certification to type B family day-care homes that are operated by the following adult providers:

(i) Persons who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider;

(ii) Persons who provide child care for eligible children all of whom are the children of the same caretaker parent;

(b) Procedures for the director to ensure, that type B homes that receive a limited certification provide child care to children in a safe and sanitary manner;

(c) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code.

With regard to providers who apply for limited certification, a provider shall be granted a provisional limited certification on signing a declaration under oath attesting that the provider meets the standards for limited certification. Such provisional limited certifications shall remain in effect for no more than sixty calendar days and shall entitle the provider to offer publicly funded child care during the provisional period. Except as

otherwise provided in division (G)(1) of this section, section 5104.013 or 5104.09 of the Revised Code, or division (A)(2) of section 5104.11 of the Revised Code, prior to the expiration of the provisional limited certificate, a county department of job and family services shall inspect the home and shall grant limited certification to the provider if the provider meets the requirements of this division. Limited certificates remain valid for two years unless earlier revoked. Except as otherwise provided in division (G)(1) of this section, providers operating under limited certification shall be inspected annually.

If a provider is a person described in division (G)(1)(a)(i) of this section or a person described in division (G)(1)(a)(ii) of this section who is a friend of the caretaker parent, the provider and the caretaker parent may verify in writing to the county department of job and family services that minimum health and safety requirements are being met in the home. Except as otherwise provided in section 5104.013 or 5104.09 or in division (A)(2) of section 5104.11 of the Revised Code, if such verification is provided, the county shall waive any inspection required by this chapter and grant limited certification to the provider.

(2) The rules shall provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a certified type B home and shall include the following:

(a) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(b) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;

(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;

(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;

(f) Standards for the safe transport of children when under the care of

authorized providers;

(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(h) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to certification to ensure that the home is safe and sanitary;

(i) Procedures for record keeping and evaluation;

(j) Procedures for receiving, recording, and responding to complaints;

(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;

(l) Requirements for the amount of usable indoor floor space for each child;

(m) Requirements for safe outdoor play space;

(n) Qualification and training requirements for authorized providers;

(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

(p) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code;

(q) Any other procedures and standards necessary to carry out this chapter.

(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child care in their own home and shall include the following:

(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(2) Standards for the supervision, care, and discipline of children receiving publicly funded child care in their own home;

(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(4) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, but not limited to, any necessary physical examinations and immunizations;

(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;

(6) Standards for the safe transport of children when under the care of in-home aides;

(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(8) Procedures for inspection of homes of children receiving publicly funded child care in their own homes;

(9) Procedures for record keeping and evaluation;

(10) Procedures for receiving, recording, and responding to complaints;

(11) Qualifications and training requirements for in-home aides;

(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home;

(13) Any other procedures and standards necessary to carry out this chapter.

(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.

(J)(1) The director of job and family services shall do all of the following:

(a) Provide or make available in either paper or electronic form to each licensee notice of proposed rules governing the licensure of child day-care centers and type A homes;

(b) Give public notice of hearings regarding the rules to each licensee at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code;

(c) At least thirty days before the effective date of a rule, provide, in either paper or electronic form, a copy of the adopted rule to each licensee.

(2) The director shall do all of the following:

(a) Send to each county director of job and family services a notice of proposed rules governing the certification of type B family homes and in-home aides that includes an internet web site address where the proposed rules can be viewed;

(b) Give public notice of hearings regarding the proposed rules not less than thirty days in advance;

(c) Provide to each county director of job and family services an electronic copy of each adopted rule at least forty-five days prior to the rule's effective date.

(3) The county director of job and family services shall provide or make available in either paper or electronic form to each authorized provider and in-home aide copies of proposed rules and shall give public notice of hearings regarding the rules to each authorized provider and in-home aide at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. At least thirty days before the effective date of a rule, the county director of job and family services shall provide, in either paper or electronic form, copies of the adopted rule to each authorized provider and in-home aide.

(4) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge.

(5) The director of job and family services ~~shall recommend standards~~ may adopt rules pursuant to Chapter 119. of the Revised Code for imposing sanctions on persons and entities that are licensed or certified under this chapter ~~and that violate any provision of this chapter~~. Sanctions may be imposed only for an action or omission that constitutes a serious risk noncompliance. The ~~standards~~ sanctions imposed shall be based on the scope and severity of the violations. ~~The director shall provide copies of the recommendations to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, shall make copies available to the public~~

The director shall make a dispute resolution process available for the implementation of sanctions. The process may include an opportunity for appeal pursuant to Chapter 119. of the Revised Code.

(6) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code that establish standards for the training of individuals whom any county department of job and family services

employs, with whom any county department of job and family services contracts, or with whom the director of job and family services contracts, to inspect or investigate type B family day-care homes pursuant to section 5104.11 of the Revised Code. The department shall provide training in accordance with those standards for individuals in the categories described in this division.

(K) The director of job and family services shall review all rules adopted pursuant to this chapter at least once every seven years.

(L) Notwithstanding any provision of the Revised Code, the director of job and family services shall not regulate in any way under this chapter or rules adopted pursuant to this chapter, instruction in religious or moral doctrines, beliefs, or values.

Sec. 5104.012. (A)(1) At the times specified in this division, the administrator of a child day-care center or a type A family day-care home shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the center or type A home for employment as a person responsible for the care, custody, or control of a child.

The administrator shall request a criminal records check pursuant to this division at the time of the applicant's initial application for employment and every four years thereafter ~~at the time of a license renewal~~. When the administrator requests pursuant to this division a criminal records check for an applicant at the time of the applicant's initial application for employment, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrator requests a criminal records check for an applicant pursuant to this division, the administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression

sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section. On and after ~~the effective date of this amendment~~ August 14, 2008, the administrator of a child day-care center or a type A family day-care home shall review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(9) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from employment.

(C)(1) Each child day-care center and type A family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the administrator or provider of the center or home.

(2) A child day-care center and type A family day-care home may charge an applicant a fee for the costs it incurs in obtaining a criminal

records check under this section. A fee charged under this division shall not exceed the amount of fees the center or home pays under division (C)(1) of this section. If a fee is charged under this division, the center or home shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the center or type A home will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative; the center or type A home requesting the criminal records check or its representative; the department of job and family services or a county department of job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a center or home may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child; an in-home aide certified pursuant to section 5104.12 of the Revised Code; or any person who would serve in any position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section

109.572 of the Revised Code.

Sec. 5104.013. (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers and type A family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

(a) Any owner, licensee, or administrator of a child day-care center;

(b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home.

(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home.

(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every four years thereafter ~~at the time of a license renewal~~. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every four years thereafter at the time of a certification renewal. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check. In all other cases in which the director of job and family services or the director of a county department of job and family services requests a criminal records check for an applicant pursuant to division (A)(1) or (2) of this section, the director may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C.

671.

(4) The director of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(1) and (3) of this section prior to approval of a license. The director of a county department of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(2) and (3) of this section prior to approval of certification.

(B) The director of job and family services or the director of a county department of job and family services shall provide to each person for whom a criminal records check is required under this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section, obtain the completed form and impression sheet from that person, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(C) A person who receives pursuant to division (B) of this section a copy of the form and standard impression sheet described in that division and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director may consider the failure as a reason to deny licensure or certification.

(D) Except as provided in rules adopted under division (G) of this section, the director of job and family services shall not grant a license to a child day-care center or type A family day-care home and a county director of job and family services shall not certify a type B family day-care home if a person for whom a criminal records check was required in connection with the center or home previously has been convicted of or pleaded guilty to any of the violations described in division (A)(9) of section 109.572 of the Revised Code.

(E) Each child day-care center, type A family day-care home, and type B family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (A) of this section.

(F) The report of any criminal records check conducted by the bureau of

criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of job and family services, the director of a county department of job and family services, the center, type A home, or type B home involved, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial of licensure or certification related to the criminal records check.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition in division (D) of this section for persons who have been convicted of an offense listed in that division but who meet standards in regard to rehabilitation set by the department.

(H) As used in this section, "criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.03. (A) Any person, firm, organization, institution, or agency desiring to establish a child day-care center or type A family day-care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in ~~Chapter 5104. of the Revised Code~~ this chapter and a copy of the rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. The ~~director shall mail application forms for renewal of license at least one hundred twenty days prior to the date of expiration of the license, and the application for renewal shall be filed with the director at least sixty days before the date of expiration. Fees~~ copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to section 5104.011 of the Revised Code and shall be paid at the time of application for ~~or renewal of~~ a license to operate a center or type A home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(B) Upon filing of the application for a license, the director shall investigate and inspect the center or type A home to determine the license capacity for each age category of children of the center or type A home and to determine whether the center or type A home complies with ~~Chapter 5104. of the Revised Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. When, after investigation and inspection, the director is satisfied that ~~Chapter 5104. of the Revised~~

~~Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ it are complied with, subject to division (G) of this section, a provisional license shall be issued as soon as practicable in such form and manner as prescribed by the director. The provisional license shall be valid for ~~six~~ twelve months from the date of issuance unless revoked.

(C) The director shall investigate and inspect the center or type A home at least once during operation under the provisional license. If after the investigation and inspection the director determines that the requirements of ~~Chapter 5104. of the Revised Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter are met, subject to division (G) of this section, the director shall issue a license to ~~be effective for two years from the date of issuance of the provisional license~~ the center or home.

(D) ~~Upon the filing of an application for renewal of a license by the center or type A home, the director shall investigate and inspect the center or type A home. If the director determines that the requirements of Chapter 5104. and rules adopted pursuant to Chapter 5104. of the Revised Code are met, subject to division (G) of this section, the director shall renew the license to be effective for two years from the expiration date of the previous license.~~

~~(E)~~ The license or provisional license shall state the name of the licensee, the name of the administrator, the address of the center or type A home, and the license capacity for each age category of children. ~~After July 1, 1987, the~~ The license or provisional license ~~or license~~ shall include thereon, in accordance with section 5104.011 of the Revised Code, the toll-free telephone number to be used by persons suspecting that the center or type A home has violated a provision of ~~Chapter 5104.,~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. A license or provisional license is valid only for the licensee, administrator, address, and license capacity for each age category of children designated on the license. The license capacity specified on the license or provisional license is the maximum number of children in each age category that may be cared for in the center or type A home at one time.

The center or type A home licensee shall notify the director when the administrator of the center or home changes. The director shall amend the current license or provisional license to reflect a change in an administrator, if the administrator meets the requirements of Chapter 5104. of the Revised Code and rules adopted pursuant to Chapter 5104. of the Revised Code, or a change in license capacity for any age category of children as determined by the director of job and family services.

~~(F)~~(E) If the director revokes ~~a~~ the license ~~or refuses to renew a license to~~ of a center or a type A home, the director shall not issue ~~a~~ another license to the owner of the center or type A home ~~within two~~ until five years have elapsed from the date ~~of~~ the ~~revocation of a~~ license ~~or refusal to renew a license~~ is revoked. ~~If~~

If the director denies an application for a license, the director shall not accept another application from the applicant until five years have elapsed from the date the application is denied.

(F) If during the application for licensure ~~or renewal of licensure~~ process the director determines that the license of the owner has been revoked ~~or renewal of licensure has been denied~~, the investigation of the center or type A home shall cease~~, and shall~~. This action does not constitute denial of the application and may not be appealed under division (G) of this section. ~~All~~

(G) All actions of the director with respect to licensing centers or type A homes, ~~renewing a license,~~ refusal to license ~~or renew a license~~, and revocation of a license shall be in accordance with Chapter 119. of the Revised Code. Any applicant who is denied a license or any owner whose license ~~is not renewed or~~ is revoked may appeal in accordance with section 119.12 of the Revised Code.

~~(G)~~(H) In no case shall the director issue a license or provisional license ~~or license, or renew a license,~~ under this section for a type A home or center if the director, based on documentation provided by the appropriate county department of job and family services, determines that the applicant previously had been certified as a type B family day-care home, that the county department revoked that certification, that the revocation was based on the applicant's refusal or inability to comply with the criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

Sec. 5104.04. (A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child day-care centers and type A family day-care homes.

(B)(1)(a) The department shall, at least once during every twelve-month period of operation of a center or type A home, inspect the center or type A home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee shall display all written reports of inspections conducted during the current licensing period in a conspicuous place in the center or type A home.

Inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center or type A home by any state or local official engaged in performing duties required of the state or local official by ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, including inspecting the center or type A home, reviewing records, or interviewing licensees, employees, children, or parents.

(b) Upon receipt of any complaint that a center or type A home is out of compliance with the requirements of ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, the department shall investigate the center or home, and both of the following apply:

(i) If the complaint alleges that a child suffered physical harm while receiving child care at the center or home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the center or home, the department shall inspect the center or home.

(ii) If division (B)(1)(b)(i) of this section does not apply regarding the complaint, the department may inspect the center or home.

(c) Division (B)(1)(b) of this section does not limit, restrict, or negate any duty of the department to inspect a center or type A home that otherwise is imposed under this section, or any authority of the department to inspect a center or type A home that otherwise is granted under this section when the department believes the inspection is necessary and it is permitted under the grant.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall contract with a third party by the first day of October in each even-numbered year to collect information concerning the amounts charged by the center or home for providing child care services for use in establishing reimbursement ceilings and payment pursuant to section 5104.30 of the Revised Code. The third party shall compile the information and report the results of the survey to the department not later than the first day of December in each even-numbered year.

(C) ~~In the event a licensed center or type A home is determined to be out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall notify the licensee of the center or type A home in writing regarding the nature of the violation, what must be done to correct the~~

~~violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license. The department's commencement of an action to revoke the license is sufficient notice that the correction has not been made, and no other notice regarding the correction is required.~~

~~(D)~~ The department may deny an application or revoke a license~~, or refuse to renew a license~~ of a center or type A home, if the applicant knowingly makes a false statement on the application, the center or home does not comply with the requirements of ~~Chapter 5104.~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, or the applicant or owner has pleaded guilty to or been convicted of an offense described in section 5104.09 of the Revised Code.

~~(E)~~(D) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any applicant, person, firm, organization, institution, or agency applying for licensure or licensed under section 5104.03 of the Revised Code is in violation of any provision of ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, the department may issue an order of denial to the applicant or an order of revocation to the center or type A home revoking the license previously issued by the department. Upon the issuance of ~~any~~ such an order ~~of revocation~~, the person whose application is denied or whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

~~(F)~~(E) The surrender of a center or type A home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center or type A home shall not prohibit the department from instituting any of the actions set forth in this section.

~~(G)~~(F) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child care without a license issued ~~or renewed~~ pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of ~~Chapter 5104.~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter.

~~(H)~~(G) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the

prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home in violation of section 5104.02 of the Revised Code. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

~~(I)~~(H) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 5104.05. (A) The director of job and family services shall issue a license or provisional license ~~or license or renew a license~~ for the operation of a child day-care center, if the director finds, after investigation of the applicant and inspection of the center, that other requirements of ~~Chapter 5104. of the Revised Code~~ this chapter, rules promulgated pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, and the following requirements are met:

(1) The buildings in which the center is housed, subsequent to any major modification, have been approved by the department of commerce or a certified municipal, township, or county building department for the purpose of operating a child day-care center. Any structure used for the operation of a center shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. of the Revised Code and with regulations adopted by the board of building standards under Chapter 3781. of the Revised Code and this division for the safety and sanitation of structures erected for this purpose.

(2) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the center is located has inspected the center annually within the preceding license period and has found the center to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire

prevention and fire safety in a child day-care center.

(3) The center has received a food service operation license under Chapter 3717. of the Revised Code if meals are to be served to children other than children of the licensee or administrator, whether or not a consideration is received for the meals.

(B) The director of job and family services shall issue a license or provisional license ~~or license or renew a license~~ for the operation of a type A family day-care home, if the director finds, after investigation of the applicant and inspection of the type A home, that other requirements of ~~Chapter 5104. of the Revised Code~~ this chapter, rules promulgated pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, and the following requirements are met:

(1) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the type A family day-care home is located has inspected the type A home annually within the preceding license period and has found the type A home to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire prevention and fire safety in a type A home.

(2) The type A home is in compliance with rules set by the director of job and family services in cooperation with the director of health pursuant to section 3701.80 of the Revised Code regarding meal preparation and meal service in the home. The director of job and family services, in accordance with procedures recommended by the director of health, shall inspect each type A home to determine compliance with those rules.

(3) The type A home is in compliance with rules promulgated by the director of job and family services in cooperation with the board of building standards regarding safety and sanitation pursuant to section 3781.10 of the Revised Code.

Sec. 5104.13. ~~No later than July 1, 1998, and at reasonable intervals thereafter, the~~ The department of job and family services shall ~~publish~~ prepare a guide describing the state statutes and rules governing the certification of type B family day-care homes. The department ~~shall distribute~~ may publish the guide ~~to county departments of job and family services in sufficient number that a copy is available to each~~ electronically or otherwise and shall do so in a manner that the guide is accessible to the public, including type B home ~~provider~~ providers.

Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child care in this state. Publicly funded child care shall be provided to the following:

(1) Recipients of transitional child care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child care, including appropriations of state funds for publicly funded child care and appropriations of federal funds available under the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child care as the state share required to match any federal funds appropriated for publicly funded child care.

(C) In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child care.

(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(a) Activities designed to provide comprehensive consumer education to parents and the public;

(b) Activities that increase parental choice;

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;

(d) Establishing a voluntary child day-care center quality-rating program in which participation in the program may allow a child day-care center to be eligible for grants, technical assistance, training, or other assistance and become eligible for unrestricted monetary awards for maintaining a quality rating.

(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means.

(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter.

The department shall develop and maintain a registry of persons providing child care. The director shall adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement ceilings for providers of publicly funded child care not later than the first day of July in each odd-numbered year;

(b) A procedure for reimbursing and paying providers of publicly

funded child care.

(2) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained under division (B)(3) of section 5104.04 of the Revised Code;

(b) Establish an enhanced reimbursement ceiling for providers who provide child care for caretaker parents who work nontraditional hours;

(c) For a type B family day-care home provider that has received limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, establish a reimbursement ceiling that is the following:

(i) If the provider is a person described in division (G)(1)(a)(i) of section 5104.011 of the Revised Code, seventy-five per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department of job and family services pursuant to section 5104.11 of the Revised Code;

(ii) If the provider is a person described in division (G)(1)(a)(ii) of section 5104.011 of the Revised Code, sixty per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department pursuant to section 5104.11 of the Revised Code.

(d) With regard to the voluntary child day-care center quality-rating program established pursuant to division (C)(3)(d) of this section, do both of the following:

(i) Establish enhanced reimbursement ceilings for child day-care centers that participate in the program and maintain quality ratings under the program;

(ii) Weigh any reduction in reimbursement ceilings more heavily against child day-care centers that do not participate in the program or do not maintain quality ratings under the program.

(3) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;

(c) Age of the child served;

(d) Special needs of the child served;

(e) Whether the expanded hours of service are provided;

(f) Whether weekend service is provided;

(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;

(h) Any other factors the director considers appropriate.

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the voluntary child day-care center quality-rating program described in division (C)(3)(d) of this section.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the ~~county~~ department of job and family services. ~~A county department of job and family services may enter into a contract with a provider for publicly funded child care for a specified period of time or upon a continuous basis for an unspecified period of time.~~ All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department ~~of job and family services~~ shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state ~~or county~~ contracts or contracts involving the expenditure of state~~,~~ ~~county,~~ or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state ~~or county~~ contracts or contracts involving the expenditure of state~~, county,~~ or federal funds.

(B) Each contract for publicly funded child care shall specify at least the following:

(1) That the provider of publicly funded child care agrees to be paid for rendering services at the ~~lowest~~ lower of the rate customarily charged by the provider for children enrolled for child care~~,~~ or the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code~~, or a rate the county department negotiates with the provider~~;

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be eligible, the ~~county~~ department agrees to pay for all child care provided between the date the county department of job and family services receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make

eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the ~~county department of job and family services, the~~ state department of job and family services~~,~~ or in some other manner as prescribed by rules adopted under section 5104.42 of the Revised Code;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law or by rules adopted under section 5104.42 of the Revised Code, the county department of job and family services shall give individuals eligible for publicly funded child care the option of obtaining certificates ~~for payment~~ that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code. Providers of publicly funded child care may present these certificates for payment ~~for reimbursement~~ in accordance with rules that the director of job and family services shall adopt. Only providers may receive ~~reimbursement~~ payment for certificates ~~for payment~~. The value of the certificate ~~for payment~~ shall be based on the ~~lowest~~ lower of the rate customarily charged by the provider~~, the reimbursement ceiling~~ or the rate of payment established pursuant to section 5104.30 of the Revised Code~~, or a rate the county department negotiates with the provider~~. The county department may provide the certificates ~~for payment~~ to the individuals or may contract with child care providers or child care resource and referral service organizations that make determinations of eligibility for publicly funded child care pursuant to

contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates ~~for payment~~ to individuals whom they determine are eligible for publicly funded child care.

For each six-month period a provider of publicly funded child care provides publicly funded child ~~day care~~ care to the child of an individual given certificates ~~for payment~~, the individual shall provide the provider certificates for days the provider would have provided publicly funded child care to the child had the child been present. The maximum number of days providers shall be provided certificates shall not exceed ten days in a six-month period during which publicly funded child care is provided to the child regardless of the number of providers that provide publicly funded child care to the child during that period.

Sec. 5104.34. (A)(1) Each county department of job and family services shall implement procedures for making determinations of eligibility for publicly funded child care. Under those procedures, the eligibility determination for each applicant shall be made no later than thirty calendar days from the date the county department receives a completed application for publicly funded child care. Each applicant shall be notified promptly of the results of the eligibility determination. An applicant aggrieved by a decision or delay in making an eligibility determination may appeal the decision or delay to the department of job and family services in accordance with section 5101.35 of the Revised Code. The due process rights of applicants shall be protected.

To the extent permitted by federal law, the county department may make all determinations of eligibility for publicly funded child care, may contract with child care providers or child care resource and referral service organizations for the providers or resource and referral service organizations to make all or any part of the determinations, and may contract with child care providers or child care resource and referral service organizations for the providers or resource and referral service organizations to collect specified information for use by the county department in making determinations. If a county department contracts with a child care provider or a child care resource and referral service organization for eligibility determinations or for the collection of information, the contract shall require the provider or resource and referral service organization to make each eligibility determination no later than thirty calendar days from the date the provider or resource and referral organization receives a completed application that is the basis of the determination and to collect and transmit all necessary information to the county department within a period of time

that enables the county department to make each eligibility determination no later than thirty days after the filing of the application that is the basis of the determination.

The county department may station employees of the department in various locations throughout the county to collect information relevant to applications for publicly funded child care and to make eligibility determinations. The county department, child care provider, and child care resource and referral service organization shall make each determination of eligibility for publicly funded child care no later than thirty days after the filing of the application that is the basis of the determination, shall make each determination in accordance with any relevant rules adopted pursuant to section 5104.38 of the Revised Code, and shall notify promptly each applicant for publicly funded child care of the results of the determination of the applicant's eligibility.

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for monitoring the eligibility determination process. In accordance with those rules, the state department shall monitor eligibility determinations made by county departments of job and family services and shall direct any entity that is not in compliance with this division or any rule adopted under this division to implement corrective action specified by the department.

(2) All eligibility determinations for publicly funded child care shall be made in accordance with rules adopted pursuant to division (A) of section 5104.38 of the Revised Code and, if a county department of job and family services specifies, pursuant to rules adopted under division (B) of that section, a maximum amount of income a family may have to be eligible for publicly funded child care, the income maximum specified by the county department. Publicly funded child care may be provided only to eligible infants, toddlers, preschool children, and school children under age thirteen. For an applicant to be eligible for publicly funded child care, the caretaker parent must be employed or participating in a program of education or training for an amount of time reasonably related to the time that the parent's children are receiving publicly funded child care. This restriction does not apply to families whose children are eligible for protective child care.

Subject to available funds, a county department of job and family services shall allow a family to receive publicly funded child care unless the family's income exceeds the maximum income eligibility limit. Initial and continued eligibility for publicly funded child care is subject to available funds unless the family is receiving child care pursuant to division (A)(1), (2), (3), or (4) of section 5104.30 of the Revised Code. If the county

department must limit eligibility due to lack of available funds, it shall give first priority for publicly funded child care to an assistance group whose income is not more than the maximum income eligibility limit that received transitional child care in the previous month but is no longer eligible because the twelve-month period has expired. Such an assistance group shall continue to receive priority for publicly funded child care until its income exceeds the maximum income eligibility limit.

(3) An assistance group that ceases to participate in the Ohio works first program established under Chapter 5107. of the Revised Code is eligible for transitional child care at any time during the immediately following twelve-month period that both of the following apply:

(a) The assistance group requires child care due to employment;

(b) The assistance group's income is not more than one hundred fifty per cent of the federal poverty line.

An assistance group ineligible to participate in the Ohio works first program pursuant to section 5101.83 or section 5107.16 of the Revised Code is not eligible for transitional child care.

(B) To the extent permitted by federal law, a county department of job and family services may require a caretaker parent determined to be eligible for publicly funded child care to pay a fee according to the schedule of fees established in rules adopted under section 5104.38 of the Revised Code. Each county department shall make protective child care services available to children without regard to the income or assets of the caretaker parent of the child.

(C) A caretaker parent receiving publicly funded child care shall report to the entity that determined eligibility any changes in status with respect to employment or participation in a program of education or training not later than ten calendar days after the change occurs.

(D) If a county department of job and family services determines that available resources are not sufficient to provide publicly funded child care to all eligible families who request it, the county department may establish a waiting list. A county department may establish separate waiting lists within the waiting list based on income. When resources become available to provide publicly funded child care to families on the waiting list, a county department that establishes a waiting list shall assess the needs of the next family scheduled to receive publicly funded child care. If the assessment demonstrates that the family continues to need and is eligible for publicly funded child care, the county department shall offer it to the family. If the county department determines that the family is no longer eligible or no longer needs publicly funded child care, the county department shall remove

the family from the waiting list.

(E) A caretaker parent shall not receive full-time publicly funded child care from more than one child care provider per child during any period.

(F) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section 5104.38 of the Revised Code or, if a county department of job and family services specifies a higher amount pursuant to rules adopted under division (B) of that section, the amount the county department specifies.

Sec. 5104.341. (A) Except as provided in division (B) of this section, both of the following apply:

(1) An eligibility determination made under section 5104.34 of the Revised Code for publicly funded child care is valid for one year;

(2) The county department of job and family services shall adjust the appropriate level of a fee charged under division (B) of section 5104.34 of the Revised Code if a caretaker parent reports changes in income, family size, or both.

(B) Division (A) of this section does not apply ~~in either of the following circumstances:~~

~~(1) The publicly funded child care is provided under division (B)(4) of section 5104.35 of the Revised Code;~~

~~(2) The~~ if the recipient of the publicly funded child care ceases to be eligible for publicly funded child care.

Sec. 5104.35. (A) ~~The~~ Each county department of job and family services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section 5101.161 of the Revised Code;

(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child day-care centers, type A family day-care homes, or certified type B family day-care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested individuals and groups on request;

(3) Inform clients of the availability of child care services~~;~~

~~(4) Pay to a child day-care center, type A family day-care home, certified type B family day-care home, in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child-care provider for child care services, the amount provided for in~~

~~division (B) of section 5104.32 of the Revised Code. If part of the cost of care of a child is paid by the child's parent or any other person, the amount paid shall be subtracted from the amount the provider is paid.~~

~~(5) In accordance with rules adopted pursuant to section 5104.39 of the Revised Code, provide monthly reports to the director of job and family services and the director of budget and management regarding expenditures for the purchase of publicly funded child care~~.

(B) ~~The~~ A county department of job and family services may ~~do any of the following:~~

~~(1) To~~, to the extent permitted by federal law, use public child care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child care~~;~~

~~(2) In accordance with rules adopted by the director of job and family services, request a waiver of the reimbursement ceiling established pursuant to section 5104.30 of the Revised Code for the purpose of paying a higher rate for publicly funded child care based upon the special needs of a child;~~

~~(3) To the extent permitted by federal law, use state and federal funds to pay deposits and other advance payments that a provider of child care customarily charges all children who receive child care from that provider;~~

~~(4) To the extent permitted by federal law, pay for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrollment or attendance in an education or training program or activity, if the employment or education or training program or activity is expected to begin within the thirty-day period~~.

Sec. 5104.37. The department of job and family services ~~and a county department of job and family services~~ may withhold any money due, and recover through any appropriate method any money erroneously paid, under this chapter if evidence exists of less than full compliance with this chapter and any rules adopted under it.

Sec. 5104.38. In addition to any other rules adopted under this chapter, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child care and establishing all of the following:

(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective child care. The rules shall specify the maximum

amount of income a family may have for initial and continued eligibility. The maximum amount shall not exceed two hundred per cent of the federal poverty line. The rules may specify exceptions to the eligibility requirements in the case of a family that previously received publicly funded child care and is seeking to have the child care reinstated after the family's eligibility was terminated.

(B) Procedures under which a county department of job and family services may, if the department, under division (A) of this section, specifies a maximum amount of income a family may have for eligibility for publicly funded child care that is less than the maximum amount specified in that division, specify a maximum amount of income a family residing in the county the county department serves may have for initial and continued eligibility for publicly funded child care that is higher than the amount specified by the department but does not exceed the maximum amount specified in division (A) of this section;

(C) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of publicly funded child care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child care from that provider. The schedule of fees may not provide for a caretaker parent to pay a fee that exceeds ten per cent of the parent's family income.

(D) A formula ~~based upon a percentage of the county's total expenditures for publicly funded child care~~ for determining the ~~maximum~~ amount of state and federal funds appropriated for publicly funded child care that may be allocated to a county department ~~may~~ to use for administrative purposes;

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care;

(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care;

(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;

(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;

(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(J) A definition of "person who stands in loco parentis" for the purposes of division ~~(II)(1)~~(JJ)(1) of section 5104.01 of the Revised Code;

(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;

(L) If the director establishes a different reimbursement ceiling under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;

(M) To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period;

(N) Any other rules necessary to carry out sections 5104.30 to ~~5104.39~~ 5104.43 of the Revised Code.

Sec. 5104.39. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure for monitoring the expenditures ~~of county departments of job and family services~~ for publicly funded child care to ensure that expenditures do not exceed the available federal and state funds for publicly funded child care. The department of job and family services, with the assistance of the office of budget and management and the child care advisory council created pursuant to section 5104.08 of the Revised Code, shall monitor the anticipated future expenditures ~~of county departments~~ for publicly funded child care and shall compare those anticipated future expenditures to available federal and state funds for publicly funded child care. Whenever the department determines that the anticipated future expenditures ~~of the county departments will exceed the available federal and state funds~~ for publicly funded child care ~~and the department reimburses the county departments in accordance with rules adopted under section 5104.42 of the Revised Code~~ will exceed the available federal and state funds, the department shall promptly notify the county departments of job and family services and, before the available state and federal funds are used, the director shall issue and implement an administrative order that shall specify

both of the following:

(1) Priorities for expending the remaining available federal and state funds for publicly funded child care;

(2) Instructions and procedures to be used by the county departments regarding eligibility determinations.

(B) The order may do any or all of the following:

(1) Suspend enrollment of all new participants in any program of publicly funded child care;

(2) Limit enrollment of new participants to those with incomes at or below a specified percentage of the federal poverty line;

(3) Disenroll existing participants with income above a specified percentage of the federal poverty line;

(4) Change the schedule of fees paid by eligible caretaker parents that has been established pursuant to section 5104.38 of the Revised Code;

(5) Change the rate of payment for providers of publicly funded child care that has been established pursuant to section 5104.30 of the Revised Code.

(C) Each county department shall comply with the order no later than thirty days after it is issued. ~~If the department fails to notify the county departments and to implement the reallocation priorities specified in the order before the available federal and state funds for publicly funded child care are used, the state department shall provide sufficient funds to the county departments for publicly funded child care to enable each county department to pay for all publicly funded child care that was provided by providers pursuant to contract prior to the date that the county department received notice under this section and the state department implemented in that county the priorities.~~

(D) If after issuing an order under this section to suspend or limit enrollment of new participants or disenroll existing participants the department determines that available state and federal funds for publicly funded child care exceed the anticipated future expenditures ~~of the county departments~~ for publicly funded child care, the director may issue and implement another administrative order increasing income eligibility levels to a specified percentage of the federal poverty line. The order shall include instructions and procedures to be used by the county departments. Each county department shall comply with the order not later than thirty days after it is issued.

(E) The department of job and family services shall do all of the following:

(1) Conduct a quarterly evaluation of the program of publicly funded

child care that is operated pursuant to sections 5104.30 to ~~5104.39~~ 5104.43 of the Revised Code;

(2) Prepare reports based upon the evaluations that specify for each county the number of participants and amount of expenditures;

(3) Provide copies of the reports to both houses of the general assembly and, on request, to interested parties.

Sec. 5104.42. (A) The director of job and family services shall adopt rules pursuant to section 111.15 of the Revised Code establishing a payment procedure for publicly funded child care. ~~The rules may provide that the department of job and family services will reimburse county departments of job and family services for payments made to providers of publicly funded child care, make direct payments to providers, or establish another system for the payment of publicly funded child care.~~

~~Alternately, the~~ (B) The director, by rule adopted in accordance with section 111.15 of the Revised Code, may establish a methodology for allocating ~~among the county departments~~ the state and federal funds appropriated for ~~all~~ publicly funded child care ~~services~~. ~~If the department chooses to allocate funds for publicly funded child care, it may provide the funds to each county department, up to the limit of the county's allocation, by advancing the funds or reimbursing county care expenditures. The rules adopted under this section may prescribe procedures for making the advances or reimbursements. The rules may establish a method under which the department may determine which county expenditures for child care services are allowable for use of and federal funds.~~

~~The rules may establish procedures that a county department shall follow when the county department determines that its anticipated future expenditures for publicly funded child care services will exceed the amount of state and federal funds allocated by the state department. The procedures may include suspending or limiting enrollment of new participants.~~

Sec. 5104.43. Each county department of job and family services shall deposit all funds received from any source for child care services into the public assistance fund established under section 5101.161 of the Revised Code. ~~All expenditures by a county department for publicly funded child care shall be made from the public assistance fund.~~

Sec. 5104.99. (A) Whoever violates section 5104.02 of the Revised Code shall be punished as follows:

(1) For each offense, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars multiplied by the number of children receiving child care at the child day-care center or type A family day-care home that either exceeds the number of children to which

a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, exceeds the license capacity of the type A home.

(2) In addition to the fine specified in division (A)(1) of this section, all of the following apply:

(a) Except as provided in divisions (A)(2)(b), (c), and (d) of this section, the court shall order the offender to reduce the number of children to which it provides child care to a number that does not exceed either the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, the license capacity of the type A home.

(b) If the offender previously has been convicted of or pleaded guilty to one violation of section 5104.02 of the Revised Code, the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code.

(c) If the offender previously has been convicted of or pleaded guilty to two violations of section 5104.02 of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a misdemeanor of the first degree under section 2929.28 of the Revised Code.

(d) If the offender previously has been convicted of or pleaded guilty to three or more violations of section 5104.02 of the Revised Code, the offender is guilty of a felony of the fifth degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a felony of the fifth degree under section 2929.18 of the Revised Code.

(B) Whoever violates division (B) of section 5104.09 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender is a

licensee of a center or type A home, the conviction shall constitute grounds for denial~~,~~ or revocation~~, or refusal to renew~~ of an application for licensure pursuant to section 5104.04 of the Revised Code. If the offender is a person eighteen years of age or older residing in a center or type A home or is an employee of a center or a type A home and if the licensee had knowledge of, and acquiesced in, the commission of the offense, the conviction shall constitute grounds for denial~~,~~ or revocation~~, or refusal to renew~~ of an application for licensure pursuant to section 5104.04 of the Revised Code.

(C) Whoever violates division (C) of section 5104.09 of the Revised Code is guilty of a misdemeanor of the third degree.

Sec. 5111.011. (A) The director of job and family services shall adopt rules establishing eligibility requirements for the medicaid program. The rules shall be adopted pursuant to section 111.15 of the Revised Code and shall be consistent with federal and state law. The rules shall include rules that do all of the following:

(1) Establish standards consistent with federal law for allocating income and resources as income and resources of the spouse, children, parents, or stepparents of a recipient of or applicant for medicaid;

(2) Define the term "resources" as used in division (A)(1) of this section;

(3) Specify the number of months that is to be used for the purpose of the term "look-back date" used in section 5111.0116 of the Revised Code;

(4) Establish processes to be used to determine both of the following:

(a) The date an institutionalized individual's ineligibility for services under section 5111.0116 of the Revised Code is to begin;

(b) The number of months an institutionalized individual's ineligibility for such services is to continue.

(5) ~~Establish exceptions to~~ For the purpose of division (C) of section 5111.0116 of the Revised Code, establish procedures for granting waivers of all or a portion of the period of ineligibility that an institutionalized individual would otherwise be subject to under that section ~~5111.0116 of the Revised Code~~ and additional reasons for which such waivers may be granted;

(6) Define the term "other medicaid-funded long-term care services" as used in sections 5111.0117 and 5111.0118 of the Revised Code;

(7) For the purpose of division (C)(2)(c) of section 5111.0117 of the Revised Code, establish the process to determine whether the child of an aged, blind, or disabled individual is financially dependent on the individual for housing.

(B) Notwithstanding any provision of state law, including statutes,

administrative rules, common law, and court rules, regarding real or personal property or domestic relations, the standards established under rules adopted under division (A)(1) of this section shall be used to determine eligibility for medicaid.

Sec. 5111.012. ~~The~~ (A) Except as provided in division (B) of this section, the county department of job and family services of each county shall establish the eligibility for medical assistance of persons living in the county, and shall notify the department of job and family services in the manner prescribed by the department. The county shall be reimbursed for administrative expenditures in accordance with sections 5101.16, 5101.161, and 5701.01 of the Revised Code. Expenditures for medical assistance shall be made from funds appropriated to the department of job and family services for public assistance subsidies. The program shall conform to the requirements of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) If the department of job and family services elects to enter into agreements with county departments of job and family services pursuant to division (B) of section 5101.47 of the Revised Code, a county department of job and family services shall establish eligibility for medical assistance only if authorized to do so under such an agreement.

Sec. 5111.013. (A) The provision of medical assistance to pregnant women and young children who are eligible for medical assistance under division (A)(3) of section 5111.01 of the Revised Code, but who are not otherwise eligible for medical assistance under that section, shall be known as the healthy start program.

(B) The department of job and family services shall do all of the following with regard to the application procedures for the healthy start program:

(1) Establish a short application form for the program that requires the applicant to provide no more information than is necessary for making determinations of eligibility for the healthy start program, except that the form may require applicants to provide their social security numbers. The form shall include a statement, which must be signed by the applicant, indicating that she does not choose at the time of making application for the program to apply for assistance provided under any other program administered by the department and that she understands that she is permitted at any other time to apply at the county department of job and family services of the county in which she resides for any other assistance administered by the department.

(2) To the extent permitted by federal law, do one or both of the

following:

(a) Distribute the application form for the program to each public or private entity that serves as a women, infants, and children clinic or as a child and family health clinic and to each administrative body for such clinics and train employees of each such agency or entity to provide applicants assistance in completing the form;

(b) In cooperation with the department of health, develop arrangements under which employees of county departments of job and family services are stationed at public or private agencies or entities selected by the department of job and family services that serve as women, infants, and children clinics; child and family health clinics; or administrative bodies for such clinics for the purpose both of assisting applicants for the program in completing the application form and of making determinations at that location of eligibility for the program.

(3) Establish performance standards by which a county department of job and family services' level of enrollment of persons potentially eligible for the program can be measured, and establish acceptable levels of enrollment for each county department.

(4) Direct any county department of job and family services whose rate of enrollment of potentially eligible enrollees in the program is below acceptable levels established under division (B)(3) of this section to implement corrective action. Corrective action may include but is not limited to any one or more of the following to the extent permitted by federal law:

(a) Establishing formal referral and outreach methods with local health departments and local entities receiving funding through the bureau of maternal and child health;

(b) Designating a specialized intake unit within the county department for healthy start applicants;

(c) Establishing abbreviated timeliness requirements to shorten the time between receipt of an application and the scheduling of an initial application interview;

(d) Establishing a system for telephone scheduling of intake interviews for applicants;

(e) Establishing procedures to minimize the time an applicant must spend in completing the application and eligibility determination process, including permitting applicants to complete the process at times other than the regular business hours of the county department and at locations other than the offices of the county department.

(C) To the extent permitted by federal law, local funds, whether from

public or private sources, expended by a county department for administration of the healthy start program shall be considered to have been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal funds for medical assistance, except that this division shall not affect the amount of funds the county is entitled to receive under section 5101.16, 5101.161, or 5111.012 of the Revised Code.

(D) ~~The director of job and family services shall do one or both of the following:~~

~~(1) To the extent that federal funds are provided for such assistance, adopt a plan for granting presumptive eligibility for pregnant women applying for healthy start;~~

~~(2) To the extent permitted by federal medicaid regulations, adopt a plan for making same-day determinations of eligibility for pregnant women applying for healthy start.~~

~~(E)~~ A county department of job and family services that maintains offices at more than one location shall accept applications for the healthy start program at all of those locations.

~~(F)~~(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section.

Sec. 5111.0112. (A) The director of job and family services shall institute a cost-sharing program under the medicaid program. In instituting the cost-sharing program, the director shall comply with federal law. ~~In the case of an individual participating in the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code, the cost-sharing program shall be consistent with sections 5101.5213 and 5101.5214 of the Revised Code if the children's buy-in program is a component of the medicaid program.~~ The cost-sharing program shall establish a copayment requirement for at least dental services, vision services, nonemergency emergency department services, and prescription drugs, other than generic drugs. The cost-sharing program shall establish requirements regarding premiums, enrollment fees, deductions, and similar charges. The director shall adopt rules under section 5111.02 of the Revised Code governing the cost-sharing program.

(B) The cost-sharing program shall, to the extent permitted by federal law, provide for all of the following with regard to any providers participating in the medicaid program:

(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay a copayment;

(b) Prohibit the provider from attempting to collect an unpaid copayment.

(3) Except as provided in division (C) of this section, no provider shall waive a medicaid recipient's obligation to pay the provider a copayment.

(4) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing program as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the individual of the provider's intent to refuse services.

(C) In the case of a provider that is a hospital, the cost-sharing program shall permit the hospital to take action to collect a copayment by providing, at the time services are rendered to a medicaid recipient, notice that a copayment may be owed. If the hospital provides the notice and chooses not to take any further action to pursue collection of the copayment, the prohibition against waiving copayments specified in division (B)(3) of this section does not apply.

(D) The department of job and family services may work with a state agency that is administering, pursuant to a contract entered into under section 5111.91 of the Revised Code, one or more components of the medicaid program or one or more aspects of a component as necessary for the state agency to apply the cost-sharing program to the components or aspects of the medicaid program that the state agency administers.

Sec. 5111.0116. (A) As used in this section:

(1) "Assets" include all of an individual's income and resources and those of the individual's spouse, including any income or resources the individual or spouse is entitled to but does not receive because of action by any of the following:

(a) The individual or spouse;

(b) A person or government entity, including a court or administrative

agency, with legal authority to act in place of or on behalf of the individual or spouse;

(c) A person or government entity, including a court or administrative agency, acting at the direction or on the request of the individual or spouse.

(2) "Home and community-based services" means home and community-based services furnished under a medicaid waiver granted by the United States secretary of health and human services under 42 U.S.C. 1396n(c) or (d).

(3) "Institutionalized individual" means a resident of a nursing facility, an inpatient in a medical institution for whom a payment is made based on a level of care provided in a nursing facility, or an individual described in 42 U.S.C. 1396a(a)(10)(A)(ii)(VI).

(4) "Look-back date" means the date that is a number of months specified in rules adopted under section 5111.011 of the Revised Code immediately before either of the following:

(a) The date an individual becomes an institutionalized individual if the individual is eligible for medicaid on that date;

(b) The date an individual applies for medicaid while an institutionalized individual.

(5) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(6) "Nursing facility equivalent services" means services that are covered by the medicaid program, equivalent to nursing facility services, provided by an institution that provides the same level of care as a nursing facility, and provided to an inpatient of the institution who is a medicaid recipient eligible for medicaid-covered nursing facility equivalent services.

(7) "Nursing facility services" means nursing facility services covered by the medicaid program that a nursing facility provides to a resident of the nursing facility who is a medicaid recipient eligible for medicaid-covered nursing facility services.

(8) "Undue hardship" means being deprived of either of the following:

(a) Medical care such that an individual's health or life is endangered;

(b) Food, clothing, shelter, or other necessities of life.

(B) Except as provided in division (C) of this section and rules adopted under section 5111.011 of the Revised Code, an institutionalized individual is ineligible for nursing facility services, nursing facility equivalent services, and home and community-based services if the individual or individual's spouse disposes of assets for less than fair market value on or after the look-back date. The institutionalized individual's ineligibility shall begin on a date determined in accordance with rules adopted under section 5111.011

of the Revised Code and shall continue for a number of months determined in accordance with such rules.

(C) An institutionalized individual may be granted a waiver of all or a portion of the period of ineligibility to which the individual would otherwise be subjected under division (B) of this section if the ineligibility would cause an undue hardship for the individual. An institutionalized individual shall be granted a waiver of all or a portion of the period of ineligibility if the administrator of the nursing facility in which the individual resides has notified the individual of a proposed transfer or discharge under section 3721.16 of the Revised Code due to failure to pay for the care the nursing facility has provided to the individual, the individual or the individual's sponsor requests a hearing on the proposed transfer or discharge in accordance with section 3721.161 of the Revised Code, and the transfer or discharge is upheld by a final determination that is not subject to further appeal. Waivers shall be granted in accordance with rules adopted under section 5111.011 of the Revised Code.

(D) To secure compliance with this section, the director of job and family services may require an individual, as a condition of initial or continued eligibility for medicaid, to provide documentation of the individual's assets up to five years before the date the individual becomes an institutionalized individual if the individual is eligible for medicaid on that date or the date the individual applies for medicaid while an institutionalized individual. Documentation may include tax returns, records from financial institutions, and real property records.

Sec. 5111.0122. As used in this section, "maintenance of effort requirement" means the requirement established by section 1902(gg) of the "Social Security Act," 124 Stat. 275 (2010), 42 U.S.C. 1396a(gg), as amended, regarding medicaid eligibility standards, methodologies, and procedures.

Except to the extent, if any, otherwise authorized by the United States secretary of health and human services, the department of job and family services shall comply with the maintenance of effort requirement while the requirement is in effect.

Sec. 5111.0123. (A) Subject to division (B) of this section, the director of job and family services shall adopt rules under sections 5111.011 and 5111.85 of the Revised Code to reduce the complexity of the eligibility determination processes for the medicaid program caused by the different income and resource standards for the numerous medicaid eligibility categories.

(B) In implementing division (A) of this section, both of the following

apply:

(1) Before implementing a revision to an eligibility determination process, the director shall obtain, to the extent necessary, the approval of the United States secretary of health and human services in the form of a federal medicaid waiver, medicaid state plan amendment, or demonstration grant.

(2) The director shall comply with section 5111.0122 of the Revised Code.

Sec. 5111.0124. (A) As used in this section:

"Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

"Federally-qualified health center" has the same meaning as in 42 U.S.C. 1396d(l)(2)(B).

"Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

"Presumptive eligibility for pregnant women option" means the option available under 42 U.S.C. 1396r-1 to make ambulatory prenatal care available to pregnant women under the medicaid program during presumptive eligibility periods.

"Qualified provider" has the same meaning as in 42 U.S.C. 1396r-1(b)(2).

(B) The director of job and family services shall submit a medicaid state plan amendment to the United States secretary of health and human services to implement the presumptive eligibility for pregnant women option. The director shall include in the medicaid state plan amendment a request to authorize children's hospitals, federally qualified health centers, and federally qualified health center look-alikes, if they are eligible to be qualified providers under 42 U.S.C. 1396r-1(b)(2) and request to serve as qualified providers, to serve as qualified providers for purposes of the presumptive eligibility for pregnant women option. The director may include in the medicaid state plan amendment a request to authorize other types of providers that are eligible to be qualified providers under 42 U.S.C. 1396r-1(b)(2) and request to serve as qualified providers to serve as qualified providers for purposes of the presumptive eligibility for pregnant women option. The director shall begin to implement the medicaid state plan amendment on the later of April 1, 2012, or a date that is not later than ninety days after the effective date of the approval of the amendment.

The director shall adopt rules under section 5111.011 of the Revised Code as necessary to implement this section.

Sec. 5111.0125. (A) As used in this section:

"Children's hospital" has the same meaning as in section 2151.86 of the

Revised Code.

"Federally-qualified health center" has the same meaning as in 42 U.S.C. 1396d(l)(2)(B).

"Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

"Presumptive eligibility for children option" means the option available under 42 U.S.C. 1396r-1a to make medical assistance with respect to health care items and services available to children under the medicaid program during presumptive eligibility periods.

"Qualified entity" has the same meaning as in 42 U.S.C. 1396r-1a(b)(3).

(B) The director of job and family services shall retain the presumptive eligibility for children option that was included in the state medicaid plan on the effective date of this section. The director shall submit a medicaid state plan amendment to the United States secretary of health and human services to authorize children's hospitals, federally qualified health centers, and federally qualified health center look-alikes, if they are eligible to be qualified entities under 42 U.S.C. 1396r-1a(b)(3) and request to serve as qualified entities, to serve as qualified entities for purposes of the presumptive eligibility for children option. The director may include in the medicaid state plan amendment a request to authorize other types of entities that are eligible to be qualified entities under 42 U.S.C. 1396r-1a(b)(3) and request to serve as qualified entities to serve as qualified entities for purposes of the presumptive eligibility for children option. The director shall begin to implement the medicaid state plan amendment on the later of April 1, 2012, or a date that is not later than ninety days after the effective date of the approval of the amendment.

The director shall adopt rules under section 5111.011 of the Revised Code as necessary to implement this section.

Sec. 5111.021. Under the medicaid program:

(A) Except as otherwise ~~permitted~~ required by federal statute or regulation ~~and at the department's discretion~~, ~~reimbursement by~~ the department of job and family services ~~to~~ shall not reimburse a medical provider for any medical ~~service~~ assistance rendered under the program ~~shall not exceed~~ an amount that exceeds the following:

(1) If the provider is a hospital, nursing facility, or intermediate care facility for the mentally retarded, the limits established under Subpart C of 42 C.F.R. Part 447;

(2) If the provider is other than a provider described in division (A)(1) of this section, the authorized reimbursement ~~level~~ limits for the same service under the medicare program established under Title XVIII of the

"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

(C) The department may deduct from payments for services rendered by a medicaid provider under the medicaid program any amounts the provider owes the state as the result of incorrect medicaid payments the department has made to the provider.

(D) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

(E) The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

(F) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.023. (A) As used in this section:

(1) "Community mental health agency or facility" means a community mental health agency or facility that has ~~a quality assurance program accredited by the joint commission on accreditation of healthcare organizations or is~~ its community mental health services certified by the department of mental health under section 5119.611 of the Revised Code or by the department of job and family services.

(2) "Mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.

(B) The state medicaid plan ~~shall~~ may include provision of the following mental health services when provided by community mental

health agencies or facilities:

(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed;

(2) Partial-hospitalization mental health services rendered by persons directly supervised by a mental health professional;

(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional;

(4) Subject to receipt of federal approval, assertive community treatment and intensive home-based mental health services.

(C) ~~The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local funds to match federal medicaid reimbursement funds earned by community mental health facilities.~~

~~(D)~~ The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section.

~~(E) Not later than July 21, 2006, the department of job and family services shall request federal approval to provide assertive community treatment and intensive home-based mental health services under medicaid pursuant to this section.~~

~~(F) On receipt of federal approval sought under division (E) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for assertive community treatment and intensive home-based mental health services provided under medicaid pursuant to this section. The director shall consult with the department of mental health in adopting the rules.~~

Sec. 5111.025. (A) In rules adopted under section 5111.02 of the Revised Code, the director of job and family services shall modify the manner or establish a new manner in which the following are paid under medicaid:

(1) Community mental health agencies or facilities for providing community mental health services included in the state medicaid plan pursuant to section 5111.023 of the Revised Code;

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program

pursuant to rules adopted under section 5111.02 of the Revised Code.

(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on June 26, 2003, and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. 5111.0212. As necessary to comply with section 1902(a)(13)(A) of the "Social Security Act," 111 Stat. 507 (1997), 42 U.S.C. 1396a(a)(13)(A), as amended, and any other federal law that requires public notice of proposed changes to reimbursement rates for medical assistance provided under the medicaid program, the director of job and family services shall give public notice in the register of Ohio of any change to a method or standard used to determine the medicaid reimbursement rate for medical assistance.

Sec. 5111.0213. (A) As used in this section:

(1) "Aide services" means all of the following:

(a) Home health aide services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(2);

(b) Home care attendant services available under a home and community-based services medicaid waiver component;

(c) Personal care aide services available under a home and community-based services medicaid waiver component.

(2) "Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(3) "Independent provider" means an individual who personally provides aide services or nursing services and is not employed by, under contract with, or affiliated with another entity that provides those services.

(4) "Nursing services" means all of the following:

(a) Nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);

(b) Private duty nursing services as defined in 42 C.F.R. 440.80;

(c) Nursing services available under a home and community-based services medicaid waiver component.

(B) The department of job and family services shall do both of the following:

(1) Effective October 1, 2011, reduce the medicaid program's first-hour-unit price for aide services to ninety-seven per cent of the price paid on June 30, 2011, and for nursing services to ninety-five per cent of the price paid on June 30, 2011;

(2) Effective October 1, 2011, pay for a service that is an aide service or a nursing service provided by an independent provider eighty per cent of the price it pays for the same service provided by a provider that is not an independent provider;

(3) Not sooner than July 1, 2012, adjust the medicaid reimbursement rates for aide services and nursing services in a manner that reflects, at a minimum, labor market data, education and licensure status, home health agency and independent provider status, and length of service visit.

(C) The department shall strive to have the adjustment made under division (B)(3) of this section go into effect on July 1, 2012. The reductions made under divisions (B)(1) and (2) of this section shall remain in effect until the adjustment made under division (B)(3) of this section goes into effect.

(D) The director of job and family services shall adopt rules under sections 5111.02 and 5111.85 of the Revised Code as necessary to implement this section.

Sec. 5111.0214. The department of job and family services shall not knowingly make a medicaid payment for a provider-preventable condition for which federal financial participation is prohibited by regulations adopted under section 2702 of the "Patient Protection and Affordable Care Act," 124 Stat. 318 (2010), 42 U.S.C. 1396b-1. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.

Sec. 5111.0215. (A) The department of job and family services may establish a program under which it provides incentive payments, as authorized by the "Health Information Technology for Economic and Clinical Health Act," 123 Stat. 489 (2009), 42 U.S.C. 1396b(a)(3)(F) and 1396b(t), as amended, to encourage the adoption and use of electronic health record technology by medicaid providers who are identified under that federal law as eligible professionals.

(B) After the department has made a determination regarding the amount of a medicaid provider's electronic health record incentive payment or the denial of an incentive payment, the department shall notify the provider. The provider may request that the department reconsider its determination.

A request for reconsideration shall be submitted in writing to the department not later than fifteen days after the provider receives notification of the determination. The request shall be accompanied by written materials setting forth the basis for, and supporting, the reconsideration request.

On receipt of a timely request, the department shall reconsider the

determination. On the basis of the written materials accompanying the request, the department may uphold, reverse, or modify its original determination. The department shall mail to the provider by certified mail a written notice of the reconsideration decision.

In accordance with Chapter 2505. of the Revised Code, the medicaid provider may appeal the reconsideration decision by filing a notice of appeal with the court of common pleas of Franklin county. The notice shall identify the decision being appealed and the specific grounds for the appeal. The notice of appeal shall be filed not later than fifteen days after the department mails its notice of the reconsideration decision. A copy of the notice of appeal shall be filed with the department not later than three days after the notice is filed with the court.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 5111.031. (A) As used in this section:

(1) "Independent provider" has the same meaning as in section 5111.034 of the Revised Code.

(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.

(3) "Noninstitutional medicaid provider" means any person or entity with a medicaid provider agreement other than a hospital, nursing facility, or intermediate care facility for the mentally retarded.

(4) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.

(B) Notwithstanding any provision of this chapter to the contrary, the department of job and family services shall take action under this section against a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee.

(C) Except as provided in division (D) of this section and in rules adopted by the department under division (H) of this section, on receiving notice and a copy of an indictment that is issued on or after ~~the effective date of this section~~ September 29, 2007, and charges a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee with committing an offense specified in division (E) of this section, the department shall suspend the provider agreement held by the noninstitutional medicaid provider. Subject to division (D) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered.

The suspension shall continue in effect until the proceedings in the

criminal case are completed through ~~conviction,~~ dismissal of the indictment~~,~~ or through conviction, entry of a guilty plea, or finding of not guilty. If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded. ~~Pursuant~~

Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under this division by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

When subject to a suspension under this division, a provider, owner, officer, authorized agent, associate, manager, or employee shall not own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor.

(D)(1) The department shall not suspend a provider agreement or terminate medicaid reimbursement under division (C) of this section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(2) The termination of medicaid reimbursement applies only to payments for medicaid services rendered subsequent to the date on which the notice required under division (F) of this section is sent. Claims for reimbursement for medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete.

(E)(1) In the case of a noninstitutional medicaid provider that is not an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would be a felony or misdemeanor under the laws of this state and the act relates to or results from either of the following:

(a) Furnishing or billing for medical care, services, or supplies under the medicaid program;

(b) Participating in the performance of management or administrative services relating to furnishing medical care, services, or supplies under the medicaid program.

(2) In the case of a noninstitutional medicaid provider that is an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would constitute one of the offenses specified in division (D) of section 5111.034 of the Revised Code.

(F) Not later than five days after suspending a provider agreement under division (C) of this section, the department shall send notice of the suspension to the affected provider or owner. In providing the notice, the department shall do all of the following:

(1) Describe the indictment that was the cause of the suspension, without necessarily disclosing specific information concerning any ongoing civil or criminal investigation;

(2) State that the suspension will continue in effect until the proceedings in the criminal case are completed through ~~conviction,~~ dismissal of the indictment~~,~~ or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded;

(3) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for a reconsideration pursuant to division (G) of this section.

(G)(1) ~~A~~ Pursuant to the procedure specified in division (G)(2) of this section, a noninstitutional medicaid provider or owner subject to a suspension under this section may request a reconsideration. The request shall be made not later than thirty days after receipt of the notice provided under division (F) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of the indictment;

(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section;

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(3) The department shall review the information and documents

submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

(H) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. 5111.035. (A) As used in this section:

(1) "Creditable allegation of fraud" has the same meaning as in 42 C.F.R. 455.2, except that for purposes of this section any reference in that regulation to the "state" or the "state medicaid agency" means the department of job and family services.

(2) "Provider" has the same meaning as in section 5111.032 of the Revised Code.

(3) "Owner" has the same meaning as in section 5111.031 of the Revised Code.

(B)(1) Except as provided in division (C) of this section and in rules adopted by the department of job and family services under division (J) of this section, on determining there is a creditable allegation of fraud for which an investigation is pending under the medicaid program against a provider, the department shall suspend the provider agreement held by the provider. Subject to division (C) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered.

(2)(a) The suspension shall continue in effect until either of the following is the case:

(i) The department or a prosecuting authority determines that there is insufficient evidence of fraud by the provider;

(ii) The proceedings in any related criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty.

(b) If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded.

(3) Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under division (B)(1) of this section by issuing an order pursuant to an adjudication in accordance with Chapter 119. of the Revised Code.

(4) When subject to a suspension under this section, a provider, owner, officer, authorized agent, associate, manager, or employee shall not own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor.

(C) The department shall not suspend a provider agreement or terminate medicaid reimbursement under division (B) of this section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the creditable allegation of fraud.

(D) The termination of medicaid reimbursement under division (B) of this section applies only to payments for medicaid services rendered subsequent to the date on which the notice required by division (E) of this section is sent. Claims for reimbursement of medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete.

(E) After suspending a provider agreement under division (B) of this section, the department shall, as specified in 42 C.F.R. 455.23(b), send notice of the suspension to the affected provider or owner in accordance with the following timeframes:

(1) Not later than five days after the suspension, unless a law enforcement agency makes a written request to temporarily delay the notice;

(2) If a law enforcement agency makes a written request to temporarily delay the notice, not later than thirty days after the suspension occurs subject to the conditions specified in division (F) of this section.

(F) A written request for a temporary delay described in division (E)(2) of this section may be renewed in writing by a law enforcement agency not more than two times except that under no circumstances shall the notice be issued more than ninety days after the suspension occurs.

(G) The notice required by division (E) of this section shall do all of the following:

(1) State that payments are being suspended in accordance with this section and 42 C.F.R. 455.23;

(2) Set forth the general allegations related to the nature of the conduct leading to the suspension, except that it is not necessary to disclose any specific information concerning an ongoing investigation;

(3) State that the suspension continues to be in effect until either of the following is the case:

(a) The department or a prosecuting authority determines that there is insufficient evidence of fraud by the provider;

(b) The proceedings in any related criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded.

(4) Specify, if applicable, the type or types of medicaid claims or business units of the provider that are affected by the suspension;

(5) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for reconsideration of the suspension in accordance with division (H) of this section.

(H)(1) Pursuant to the procedure specified in division (H)(2) of this section, a provider or owner subject to a suspension under this section may request a reconsideration of the suspension. The request shall be made not later than thirty days after receipt of a notice required by division (E) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of an indictment in a related criminal case.

(b) If there has been an indictment in a related criminal case, whether any offense charged in the indictment resulted from an offense specified in division (E) of section 5111.031 of the Revised Code.

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the suspension under this section or an indictment in a related criminal case.

(I) The department shall review the information and documents

submitted in a request made under division (H) of this section for reconsideration of a suspension. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

(J) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. 5111.051. The director of job and family services may submit a medicaid state plan amendment or request for a federal waiver to the United States secretary of health and human services as necessary to implement, at the director's discretion, a system under which payments for medical assistance provided under the medicaid program are made to an organization on behalf of the providers of the medical assistance. The system may not provide for an organization to receive an amount that exceeds, in aggregate, the amount the department would have paid directly to the providers if not for this section.

Sec. 5111.052. (A) As used in this section, "electronic claims submission process" means any of the following:

(1) Electronic interchange of data;

(2) Direct entry of data through an internet-based mechanism implemented by the department of job and family services;

(3) Any other process for the electronic submission of claims that is specified in rules adopted under this section.

(B) Not later than January 1, 2013, and except as provided in division (C) of this section, each provider of services to medicaid recipients shall do both of the following:

(1) Use only an electronic claims submission process to submit to the department of job and family services claims for medicaid reimbursement for services provided to medicaid recipients;

(2) Arrange to receive medicaid reimbursement from the department by means of electronic funds transfer.

(C) Division (B) of this section does not apply to any of the following:

(1) A nursing facility, as defined in section 5111.20 of the Revised Code;

(2) An intermediate care facility for the mentally retarded, as defined in section 5111.20 of the Revised Code;

(3) A medicaid managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code;

(4) Any other provider or type of provider designated in rules adopted under this section.

(D) The department shall not process a medicaid claim submitted on or after January 1, 2013, unless the claim is submitted through an electronic claims submission process in accordance with this section.

(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to implement this section.

Sec. 5111.053. (A) As used in this section, "group practice" has the same meaning as in section 4731.65 of the Revised Code.

(B) The department of job and family services shall establish a process by which a physician assistant may enter into a medicaid provider agreement.

(C)(1) Subject to division (C)(2) of this section, a claim for reimbursement for a service provided by a physician assistant to a medicaid recipient may be submitted by the physician assistant who provided the service or the physician, group practice, clinic, or other health care facility that employs the physician assistant.

(2) A claim for reimbursement may be submitted by the physician assistant who provided the service only if the physician assistant has a valid provider agreement. When submitting the claim, the physician assistant shall use only the medicaid provider number the department has assigned to the physician assistant.

(D) The director of job and family services may adopt rules under section 5111.02 of the Revised Code to implement this section.

Sec. 5111.054. (A) As used in this section:

(1) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing the medicaid program.

(2) "OCHSPS" means the private, not-for-profit corporation known as the Ohio children's hospital solutions for patient safety, which was formed for the purpose of improving pediatric patient care in this state, which performs functions that are included within the functions of a peer review committee as defined in section 2305.25 of the Revised Code, and which consists of all of the following members: Akron children's hospital, Cincinnati children's hospital medical center, Cleveland clinic children's hospital, Dayton children's medical center, mercy children's hospital, nationwide children's hospital, rainbow babies & children's hospital, and

Toledo children's hospital.

(B) If, as authorized by section 5101.10 of the Revised Code, the department of job and family services chooses to contract with a person to perform either or both of the following services, it may contract with any qualified person, including OCHSPS, to perform the service or services on the department's behalf:

(1) Review and analyze claims for medical assistance made under this chapter to children in accordance with all state and federal laws governing the confidentiality of patient-identifying information;

(2) Perform quality assurance and quality review functions, other than those described in division (B)(1) of this section, related to medical assistance made under this chapter to children.

The functions specified in division (B)(2) of this section may include those recommended by the best evidence for advancing child health in Ohio now (BEACON) council.

(C) If the department enters into a contract with OCHSPS for OCHSPS to perform either or both of the services described in division (B) of this section, OCHSPS shall, only for purposes of section 5101.11 of the Revised Code, be considered a public entity and the department shall seek federal financial participation for costs incurred by OCHSPS in performing the service or services.

Sec. 5111.06. (A)(1) As used in this section and in sections 5111.061 and ~~5111.062~~ 5111.063 of the Revised Code:

(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.

(2) This section does not apply to any action taken by the department of job and family services under sections 5111.16 to 5111.177 or sections 5111.35 to 5111.62 of the Revised Code.

(B) Except as provided in division (D) of this section and section 5111.914 of the Revised Code, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing

provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.

(2) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the provider has not obtained the license, permit, certificate, or certification.

(3) The provider agreement is denied, terminated, or not renewed due to the termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of job and family services, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state.

(4) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (F) of section 5111.03 of the Revised Code.

(5) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act~~,~~" or from another state's medicaid program and, in either case, the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program in this state.

(6) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program.

(7) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human

services and that action is binding on the provider's participation in the medicaid program.

(8) ~~The~~ Pursuant to either section 5111.031 or 5111.035 of the Revised Code, the provider agreement is suspended ~~pursuant to section 5111.031 of the Revised Code~~ and payments to the provider are suspended pending indictment of the provider.

(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code.

(10) The provider agreement is converted under section 5111.028 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.

(11) The provider agreement is terminated or an application for re-enrollment is denied because the provider has failed to apply for re-enrollment within the time or in the manner specified for re-enrollment pursuant to section 5111.028 of the Revised Code.

(12) The provider agreement is suspended or terminated, or an application for enrollment or re-enrollment is denied, for any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450.

(13) The provider agreement is terminated or not renewed because the provider has not billed or otherwise submitted a medicaid claim to the department for two years or longer.

~~(13)~~(14) The provider agreement is denied, terminated, or not renewed because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408.

In the case of a provider described in division (D)~~(12)~~(13) or ~~(13)~~(14) of this section, the department may take its proposed action against a provider agreement by sending a notice explaining the proposed action to the provider. The notice shall be sent to the provider's address on record with the department. The notice may be sent by regular mail.

(E) The department may withhold payments for services rendered by a medicaid provider under the medicaid program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the

department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code.

Sec. 5111.061. (A) ~~The~~ (1) Except as provided in division (A)(2) of this section, the department of job and family services may recover a medicaid payment or portion of a payment made to a provider to which the provider is not entitled if the department notifies the provider of the overpayment during the five-year period immediately following the end of the state fiscal year in which the overpayment was made.

(2) In the case of a hospital provider, if the department determines as a result of a medicare or medicaid cost report settlement that the provider received an amount under the medicaid program to which the provider is not entitled, the department may recover the overpayment if the department notifies the provider of the overpayment during the later of the following:

(a) The five-year period immediately following the end of the state fiscal year in which the overpayment was made;

(b) The one-year period immediately following the date the department receives from the United States centers for medicare and medicaid services a completed, audited, medicare cost report for the provider that applies to the state fiscal year in which the overpayment was made.

(B) Among the overpayments that may be recovered under this section are the following:

(1) Payment for a service, or a day of service, not rendered;

(2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate;

(3) Payment for a service, or day of service, that was paid by, or partially paid by, a ~~third-party~~ third party, as defined in section 5101.571 of the Revised Code, and the ~~third-party's~~ third party's payment or partial payment was not offset against the amount paid by the medicaid program to reduce or eliminate the amount that was paid by the medicaid program;

(4) Payment when a medicaid recipient's responsibility for payment was understated and resulted in an overpayment to the provider.

(C) The department may recover an overpayment under this section prior to or after any of the following:

(1) Adjudication of a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(2) Adjudication of a finding under any other provision of this chapter

or the rules adopted under it;

(3) Expiration of the time to issue a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(4) Expiration of the time to issue a finding under any other provision of this chapter or the rules adopted under it.

(D)(1) Subject to division (D)(2) of this section, the recovery of an overpayment under this section does not preclude the department from subsequently doing the following:

(a) Issuing a final fiscal audit in accordance with Chapter 119. of the Revised Code, as required under section 5111.06 of the Revised Code;

(b) Issuing a finding under any other provision of this chapter or the rules adopted under it.

(2) A final fiscal audit or finding issued subsequent to the recovery of an overpayment under this section shall be reduced by the amount of the prior recovery, as appropriate.

(E) Nothing in this section limits the department's authority to recover overpayments pursuant to any other provision of the Revised Code.

Sec. 5111.063. For the purpose of raising funds necessary to pay the expenses of implementing the provider screening requirements of subpart E of 42 C.F.R. Part 455, the department of job and family services shall charge an application fee to a provider seeking to enter into or renew a medicaid provider agreement, unless the provider is exempt from paying the application fee under 42 C.F.R. 455.460(a). The application fees shall be deposited into the health care services administration fund created under section 5111.94 of the Revised Code.

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section, including a rule establishing the amount of the application fee that is charged under this section. The amount of the application fee shall not be set at an amount that is more than necessary to pay for the expenses of implementing the provider screening requirements.

Sec. 5111.086. As used in this section, "federal upper reimbursement limit" means the limit established pursuant to section 1927(e) of the "Social Security Act," 104 Stat. 1388-151 (1990), 42 U.S.C. 1396r-8(e), as amended.

The medicaid payment for a drug that is subject to a federal upper reimbursement limit shall not exceed, in the aggregate, the federal upper reimbursement limit for the drug. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to

implement this section.

Sec. 5111.113. (A) As used in this section:

(1) "Adult care facility" has the same meaning as in section ~~3722.01~~ 5119.70 of the Revised Code.

(2) "Commissioner" means a person appointed by a probate court under division (B) of section 2113.03 of the Revised Code to act as a commissioner.

(3) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(4) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident.

(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of an adult care facility or home shall transfer to the department of job and family services the money in the personal needs allowance account of a resident of the facility or home who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. The adult care facility or home shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate.

(C) If funeral or burial expenses for a resident of an adult care facility or home who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the resident are inadequate to pay the full cost of the expenses, the money in the resident's personal needs allowance account shall be used to pay for the expenses rather than being transferred to the department of job and family services pursuant to division (B) of this section.

(D) If, not later than sixty days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration is filed under section 2113.03 of the Revised Code, concerning the resident's estate, the owner or operator of the facility or home shall transfer the money in the resident's personal needs allowance account to the administrator, executor, commissioner, or person who filed the application for release from administration.

(E) The transfer or use of money in a resident's personal needs allowance account in accordance with division (B), (C), or (D) of this section discharges and releases the adult care facility or home, and the owner or operator of the facility or home, from any claim for the money

from any source.

(F) If, sixty-one or more days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration under section 2113.03 of the Revised Code is filed, concerning the resident's estate, the department of job and family services shall transfer the funds to the administrator, executor, commissioner, or person who filed the application, unless the department is entitled to recover the money under the medicaid estate recovery program instituted under section 5111.11 of the Revised Code.

Sec. 5111.13. (A) As used in this section, "cost-effective" and "group health plan" have the same meanings as in section 1906 of the "Social Security Act," ~~49~~ 104 Stat. ~~620 (1935)~~ 1388-161 (1990), 42 U.S.C.~~A.~~ 1396e, as amended, and any regulations adopted under that section.

(B) The department of job and family services~~, pursuant to guidelines issued by~~ may submit a medicaid state plan amendment to the United States secretary of health and human services~~, shall identify cases in which enrollment of an individual otherwise eligible for medical assistance under this chapter in a group health plan in which the individual is eligible to enroll and payment of the individual's premiums, deductibles, coinsurance, and other cost-sharing expenses is cost effective.~~

~~The department shall require, as a condition of eligibility for medical assistance, individuals identified under this division, or in the case of a child, the child's parent, to apply for enrollment in the group health plan, except that the failure of a parent to enroll self or the parent's child in a group health plan does not affect the child's eligibility under the medical assistance program.~~

~~The department shall pay enrollee premiums and deductibles, coinsurance, and other cost-sharing obligations for services and items otherwise covered under the medical assistance program. The department shall treat coverage under the group health plan in the same manner as any other third-party liability under the program. If not all members of a family are eligible for medical assistance and enrollment of the eligible members in a group health plan is not possible without also enrolling the members who are ineligible for medical assistance, the department shall pay the premiums for the ineligible members if the payments are cost effective. The department shall not pay deductibles, coinsurance, or other cost-sharing obligations of enrolled members who are not eligible for medical assistance.~~

~~The department may make payments under this section to employers, insurers, or other entities. The department may make the payments without entering into a contract with employers, insurers, or other entities.~~

~~(C) To the extent permitted by federal law and regulations, the department of job and family services shall coordinate the medical assistance program with group health plans in such a manner that the medical assistance program serves as a supplement to the group health plans. In its coordination efforts, the department shall consider cost-effectiveness and quality of care. The department may enter into agreements with group health plans as necessary to implement this division~~ for the purpose of implementing a program pursuant to section 1906 of the "Social Security Act," 104 Stat. 1388-161 (1990), 42 U.S.C. 1396e, as amended, for the enrollment of medicaid-eligible individuals in group health plans when the department determines that enrollment is cost-effective.

~~(D)~~(C) The director of job and family services ~~shall~~ may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 5111.14. The director of job and family services may submit to the United States secretary of health and human services an amendment to the medicaid state plan in order to implement within the medicaid program a system under which medicaid recipients with chronic conditions are provided with coordinated care through health homes, as authorized by section 1945 of the "Social Security Act," 124 Stat. 319 (2010), 42 U.S.C. 1396w-4.

The director may adopt rules under section 5111.02 of the Revised Code to implement this section.

Sec. ~~5111.14~~ 5111.141. The department of job and family services may require county departments of job and family services to provide case management of nonemergency transportation services provided under the medical assistance program. County departments shall provide the case management if required by the department in accordance with rules adopted by the director of job and family services.

The department shall determine, for the purposes of claiming federal reimbursement under the medical assistance program, whether it will claim expenditures for nonemergency transportation services as administrative or program expenditures.

Sec. 5111.151. (A)(1) This section applies only to either of the following:

(a) Initial eligibility determinations for ~~all cases involving medicaid provided pursuant to this chapter, qualified medicare beneficiaries, specified low-income medicare beneficiaries, qualifying individuals-1, qualifying individuals-2, and medical assistance for covered families and children~~ the medicaid program made by the department of job and family services

pursuant to section 5101.47 of the Revised Code or by a county department of job and family services pursuant to section 5111.012 of the Revised Code;

(b) An appeal from a determination described in division (A)(1)(a) of this section pursuant to section 5101.35 of the Revised Code.

(2)(a) Except as provided in division (A)(2)(b) of this section, this section shall not be used by a court to determine the effect of a trust on an individual's initial eligibility for the medicaid program.

(b) The prohibition in division (A)(2)(a) of this section does not apply to an appeal described in division (A)(1)(b) of this section.

(B) As used in this section:

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.

(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:

(a) The property in the trust is held, managed, retained, or administered by a trustee.

(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.

(c) The trustee holds identifiable property for the beneficiary.

(3) "Grantor" is a person who creates a trust, including all of the following:

(a) An individual;

(b) An individual's spouse;

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;

(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.

(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.

(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust,

partnership, and association.

(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.

(8) "Recipient" is an individual who receives medicaid or the individual's spouse.

(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursal from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(C)(1) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The county department of job and family services may determine that the trust or portion of the trust ~~is one of the following~~:

~~(1) A countable~~ (a) Is a resource available to the applicant or recipient;

~~(2) Countable~~ (b) Contains income available to the applicant or recipient;

~~(3) A countable resource and countable income~~ (c) Constitutes both items described in divisions (C)(1)(a) and (b) of this section;

~~(4) Not a countable resource or countable income~~ (d) Is neither an item described in division (C)(1)(a) nor (C)(1)(b) of this section.

(2) Except as provided in division (F) of this section, a trust or portion of a trust that is a resource available to the applicant or recipient or contains income available to the applicant or recipient shall be counted for purposes of determining medicaid eligibility.

(D)(1) A trust or legal instrument or device similar to a trust shall be

considered a medicaid qualifying trust if all of the following apply:

(a) The trust was established on or prior to August 10, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient.

(d) The applicant or recipient is or may become the beneficiary of all or part of the trust.

(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services ~~as an available~~ to be a resource available to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted by the department of job and family services governing income.

(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:

(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid, medical assistance for covered families and children, or as a qualified medicare beneficiary, specified low-income medicare beneficiary, qualifying individual-1, or qualifying individual-2;

(b) Whether or not the trustee actually exercises discretion.

(5) If any real or personal property is transferred to a medicaid qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an improper disposition of assets and shall be subject to section 5111.0116 of the Revised Code and rules to implement that section adopted under section 5111.011 of the Revised Code.

(6) The baseline date for the look-back period for disposition of assets involving a medicaid qualifying trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient.

(c) Any other payments from the trust shall be considered an improper disposition of assets and shall be subject to section 5111.0116 of the Revised Code and rules to implement that section adopted under section 5111.011 of the Revised Code.

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper disposition of assets and shall be subject to section 5111.0116 of the Revised Code and rules to implement that section adopted under section 5111.011 of the Revised Code.

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the

foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;

(b) Whether the trustees have exercised or may exercise discretion under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(F) The principal or income from any of the following shall ~~be exempt from being counted as~~ not be a resource ~~by a county department of job and family services~~ available to the applicant or recipient:

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted by the department of job and family services.

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court.

(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient

continues to be disabled as defined in rules adopted by the department of job and family services. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper disposition of assets.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. ~~Assets~~ An Asset held prior to the transfer to the trust shall be considered as ~~countable assets or countable~~ a resource available to the applicant or recipient, income available to the applicant or recipient, or ~~countable assets~~ both a resource and income available to the individual.

(2)(a) A qualifying income trust that meets all of the following requirements:

(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medicaid. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medicaid. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined

with any ~~countable~~ income available to the individual that is not placed in the trust to arrive at a base income figure to be used for spend down calculations.

(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations.

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted by the department of job and family services shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted by the department of job and family services.

(ii) The trust is established and managed by a nonprofit association.

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the beneficiary.

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. ~~Assets~~ An asset held prior to the transfer to the trust shall be considered as ~~countable assets, countable~~ a resource available to the applicant or recipient, income available to the applicant or recipient, or ~~countable assets~~ both a resource and income available to the applicant or recipient.

(4) A supplemental services trust that meets the requirements of section 5815.28 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 5815.28 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

(i) The department of developmental disabilities;

(ii) A county board of developmental disabilities;

(iii) The department of mental health;

(iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;

(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.

(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2006 is two hundred twenty-two thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.

(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 5815.28 of the Revised Code.

(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted by the department of job and family services. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary.

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 5815.28 of the Revised Code, the county department of job and family services shall not consider it an exempt trust.

(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the

applicant or recipient if all of the following apply:

(a) The trust is created by a person other than the applicant or recipient.

(b) The trust names the applicant or recipient as a beneficiary.

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.

(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be ~~an available~~ a resource available to the applicant or recipient only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered ~~an available~~ a resource available to the applicant or recipient even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medicaid or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medicaid or other public assistance;

(c) A provision that attempts to prevent the trust or its corpus or principal from being ~~counted as an available~~ a resource available to the applicant or recipient.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as ~~an available~~ a resource available to the applicant or recipient if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making

fixed periodic payments, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as ~~an available~~ a resource available to the applicant or recipient, the trust shall not be counted as ~~an available resource~~ such. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource available to the applicant or recipient.

(f) If a trust is specifically exempt from being counted as ~~an available~~ a resource available to the applicant or recipient by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as ~~a resource~~ such.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted by the department of job and family services governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as ~~an available~~ a resource available to the applicant or recipient, shall be treated as provided in rules adopted by the department of job and family services governing income. Payments to any person other

than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper disposition of assets.

Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

(B) The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the department's implementation of the system and designation of participants, all of the following apply:

(1) In the case of individuals who receive medicaid on the basis of being included in the category identified by the department as covered families and children, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for individuals included in one or more of the medicaid recipient groups specified in 42 C.F.R. 438.50(d). The department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

(2) In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, the department shall implement the care management system in all counties. ~~All~~ Except as provided in division (C) of this section, all individuals included in the category shall be designated for participation~~, except for the individuals specified in divisions (B)(2)(a) to (e) of this section~~. The department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

~~In~~ (3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug addiction, and mental health services or a state agency other than the department of job and family services, but the recipients of those services may otherwise be designated for participation in the system.

(C)(1) In designating participants who receive medicaid on the basis of being aged, blind, or disabled, the department shall not include any of the following, except as provided under division (C)(2) of this section:

(a) Individuals who are under twenty-one years of age;

(b) Individuals who are institutionalized;

(c) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements;

(d) Individuals who are dually eligible under the medicaid program and the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended;

(e) Individuals to the extent that they are receiving medicaid services through a medicaid waiver component, as defined in section 5111.85 of the Revised Code.

~~(3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug addiction, and mental health services or a state agency other than the department of job and family services, but the recipients of those services may otherwise be designated for participation in the system.~~

~~(C)~~(2) If any necessary waiver of federal medicaid requirements is granted, the department may designate any of the following individuals who receive medicaid on the basis of being aged, blind, or disabled as individuals who are permitted or required to participate in the care management system:

(a) Individuals who are under twenty-one years of age;

(b) Individuals who reside in a nursing facility, as defined in section 5111.20 of the Revised Code;

(c) Individuals who, as an alternative to receiving nursing facility services, are participating in a home and community-based services medicaid waiver component, as defined in section 5111.85 of the Revised Code;

(d) Individuals who are dually eligible under the medicaid program and the medicare program.

(D) Subject to division (B) of this section, the department may do both of the following under the care management system:

(1) Require or permit participants in the system to obtain health care services from providers designated by the department;

(2) Require or permit participants in the system to obtain health care services through managed care organizations under contract with the

department pursuant to section 5111.17 of the Revised Code.

~~(D)~~(E)(1) The department shall prepare an annual report on the care management system. The report shall address the department's ability to implement the system, including all of the following components:

(a) The required designation of participants included in the category identified by the department as covered families and children;

(b) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;

(c) The use of any programs for enhanced care management.

(2) The department shall submit each annual report to the general assembly. The first report shall be submitted not later than October 1, 2007.

~~(E)~~(F) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.161. (A) As used in this section:

(1) "Children's care network" means any of the following:

(a) A children's hospital;

(b) A group of children's hospitals;

(c) A group of pediatric physicians;

(2) "Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

(B) If the department of job and family services includes in the care management system, pursuant to section 5111.16 of the Revised Code, individuals under twenty-one years of age included in the category of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, the department shall develop a system to recognize entities as pediatric accountable care organizations. The purpose of the recognition system shall be to meet the complex medical and behavioral needs of disabled children through new approaches to care coordination. The department shall implement the recognition system not later than July 1, 2012.

An entity recognized by the department as a pediatric accountable care organization may develop innovative partnerships between relevant groups and may contract directly or subcontract with the state to provide services to the medicaid recipients under twenty-one years of age described in this division who are permitted or required to participate in the care management system.

(C)(1) To be recognized by the department as a pediatric accountable care organization, an entity shall meet the standards established in rules

adopted under this section. Unless required by sections 2706 and 3022 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42 U.S.C. 1395jjj, the regulations adopted pursuant to those sections, and the laws of this state, the department shall not require that an entity be a health insuring corporation as a condition of receiving the department's recognition.

(2) Any of the following entities may receive the department's recognition, if the standards for recognition have been met:

(a) A children's care network;

(b) A children's care network that may include one or more other entities, including, but not limited to, health insuring corporations or other managed care organizations;

(c) Any other entity the department determines is qualified.

(D) The department shall consult with all of the following in adopting rules under division (E) of this section necessary for an entity to be recognized by the department as a pediatric accountable care organization:

(1) The superintendent of insurance;

(2) Children's hospitals;

(3) Managed care organizations under contract pursuant to section 5111.17 of the Revised Code;

(4) Any other relevant entities, as determined necessary by the department, with interests in pediatric accountable care organizations.

(E) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. In adopting the rules, the department shall do all of the following:

(1) Establish application procedures to be followed by an entity seeking recognition as a pediatric accountable care organization;

(2) Ensure that the standards for recognition as a pediatric accountable care organization are the same as and do not conflict with those specified in sections 2706 and 3022 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42 U.S.C. 1395jjj or the regulations adopted pursuant to those sections;

(3) Establish requirements regarding the access to pediatric specialty care provided through or by a pediatric accountable care organization;

(4) Establish accountability and financial requirements for an entity recognized as a pediatric accountable care organization;

(5) Establish quality improvement initiatives consistent with any state medicaid quality plan established by the department;

(6) Establish transparency and consumer protection requirements for an

entity recognized as a pediatric accountable care organization;

(7) Establish a process for sharing data.

(F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state.

Sec. 5111.17. (A) The department of job and family services may enter into contracts with managed care organizations, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to medical assistance recipients who are required or permitted to obtain health care services through managed care organizations as part of the care management system established under section 5111.16 of the Revised Code.

(B) The department or its actuary shall base the hospital inpatient capital payment portion of the payment made to managed care organizations on data for services provided to all recipients enrolled in managed care organizations with which the department contracts, as reported by hospitals on relevant cost reports submitted pursuant to rules adopted under this section.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

~~(C)~~(D) The department of job and family services shall allow a managed care ~~plans~~ organization to use providers to render care upon completion of the managed care ~~plan's~~ organization's credentialing process.

Sec. 5111.172. (A) When contracting under section 5111.17 of the Revised Code with a managed care organization that is a health insuring corporation, the department of job and family services ~~may~~ shall require the health insuring corporation to provide coverage of prescription drugs for medicaid recipients enrolled in the health insuring corporation. In providing the required coverage, the health insuring corporation may, subject to the department's approval and the limitations specified in division (B) of this section, use strategies for the management of drug utilization.

(B) The department shall not permit a health insuring corporation to impose a prior authorization requirement in the case of a drug to which all of the following apply:

(1) The drug is an antidepressant or antipsychotic.

(2) The drug is administered or dispensed in a standard tablet or capsule form, except that in the case of an antipsychotic, the drug also may be administered or dispensed in a long-acting injectable form.

(3) The drug is prescribed by either of the following:

(a) A physician whom the health insuring corporation, pursuant to

division (C) of section 5111.17 of the Revised Code, has credentialed to provide care as a psychiatrist;

(b) A psychiatrist practicing at a community mental health agency certified by the department of mental health under section 5119.611 of the Revised Code.

(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration.

(C) As used in this division, "controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

~~If~~ The department shall permit a health insuring corporation ~~is required under this section to provide coverage of prescription drugs, the department shall permit the health insuring corporation~~ to develop and implement a pharmacy utilization management program under which prior authorization through the program is established as a condition of obtaining a controlled substance pursuant to a prescription. The program may include processes for requiring medicaid recipients at high risk for fraud or abuse involving controlled substances to have their prescriptions for controlled substances filled by a pharmacy, medical provider, or health care facility designated by the program.

Sec. 5111.1711. (A)(1) The department of job and family services shall establish a managed care performance payment program. Under the program, the department may provide payments to managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code that meet performance standards established by the department.

(2) In establishing performance standards, the department may consult any of the following:

(a) Any quality measurements developed under the pediatric quality measures program established pursuant to 42 U.S.C. 1320b-9a;

(b) Any core set of adult health quality measures for medicaid eligible adults used for purposes of 42 U.S.C. 1320b-9b and any adult health quality used for purposes of the medicaid quality measurement program when the program is established under 42 U.S.C. 1320b-9b;

(c) The most recent healthcare effectiveness data and information set and quality measurement tool established by the national committee for quality assurance.

(3) The standards that must be met to receive the payments may be specified in the contract the department enters into with a managed care organization.

(4) If a managed care organization meets the performance standards

established by the department, the department shall make one or more performance payments to the organization. The amount of each performance payment, the number of payments, and the schedule for making the payments shall be established by the department. The payments shall be discontinued if the department determines that the organization no longer meets the performance standards. The department shall not make or discontinue payments based on any performance standard that has been in effect as part of the organization's contract for less than six months.

(B) For purposes of the program, the department shall establish an amount that is to be withheld each time a premium payment is made to a managed care organization. The amount shall be established as a percentage of each premium payment. The percentage shall be the same for all managed care organizations under contract with the department. The sum of all withholdings under this division shall not exceed one per cent of the total of all premium payments made to all managed care organizations under contract with the department.

Each managed care organization shall agree to the withholding as a condition of receiving or maintaining its medicaid provider agreement with the department.

When the amount is established and each time the amount is modified thereafter, the department shall certify the amount to the director of budget and management and begin withholding the amount from each premium the department pays to a managed care organization.

(C) There is hereby created in the state treasury the managed care performance payment fund. The fund shall consist of amounts transferred to it by the director of budget and management for the purpose of the program. All investment earnings of the fund shall be credited to the fund. Amounts in the fund shall be used solely to make performance payments to managed care organizations in accordance with this section.

(D) The department may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.20. As used in sections 5111.20 to ~~5111.34~~ 5111.331 of the Revised Code:

(A) "Allowable costs" are those costs determined by the department of job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code.

(B) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social

services, pharmacy consultants, habilitation supervisors, qualified mental retardation professionals, program directors, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, wheelchairs, resident transportation, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services under section 5111.02 of the Revised Code, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(C) "Capital costs" means costs of ownership and, in the case of an intermediate care facility for the mentally retarded, costs of nonextensive renovation.

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations under section 5111.251 of the Revised Code;

(iii) Except as provided in division (B) of this section, equipment;

(iv) In the case of an intermediate care facility for the mentally retarded, extensive renovations;

(v) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.

The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.

(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

(F)(1) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(2) The definition of "date of licensure" in this section applies in determinations of the medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded but does not apply in determinations of the franchise permit fee for a nursing facility or intermediate care facility for the mentally retarded.

(G) "Desk-reviewed" means that costs as reported on a cost report submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code

and preliminarily determined to be allowable costs.

(H) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division (H)(2) of this section, other persons holding degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (H)(1)(a), (b), and (d) of this section;

(f) Costs of consulting and management fees related to direct care;

(g) Allocated direct care home office costs.

(2) In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include costs of habilitation staff (other than habilitation supervisors), medical supplies, oxygen, over-the-counter pharmacy products, behavioral and mental health services, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, and universal precautions supplies.

(3) In addition to the costs specified in division (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:

(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified mental retardation professionals, program directors, social services staff, activities staff, off-site day programming, psychologists and psychology assistants, and social workers and counselors;

(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in division (H)(3)(a) of this section.

(4) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5111.02 of the Revised Code.

(I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(J) "Franchise permit fee" means the following:

(1) In the context of nursing facilities, the fee imposed by sections 3721.50 to 3721.58 of the Revised Code;

(2) In the context of intermediate care facilities for the mentally retarded, the fee imposed by sections 5112.30 to 5112.39 of the Revised Code.

(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in this division. Notwithstanding division (C)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(L) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a nursing facility or intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.33 or 5111.331 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

(M) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX.

(N) "Maintenance and repair expenses" means, except as provided in

division (BB)(2) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost of ordinary repairs such as painting and wallpapering.

(O) "Medicaid days" means all days during which a resident who is a ~~Medicaid~~ medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.33 or 5111.331 of the Revised Code are considered ~~Medicaid~~ medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(P) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is certified as a skilled nursing facility by the director in accordance with Title XVIII.

(Q) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded.

(R) "Other protected costs" means costs incurred by an intermediate care facility for the mentally retarded for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5111.02 of the Revised Code.

(S)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility or intermediate care facility for the mentally retarded:

(a) The land on which the facility is located;

(b) The structure in which the facility is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located;

(d) Any lease or sublease of the land or structure on or in which the facility is located.

(2) "Owner" does not mean a holder of a debenture or bond related to

the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary.

(T) "Patient" includes "resident."

(U) Except as provided in divisions (U)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.241 of the Revised Code, "per diem" means an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(V) "Provider" means an operator with a provider agreement.

(W) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medicaid program.

(X) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

(Y) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(Z) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated

with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(AA) "Relative of owner" means an individual who is related to an owner of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) Stepparent, stepchild, stepbrother, or stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster sister.

(BB) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of an intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.

(2) In the case of betterments, improvements, and restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993:

(a) "Renovation" means the betterment, improvement, or restoration of an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.

(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.

For the purposes of division (BB)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

The department of job and family services may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.

(CC) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

(DD) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 5111.21. (A) In order to be eligible for medicaid payments, the operator of a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:

(1) Enter into a provider agreement with the department as provided in section 5111.22, 5111.671, or 5111.672 of the Revised Code;

(2) Apply for and maintain a valid license to operate if so required by law;

(3) Subject to division (B) of this section, comply with all applicable state and federal laws and rules.

(B) A state rule that requires the operator of an intermediate care facility for the mentally retarded to have received approval of a plan for the proposed facility pursuant to section 5123.042 of the Revised Code as a condition of the operator being eligible for medicaid payments for the facility does not apply if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of such a plan.

(C)(1) Except as provided in division (C)(2) of this section, the operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid program shall qualify all of the facility's medicaid-certified beds in the medicare program established by Title XVIII. The director of job and family services may adopt rules under section 5111.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.

(2) The department of veterans services is not required to qualify all of the medicaid-certified beds in a nursing facility the agency maintains and operates under section 5907.01 of the Revised Code in the medicare program.

Sec. 5111.211. (A) Except as provided in ~~division~~ divisions (C) and (D) of this section, the department of developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case:

(1) The services are provided on or after July 1, 2003;

(2) The facility receives initial certification by the director of health as an intermediate care facility for the mentally retarded on or after June 1, 2003;

(3) The facility, or a portion of the facility, is licensed by the director of developmental disabilities as a residential facility under section 5123.19 of the Revised Code;

(4) There is a valid provider agreement for the facility.

(B) Each month, the department of job and family services shall invoice the department of developmental disabilities by interagency transfer voucher for the claims for which the department of developmental disabilities is responsible pursuant to this section.

(C) Division (A) of this section does not apply to claims submitted for an intermediate care facility for the mentally retarded if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of a plan for the proposed residential facility pursuant to section 5123.042 of the Revised Code.

(D) Beginning on the date the department of developmental disabilities assumes, under section 5111.226 of the Revised Code, the powers and duties of the department of job and family services regarding the medicaid program's coverage of services provided by intermediate care facilities for the mentally retarded, this section shall apply only to the extent, if any, provided in the contract required by that section.

Sec. 5111.212. As used in this section, "effective date of an involuntary termination" and "involuntary termination" have the same meanings as in section 5111.65 of the Revised Code.

Medicaid payments may be made for nursing facility services and intermediate care facility for the mentally retarded services provided not later than thirty days after the effective date of an involuntary termination of the facility that provides the services if the services are provided to a medicaid recipient who is eligible for the services and resided in the facility before the effective date of the involuntary termination.

Sec. 5111.22. A provider agreement between the department of job and family services and the provider of a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions:

(A) The department agrees to make payments to the provider, as provided in sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, for medicaid-covered services the facility provides to a resident of the facility who is a medicaid recipient. No payment shall be made for the day a medicaid recipient is discharged from the facility.

(B) The provider agrees to:

(1) Maintain eligibility as provided in section 5111.21 of the Revised Code;

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised

Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as required by the department;

(4) Open all records relating to the costs of its services for inspection and audit by the department;

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department such information as it requires concerning the facility's services to residents who are or are eligible to be medicaid recipients;

(7) Comply with section 5111.31 of the Revised Code.

The provider agreement may contain other provisions that are consistent with law and considered necessary by the department.

A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term, it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.

The department of job and family services, in accordance with rules adopted under section 5111.02 of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of medicaid recipients or of the state.

Sec. 5111.221. The department of job and family services shall make its best efforts each year to calculate rates under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code in time to use them to make the payments due to providers by the fifteenth day of August. If the department is unable to calculate the rates so that they can be paid by that date, the department shall pay each provider the rate calculated for the provider's nursing facilities and intermediate care facilities for the mentally retarded under those sections at the end of the previous fiscal year. If the department also is unable to calculate the rates to make the payments due by the fifteenth day of September and the fifteenth day of October, the department shall pay the previous fiscal year's rate to make those payments. The department may increase by five per cent the previous fiscal year's rate paid for any facility pursuant to this section at the request of the provider. The department shall use rates calculated for the current fiscal year to make the payments due by the fifteenth day of November.

If the rate paid to a provider for a facility pursuant to this section is lower than the rate calculated for the facility for the current fiscal year, the

department shall pay the provider the difference between the two rates for the number of days for which the provider was paid for the facility pursuant to this section. If the rate paid for a facility pursuant to this section is higher than the rate calculated for it for the current fiscal year, the provider shall refund to the department the difference between the two rates for the number of days for which the provider was paid for the facility pursuant to this section.

Sec. 5111.222. (A) Except as otherwise provided by sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code and by division (B) of this section, the payments that the department of job and family services shall agree to make to the provider of a nursing facility pursuant to a provider agreement shall equal the sum of all of the following:

(1) The rate for direct care costs determined for the nursing facility under section 5111.231 of the Revised Code;

(2) The rate for ancillary and support costs determined for the nursing facility's ancillary and support cost peer group under section 5111.24 of the Revised Code;

(3) The rate for tax costs determined for the nursing facility under section 5111.242 of the Revised Code;

(4) ~~The rate for franchise permit fees determined for the nursing facility under section 5111.243 of the Revised Code;~~

~~(5)~~ The quality incentive payment paid to the nursing facility under section 5111.244 of the Revised Code;

~~(6)~~(5) The ~~median~~ rate for capital costs determined for the ~~nursing facilities in the~~ nursing facility's capital costs peer group ~~as determined~~ under section 5111.25 of the Revised Code.

(B) The department shall adjust the rates otherwise determined under ~~divisions~~ division (A)~~(1), (2), (3), and (6)~~ of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of nursing facilities, including any law that ~~does either of the following:~~

~~(1) Establishes~~ establishes factors by which the rates are to be adjusted~~;~~

~~(2) Establishes a methodology for phasing in the rates determined for fiscal year 2006 under uncodified law the general assembly enacts to rates determined for subsequent fiscal years under sections 5111.20 to 5111.33 of the Revised Code~~.

Sec. 5111.224. (A) Except as otherwise provided by sections 5111.20 to 5111.331 of the Revised Code and by division (B) of this section, the payments that the department of job and family services shall agree to make to the provider of an intermediate care facility for the mentally retarded

pursuant to a provider agreement shall equal the sum of all of the following:

(1) The rate for direct care costs determined for the facility under section 5111.23 of the Revised Code;

(2) The rate for other protected costs determined for the facility under section 5111.235 of the Revised Code;

(3) The rate for indirect care costs determined for the facility under section 5111.241 of the Revised Code;

(4) The rate for capital costs determined for the facility under section 5111.251 of the Revised Code.

(B) The department shall adjust the total rate otherwise determined under division (A) of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of intermediate care facilities for the mentally retarded.

Sec. 5111.225. (A) As used in this section:

"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).

"Medicaid maximum allowable amount" means one hundred per cent of a nursing facility's per diem rate for a medicaid day.

(B) The department of job and family services shall pay the provider of a nursing facility the lesser of the following for nursing facility services the nursing facility provides on or after January 1, 2012, to a dual eligible individual who is eligible for nursing facility services under the medicaid program and post-hospital extended care services under Part A of Title XVIII:

(1) The coinsurance amount for the services as provided under Part A of Title XVIII;

(2) The medicaid maximum allowable amount for the services, less the amount paid under Part A of Title XVIII for the services.

Sec. 5111.226. Subject, if needed, to the approval of the United States secretary of health and human services, the department of job and family services shall enter into a contract with the department of developmental disabilities under section 5111.91 of the Revised Code that provides for the department of developmental disabilities to assume the powers and duties of the department of job and family services with regard to the medicaid program's coverage of services provided by intermediate care facilities for the mentally retarded. The contract shall include a schedule for the assumption of the powers and duties. Except as otherwise authorized by the United States secretary of health and human services, no provision of the contract may violate a federal law or regulation governing the medicaid

program. Once the contract goes into effect, all references to the department of job and family services, and all references to the director of job and family services, with regard to intermediate care facilities for the mentally retarded that are in law enacted by the general assembly shall be deemed to be references to the department of developmental disabilities and director of developmental disabilities, respectively, to the extent necessary to implement the terms of the contract.

Sec. 5111.23. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for direct care costs established prospectively for each facility. The department shall establish each facility's rate for direct care costs quarterly.

(B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under division (B)(2) of this section, from the calendar year preceding the fiscal year in which the rate is paid. To determine the rate, the department shall do all of the following:

(1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its average case-mix score determined under section 5111.232 of the Revised Code for the same calendar year.

(2)(a) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division ~~(E)~~(F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division ~~(D)~~(E)(2) of this section.

(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division ~~(E)~~(F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division ~~(D)~~(E)(3) of this section.

(c) In calculating the maximum cost per case-mix unit under divisions (B)(2)(a) ~~to~~ and (b) of this section for each peer group, the department shall

exclude from its calculations the cost per case-mix unit of any facility in the group that participated in the medicaid program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid.

(3) Estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the ~~employment cost~~ index ~~for total compensation, health services component, published by the United States bureau of labor statistics~~ specified in division (C) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year.

(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section or a percentage under division ~~(D)~~(E) of this section based on additional information that it receives after the maximum costs per case-mix unit or percentages are set. The department shall recalculate a maximum cost per case-mix units or percentage only if it made an error in computing the maximum cost per case-mix unit or percentage based on information available at the time of the original calculation.

(C) The department shall use the following index for the purpose of division (B)(3) of this section:

(1) The employment cost index for total compensation, health services component, published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(1) of this section, the index that is subsequently published by the bureau and covers nursing facilities' staff costs.

(D) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:

(1) Multiply the lesser of the following by the facility's average case-mix score determined under section 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division ~~(C)~~(D)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

~~(D)~~(E)(1) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992.

(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992.

~~(E)~~(F) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that specify peer groups of intermediate care facilities for the mentally retarded with more than eight beds and intermediate care facilities for the mentally retarded with eight or fewer beds, based on findings of significant per diem direct care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem direct care cost differences due to other factors which may include case-mix.

~~(F)~~(G) The department, in accordance with division (D) of section 5111.232 of the Revised Code and rules adopted under division ~~(E)~~(F) of that section, may assign case-mix scores or costs per case-mix unit if a provider fails to submit assessment data necessary to calculate an intermediate care facility for the mentally retarded's case-mix score in accordance with that section.

Sec. 5111.231. (A) As used in this section~~, "applicable~~:

(1) "Applicable calendar year" means the following:

~~(1)~~(a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

~~(2)~~(b) For the purpose of the department's ~~subsequent determinations~~

~~under division (D) of this section of each peer group's cost per case-mix unit~~ rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' cost per case-mix unit using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such costs.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semiannually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code.

(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(D)(1) ~~At least once every ten years, the~~ The department shall determine a cost per case-mix unit for each peer group established under division (C) of this section. ~~A~~ The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made by this act to this section, the cost per case-mix unit determined under this division for a peer group shall be used for subsequent years until the department ~~redetermines it~~ conducts a rebasing. To determine a peer group's cost per case-mix unit, the department shall do all of the following:

(a) Determine the cost per case-mix unit for each nursing facility in the peer group for the applicable calendar year by dividing each facility's desk-reviewed, actual, allowable, per diem direct care costs for the applicable calendar year by the facility's annual average case-mix score determined under section 5111.232 of the Revised Code for the applicable calendar year~~.~~;

(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the cost per case-mix units determined under division (D)(1)(a) of this section~~.~~;

(c) Calculate the amount that is ~~seven~~ two per cent above the cost per case-mix unit determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section~~.~~;

(d) ~~Multiply the amount calculated under division (D)(1)(c) of this section by~~ Using the index specified in division (D)(3) of this section, multiply the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year ~~using the following:~~

~~(i) In the case of the initial calculation made under division (D)(1)(d) of this section, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005;~~

~~(ii) In the case of subsequent calculations made under division (D)(1)(d) of this section and except as provided in division (D)(1)(d)(iii) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;~~

~~(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(d)(ii) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs~~ by the amount calculated under division (D)(1)(c) of this section;

(e) Until the first rebasing occurs, add one dollar and eighty-eight cents to the amount calculated under division (D)(1)(d) of this section.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose cost per case-mix unit is more than one standard deviation from the mean cost per case-mix unit for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The following index shall be used for the purpose of the calculation made under division (D)(1)(d) of this section:

(a) Until the first rebasing occurs, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005;

(b) Effective with the first rebasing and except as provided in division (D)(3)(c) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;

(c) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(3)(b) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs.

(4) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination.

Sec. 5111.232. (A)(1) The department of job and family services shall determine semiannual and annual average case-mix scores for nursing facilities by using all of the following:

(a) Data from a resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, for the following residents:

(i) When determining semiannual case-mix scores for fiscal year 2012, each resident who is a medicaid recipient;

(ii) When determining semiannual case-mix scores for fiscal year 2013 and thereafter, each resident who is a medicaid recipient and not placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data;

(iii) When determining annual average case-mix scores, each resident regardless of payment source.

(b) Except as provided in rules authorized by divisions (A)(2)(a) and (b) of this section, the case-mix values established by the United States department of health and human services;

(c) Except as modified in rules authorized by division (A)(2)(c) of this section, the grouper methodology used on June 30, 1999, by the United

States department of health and human services for prospective payment of skilled nursing facilities under the medicare program established by Title XVIII.

(2) The director of job and family services may adopt rules under section 5111.02 of the Revised Code that do any of the following:

(a) Adjust the case-mix values specified in division (A)(1)(b) of this section to reflect changes in relative wage differentials that are specific to this state;

(b) Express all of those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;

(c) Modify the grouper methodology specified in division (A)(1)(c) of this section as follows:

(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;

(ii) Prohibit the use of the index maximizer element of the methodology;

(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999;

(iv) Make other changes the department determines are necessary.

(B) The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted under section 5111.02 of the Revised Code and expressed in case-mix values established by the department in those rules.

(C) Each calendar quarter, each provider shall compile complete assessment data, from the resident assessment instrument specified in rules authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled.

Except as provided in division (D) of this section, the department, every six months and after the end of each calendar year, shall calculate a semiannual and annual average case-mix score for each nursing facility

using the facility's quarterly case-mix scores for that six-month period or calendar year. Also except as provided in division (D) of this section, the department, after the end of each calendar year, shall calculate an annual average case-mix score for each intermediate care facility for the mentally retarded using the facility's quarterly case-mix scores for that calendar year. The department shall make the calculations pursuant to procedures specified in rules adopted under section 5111.02 of the Revised Code.

(D)(1) If a provider does not timely submit information for a calendar quarter necessary to calculate a facility's case-mix score, or submits incomplete or inaccurate information for a calendar quarter, the department may assign the facility a quarterly average case-mix score that is five per cent less than the facility's quarterly average case-mix score for the preceding calendar quarter. If the facility was subject to an exception review under division (C) of section 5111.27 of the Revised Code for the preceding calendar quarter, the department may assign a quarterly average case-mix score that is five per cent less than the score determined by the exception review. If the facility was assigned a quarterly average case-mix score for the preceding quarter, the department may assign a quarterly average case-mix score that is five per cent less than that score assigned for the preceding quarter.

The department may use a quarterly average case-mix score assigned under division (D)(1) of this section, instead of a quarterly average case-mix score calculated based on the provider's submitted information, to calculate the facility's rate for direct care costs being established under section 5111.23 or 5111.231 of the Revised Code for one or more months, as specified in rules authorized by division (E) of this section, of the quarter for which the rate established under section 5111.23 or 5111.231 of the Revised Code will be paid.

Before taking action under division (D)(1) of this section, the department shall permit the provider a reasonable period of time, specified in rules authorized by division (E) of this section, to correct the information. In the case of an intermediate care facility for the mentally retarded, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the provider fails to submit corrected information prior to the eighty-first day after the end of the calendar quarter to which the information pertains. In the case of a nursing facility, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the provider fails to submit corrected information prior to the earlier of the forty-sixth day after the end of the calendar quarter to

which the information pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles XVIII and XIX.

(2) If a provider is paid a rate for a facility calculated using a quarterly average case-mix score assigned under division (D)(1) of this section for more than six months in a calendar year, the department may assign the facility a cost per case-mix unit that is five per cent less than the facility's actual or assigned cost per case-mix unit for the preceding calendar year. The department may use the assigned cost per case-mix unit, instead of calculating the facility's actual cost per case-mix unit in accordance with section 5111.23 or 5111.231 of the Revised Code, to establish the facility's rate for direct care costs for the following fiscal year.

(3) The department shall take action under division (D)(1) or (2) of this section only in accordance with rules authorized by division (E) of this section. The department shall not take an action that affects rates for prior payment periods except in accordance with sections 5111.27 and 5111.28 of the Revised Code.

(E) The director shall adopt rules under section 5111.02 of the Revised Code that do all of the following:

(1) Specify whether providers of a nursing facility must submit the assessment data to the department of job and family services;

(2) Specify the medium or media through which the completed assessment data shall be submitted;

(3) Establish procedures under which the assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction;

(4) Establish procedures for providers to correct assessment data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections by providers of nursing facilities in the manner required by regulations adopted by the United States department of health and human services under Titles XVIII and XIX.

(5) Specify when and how the department will assign case-mix scores or costs per case-mix unit under division (D) of this section if information necessary to calculate the facility's case-mix score is not provided or corrected in accordance with the procedures established by the rules. Notwithstanding any other provision of sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, the rules also may provide for the following:

(a) Exclusion of case-mix scores assigned under division (D) of this section from calculation of an intermediate care facility for the mentally

retarded's annual average case-mix score and the maximum cost per case-mix unit for the facility's peer group;

(b) Exclusion of case-mix scores assigned under division (D) of this section from calculation of a nursing facility's semiannual or annual average case-mix score and the cost per case-mix unit for the facility's peer group.

Sec. 5111.235. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for other protected costs established prospectively each fiscal year for each facility. The rate for each facility shall be the facility's desk-reviewed, actual, allowable, per diem other protected costs from the calendar year preceding the fiscal year in which the rate will be paid, all adjusted for the estimated inflation rate for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of that fiscal year. The department shall estimate inflation using the ~~consumer price~~ index ~~for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics~~ specified in division (B) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, the difference shall be added to or subtracted from the inflation rate estimated for the following year.

(B) The department shall use the following index for the purpose of division (A) of this section:

(1) The consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to publish the index specified in division (B)(1) of this section, the index that is subsequently published by the bureau and covers nonprescription drugs and medical supplies.

Sec. 5111.24. (A) As used in this section~~, "applicable~~:

(1) "Applicable calendar year" means the following:

~~(1)~~(a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's rate for ancillary and support costs, calendar year 2003;

~~(2)~~(b) For the purpose of the department's ~~subsequent determinations under division (D) of this section of each peer group's rate for ancillary and support costs~~ rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' rate for ancillary and support costs using

information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for ancillary and support costs determined for the nursing facility's peer group under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for ancillary and support costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) ~~At least once every ten years, the~~ The department shall determine the rate for ancillary and support costs for each peer group established under division (C) of this section. The department is not required to conduct a

rebasing more than once every ten years. Except as necessary to implement the amendments made by this act to this section, the rate for ancillary and support costs determined under this division for a peer group shall be used for subsequent years until the department ~~redetermines it~~ conducts a rebasing. To determine a peer group's rate for ancillary and support costs, the department shall do all of the following:

(a) ~~Determine~~ Subject to division (D)(2) of this section, determine the rate for ancillary and support costs for each nursing facility in the peer group for the applicable calendar year by using the greater of the nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been ninety per cent~~. For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.~~;

(b) Subject to division (D)~~(2)~~(3) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (D)(1)(a) of this section~~.~~;

(c) ~~Calculate the amount that is three per cent above the rate for ancillary and support costs determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section.~~

~~(d)~~ Multiply the ~~amount calculated~~ rate for ancillary and support costs determined under division (D)(1)~~(c)~~(a) of this section for the nursing facility identified under division (D)(1)(b) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:

(i) ~~In the case of the initial calculation made under division (D)(1)(d) of this section~~ Until the first rebasing occurs, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics, as that index existed on July 1, 2005;

(ii) ~~In the case of subsequent calculations made under division (D)(1)(d) of this section~~ Effective with the first rebasing and except as provided in division (D)(1)~~(d)~~(c)(iii) of this section, the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics;

(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)~~(d)~~(c)(ii) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.

(3) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

~~(3)~~(4) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if ~~it~~ the department made an error in determining the rate based on information available to the department at the time of the original determination.

Sec. 5111.241. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for each intermediate care facility for the mentally retarded shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under division (B) of this section:

(1) The facility's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division (C)(1) of this section;

(2) An efficiency incentive in the following amount:

(a) For fiscal years ending in even-numbered calendar years:

(i) In the case of intermediate care facilities for the mentally retarded with more than eight beds, seven and one-tenth per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(ii) In the case of intermediate care facilities for the mentally retarded with eight or fewer beds, seven per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(b) For fiscal years ending in odd-numbered calendar years, the amount calculated for the preceding fiscal year under division (A)(2)(a) of this section.

(B)(1) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than twelve and four-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds in the group, excluding facilities in the group whose indirect care costs for that period are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years ending in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(2) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than ten and three-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds in the group, excluding facilities in the group whose indirect care costs are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years that end in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(3) The department shall not recalculate a maximum rate for indirect care costs under division (B)(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The department shall recalculate the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available at the time of the original calculation.

(C)(1) When adjusting rates for inflation under divisions (A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid~~, using the~~. To estimate the rate of inflation, the department shall use the following:

(a) The consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(1)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(2) When adjusting rates for inflation under divisions (B)(1)(b) and (B)(2)(b) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid~~, using the~~. To estimate the rate of inflation, the department shall use the following:

(a) The consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(2)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(3) If an inflation rate estimated under division (C)(1) or (2) of this section is different from the actual inflation rate for the relevant time period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated pursuant to this division for the

following fiscal year.

(D) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that specify peer groups of intermediate care facilities for the mentally retarded with more than eight beds, and peer groups of intermediate care facilities for the mentally retarded with eight or fewer beds, based on findings of significant per diem indirect care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem indirect care cost differences due to other factors, including case-mix.

Sec. 5111.244. (A) As used in this section, "deficiency" and "standard survey" have the same meanings as in section 5111.35 of the Revised Code.

(B) ~~Each fiscal year, the~~ The department of job and family services shall pay the provider of each nursing facility a quality incentive payment. The amount of a quality incentive payment paid to a provider ~~for a fiscal year~~ shall be based on the number of points the provider's nursing facility is awarded ~~under division (C) of this section~~ for ~~that fiscal year~~ meeting accountability measures. The amount of a quality incentive payment paid to a provider of a nursing facility that is awarded no points may be zero. ~~The mean payment for fiscal year 2007, weighted by medicaid days, shall be three dollars per medicaid day. The department shall adjust the mean payment for subsequent fiscal years by the same adjustment factors the department uses to adjust, pursuant to division (B) of section 5111.222 of the Revised Code, nursing facilities' rates otherwise determined under divisions (A)(1), (2), (3), and (6) of that section.~~

(C)(1) ~~Except as provided by~~ For fiscal year 2012 only and subject to division (C)(2) of this section, the department shall ~~annually~~ award each nursing facility participating in the medicaid program ~~one point~~ points for ~~each of~~ meeting the following accountability measures ~~the facility meets~~:

(a) The facility had no health deficiencies on the facility's most recent standard survey.

(b) The facility had no health deficiencies with a scope and severity level greater than E, as determined under nursing facility certification standards established under Title XIX, on the facility's most recent standard survey.

(c) The facility's resident satisfaction is above the statewide average.

(d) The facility's family satisfaction is above the statewide average.

(e) The number of hours the facility employs nurses is above the statewide average.

(f) The facility's employee retention rate is above the average for the facility's peer group established in division (C) of section 5111.231 of the

Revised Code.

(g) The facility's occupancy rate is above the statewide average.

(h) ~~The facility's medicaid utilization rate is above the statewide average.~~

~~(i)~~ The facility's case-mix score is above the statewide average.

(i) The facility's medicaid utilization rate is above the statewide average.

(2) A nursing facility shall be awarded one point for each of the accountability measures specified in divisions (C)(1)(a) to (h) of this section that the nursing facility meets. A nursing facility shall be awarded three points for meeting the accountability measure specified in division (C)(1)(i) of this section. The department shall award points pursuant to division (C)(1)(c) or (d) of this section to a nursing facility only ~~for a fiscal year immediately following a calendar year for which~~ if a survey of resident or family satisfaction ~~has been~~ was conducted under section 173.47 of the Revised Code for the nursing facility in calendar year 2010.

(D)(1) For fiscal year 2013 and thereafter, the department shall award each nursing facility participating in the medicaid program points for meeting accountability measures in accordance with amendments to be made to this section not later than December 31, 2011, that provide for all of the following:

(a) Meaningful accountability measures of quality of care, quality of life, and nursing facility staffing;

(b) The maximum number of points that a nursing facility may earn for meeting accountability measures;

(c) A methodology for calculating the quality incentive payment that recognizes different business and care models in nursing facilities by providing flexibility in nursing facilities' ability to earn the entire quality incentive payment;

(d) A quality bonus to be paid at the end of a fiscal year in a manner that provides for all funds that the general assembly intends to be used for the quality incentive payment for that fiscal year are distributed to nursing facilities.

(2) For the purpose of division (D)(1)(d) of this section, the amount of funds that the general assembly intends to be used for the quality incentive payment for a fiscal year shall be the product of the following:

(a) The number of medicaid days in the fiscal year;

(b) The maximum quality incentive payment the general assembly has specified in law to be paid to nursing facilities for that fiscal year.

(E) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.

~~The rules shall include rules establishing the system for awarding points under division (C) of this section.~~

Sec. 5111.25. (A) As used in this section~~, "applicable~~:

(1) "Applicable calendar year" means the following:

~~(1)~~(a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's ~~median~~ rate for capital costs, calendar year 2003;

~~(2)~~(b) For the purpose of the department's ~~subsequent determinations under division (D) of this section of each peer group's median rate for capital costs~~ rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' rate for capital costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for capital costs~~. A nursing facility's rate for capital costs shall be the median rate for capital costs for the nursing facilities in~~ determined for the nursing facility's peer group ~~as determined~~ under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for capital costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize,

Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) ~~At least once every ten years, the~~ The department shall determine the ~~median~~ rate for capital costs for each peer group established under division (C) of this section. The ~~median~~ department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made by this act to this section, the rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department ~~redetermines it~~ conducts a rebasing. ~~To determine a~~ A peer group's ~~median~~ rate for capital costs shall be the rate for capital costs determined for the nursing facility in the peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year. In identifying that nursing facility, the department shall do both of the following:

(a) Subject to division (D)(2) of this section, use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been one hundred per cent~~.~~;

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

(3) The department shall not redetermine a peer group's rate for capital costs under this division based on additional information that it receives

after the rate is determined. The department shall redetermine a peer group's rate for capital costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

(E) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in capital costs unless that part of the payment under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code is used to reimburse the government agency.

(F) The capital cost basis of nursing facility assets shall be determined in the following manner:

(1) Except as provided in division (F)(3) of this section, for purposes of calculating the rates to be paid for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.

(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program established under Title XVIII, except as otherwise provided in sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code.

(3) Except as provided in division (F)(4) of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by ~~the lesser of the following:~~

~~(a) One-half of the change in construction costs during the time that the transferor held the asset, as calculated by the department of job and family services using the "Dodge building cost indexes, northeastern and north~~

~~central states," published by Marshall and Swift;~~

~~(b) One-half~~ one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

(4) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (F)(3) of this section if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (F)(4)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department of job and family services determines that the transfer is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable cost of ownership was determined most recently under division (G)(9) of this section.

(G) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (B) of this section, for a lease of a facility that

was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (B) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by ~~the lesser of the following amounts:~~

~~(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One-half~~ one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(3) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable capital costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable

capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of ~~the lessor, adjusted by the lesser of the following:~~

~~(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One-half~~ one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to division (B) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by ~~the lesser of the following:~~

~~(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One-half~~ one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

(6) Subject to division (B) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (G)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be ~~adjusted by the lesser of the following,~~ for purposes of calculating the annual amount under division (G)(2), (3), (4), or (6) of this section~~:~~

~~(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One-half~~, adjusted by one-half of the change in the consumer price

index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division (G)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division (G)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division (G)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party or previously operated the facility, the related party's or previous operator's actual, allowable capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable capital costs shall include the annual lease expense, subject to the limitations specified in divisions (G)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (G)(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department of job and family services determines that the lease is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (G)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable capital costs were determined most recently under division (G)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

Sec. 5111.251. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded for its reasonable capital costs, a per resident per day rate established prospectively each fiscal year for each intermediate care facility for the mentally retarded. Except as otherwise provided in sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, the rate shall be based on the facility's capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of the following:

(1) The facility's desk-reviewed, actual, allowable, per diem cost of ownership for the preceding cost reporting period, limited as provided in divisions (C) and (F) of this section;

(2) Any efficiency incentive determined under division (B) of this section;

(3) Any amounts for renovations determined under division (D) of this section;

(4) Any amounts for return on equity determined under division ~~(I)~~(H) of this section.

Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated by the director of job and family services in rules adopted under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department of job and family services. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or renovation unless that part of the payment under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code is used to reimburse the government agency.

(B) The department of job and family services shall pay to a provider

for each of the provider's eligible intermediate care facilities for the mentally retarded an efficiency incentive equal to fifty per cent of the difference between any desk-reviewed, actual, allowable cost of ownership and the applicable limit on cost of ownership payments under division (C) of this section. For purposes of computing the efficiency incentive, depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership, and the applicable limit under division (C) of this section shall apply both to facilities with more than eight beds and facilities with eight or fewer beds. The efficiency incentive paid to a provider for a facility with eight or fewer beds shall not exceed three dollars per patient day, adjusted annually for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(C) Cost of ownership payments for intermediate care facilities for the mentally retarded with more than eight beds shall not exceed the following limits:

(1) For facilities with dates of licensure prior to January 1, l958, not exceeding two dollars and fifty cents per patient day;

(2) For facilities with dates of licensure after December 31, l957, but prior to January 1, l968, not exceeding:

(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;

(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.

(3) For facilities with dates of licensure after December 31, l967, but prior to January 1, l976, not exceeding:

(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;

(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;

(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(4) For facilities with dates of licensure after December 31, l975, but prior to January 1, l979, not exceeding:

(a) Five dollars and fifty cents per patient day if the cost of construction

was six thousand eight hundred dollars or more per bed;

(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;

(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;

(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(5) For facilities with dates of licensure after December 31, l978, but prior to January 1, l980, not exceeding:

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;

(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;

(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;

(d) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed;

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(6) For facilities with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.

(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:

(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:

(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:

(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:

(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and sixty-seven cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;

(15) For facilities with dates of licensure after December 31, 1988, but

prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;

(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;

(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;

(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.

(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, l981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met:

(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(2) The provider has obtained prior approval from the department of job and family services. The provider shall submit a plan that describes in detail

the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of job and family services unless the increase in scope is approved by the department.

(E) The amounts specified in divisions (C) and (D) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the providers of the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section.

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

(G) Notwithstanding any provision of this section or section 5111.241 of the Revised Code, the director of job and family services may adopt rules under section 5111.02 of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

(H) ~~After the date on which a transaction of sale is closed, the provider shall refund to the department the amount of excess depreciation paid to the provider for the facility by the department for each year the provider has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the provider has received payment for the facility. For the purposes of this division, "depreciation paid to the provider for the facility" means the amount paid to the provider for the intermediate care facility for the mentally retarded for cost of ownership pursuant to this section less any amount paid for interest costs. For the purposes of this division, "excess depreciation" is the intermediate care facility for the mentally retarded's depreciated basis, which is the provider's cost less accumulated depreciation, subtracted from the purchase price but not exceeding the amount of depreciation paid to the provider for the facility.~~

~~(I)~~ The department of job and family services shall pay a provider for each of the provider's eligible proprietary intermediate care facilities for the mentally retarded a return on the facility's net equity computed at the rate of one and one-half times the average of interest rates on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period. No facility's return on net equity paid under this division shall exceed one dollar per patient day.

In calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

~~(J)~~(I)(1) Except as provided in division ~~(J)~~(I)(2) of this section, if a provider leases or transfers an interest in a facility to another provider who is a related party, the related party's allowable cost of ownership shall include the lesser of the following:

(a) The annual lease expense or actual cost of ownership, whichever is applicable;

(b) The reasonable cost to the lessor or provider making the transfer.

(2) If a provider leases or transfers an interest in a facility to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, subject to the limitations specified in divisions (B) to ~~(I)~~(H) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) In the case of a lease, if the lessor retains any ownership interest, it is, except as provided in division ~~(J)~~(I)(2)(d)(ii) of this section, in only the real property and any improvements on the real property;

(c) In the case of a transfer, the provider making the transfer retains, except as provided in division ~~(J)~~(I)(2)(d)(iv) of this section, no ownership interest in the facility;

(d) The department of job and family services determines that the lease or transfer is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a lease or transfer is an arm's length transaction if all of the following, as applicable, apply:

(i) In the case of a lease, once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division ~~(J)~~(I)(2)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) In the case of a lease, the lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) In the case of a transfer, once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(iv) In the case of a transfer, the provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer

never occurred when the department calculates its reimbursement rates for capital costs.

(v) The lease or transfer satisfies any other criteria specified in the rules.

(e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, allowable cost of ownership was determined most recently under this division.

Sec. 5111.254. (A) The department of job and family services shall establish initial rates for a nursing facility with a first date of licensure that is on or after July 1, 2006, including a facility that replaces one or more existing facilities, or for a nursing facility with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, in the following manner:

(1) The rate for direct care costs shall be the product of the cost per case-mix unit determined under division (D) of section 5111.231 of the Revised Code for the facility's peer group and the nursing facility's case-mix score. For the purpose of division (A)(1) of this section, the nursing facility's case-mix score shall be the following:

(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the median annual average case-mix score for the nursing facility's peer group;

(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and replacement nursing facilities.

(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code.

(3) The rate for capital costs shall be the ~~median~~ rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code.

(4) The rate for tax costs as defined in section 5111.242 of the Revised Code shall be the median rate for tax costs for the facility's peer group in which the facility is placed under division (C) of section 5111.24 of the Revised Code.

(5) The quality incentive payment shall be the mean payment ~~specified in division (B) of~~ made to nursing facilities under section 5111.244 of the Revised Code.

(B) Subject to division (C) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code.

(C) If a rate for direct care costs is determined under this section for a nursing facility using the median annual average case-mix score for the nursing facility's peer group, the rate shall be redetermined to reflect the replacement nursing facility's actual semiannual case-mix score determined under section 5111.232 of the Revised Code after the nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by division (E) of section 5111.232 of the Revised Code. If the nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the nursing facility's peer group in lieu of the nursing facility's semiannual case-mix score until the nursing facility submits two consecutive quarterly assessment data that qualify for use in calculating a case-mix score.

Sec. 5111.255. (A) The department of job and family services shall establish initial rates for an intermediate care facility for the mentally retarded with a first date of licensure that is on or after January 1, 1993, including a facility that replaces one or more existing facilities, or for an intermediate care facility for the mentally retarded with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, in the following manner:

(1) The rate for direct care costs shall be determined as follows:

(a) If there are no cost or resident assessment data as necessary to calculate a rate under section 5111.23 of the Revised Code, the rate shall be the median cost per case-mix unit calculated under division (B)(1) of that section for the relevant peer group for the calendar year preceding the fiscal year in which the rate will be paid, multiplied by the median annual average case-mix score for the peer group for that period and by the rate of inflation estimated under division (B)(3) of that section. This rate shall be recalculated to reflect the facility's actual quarterly average case-mix score, in accordance with that section, after it submits its first quarterly assessment data that qualifies for use in calculating a case-mix score in accordance with rules authorized by division (E) of section 5111.232 of the Revised Code. If

the facility's first two quarterly submissions do not contain assessment data that qualifies for use in calculating a case-mix score, the department shall continue to calculate the rate using the median annual case-mix score for the peer group in lieu of an assigned quarterly case-mix score. The department shall assign a case-mix score or, if necessary, a cost per case-mix unit under division (D) of section 5111.232 of the Revised Code for any subsequent submissions that do not contain assessment data that qualifies for use in calculating a case-mix score.

(b) If the facility is a replacement facility and the facility or facilities that are being replaced are in operation immediately before the replacement facility opens, the rate shall be the same as the rate for the replaced facility or facilities, proportionate to the number of beds in each replaced facility. If one or more of the replaced facilities is not in operation immediately before the replacement facility opens, its proportion shall be determined under division (A)(1)(a) of this section.

(2) The rate for other protected costs shall be one hundred fifteen per cent of the median rate for intermediate care facilities for the mentally retarded calculated for the fiscal year under section 5111.235 of the Revised Code.

(3) The rate for indirect care costs shall be the applicable maximum rate for the facility's peer group as specified in division (B) of section 5111.241 of the Revised Code.

(4) The rate for capital costs shall be determined under section 5111.251 of the Revised Code using the greater of actual inpatient days or an imputed occupancy rate of eighty per cent.

(B) The department shall adjust the rates established under division (A) of this section at both of the following times:

(1) Effective the first day of July, to reflect new rate calculations for all facilities under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code;

(2) Following the provider's submission of the facility's cost report under division (A)(1)(b) of section 5111.26 of the Revised Code.

The department shall pay the rate adjusted based on the cost report beginning the first day of the calendar quarter that begins more than ninety days after the department receives the cost report.

Sec. 5111.258. (A) Notwithstanding sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), the director of job and family services shall adopt rules under section 5111.02 of the Revised Code that establish a methodology for calculating the prospective rates that will be paid each fiscal year to a provider for each of the provider's eligible nursing facilities and intermediate care facilities for

the mentally retarded, and discrete units of the provider's nursing facilities or intermediate care facilities for the mentally retarded, that serve residents who have diagnoses or special care needs that require direct care resources that are not measured adequately by the applicable assessment instrument specified in rules authorized by section 5111.232 of the Revised Code, or who have diagnoses or special care needs specified in the rules as otherwise qualifying for consideration under this section. The facilities and units of facilities whose rates are established under this division may include, but shall not be limited to, any of the following:

(1) In the case of nursing facilities, facilities and units of facilities that serve medically fragile pediatric residents, residents who are dependent on ventilators, or residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome;

(2) In the case of intermediate care facilities for the mentally retarded, facilities and units of facilities that serve residents who have complex medical conditions or severe behavioral problems.

The department shall use the methodology established under this division to pay for services rendered by such facilities and units after June 30, 1993.

The rules authorized by this division shall specify the criteria and procedures the department will apply when designating facilities and units that qualify for calculation of rates under this division. The criteria shall include consideration of whether all of the allowable costs of the facility or unit would be paid by rates established under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, and shall establish a minimum bed size for a facility or unit to qualify to have its rates established under this division. The criteria shall not be designed to require that residents be served only in facilities located in large cities. The methodology established by the rules shall consider the historical costs of providing care to the residents of the facilities or units.

The rules may require that a facility designated under this division or containing a unit designated under this division receive authorization from the department to admit or retain a resident to the facility or unit and shall specify the criteria and procedures the department will apply when granting that authorization.

Notwithstanding any other provision of sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), the costs incurred by facilities or units whose rates are established under this division shall not be considered in establishing payment rates for other facilities or units.

(B) The director may adopt rules under section 5111.02 of the Revised Code under which the department, notwithstanding any other provision of sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), may adjust the rates determined under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code for a facility that serves a resident who has a diagnosis or special care need that, in the rules authorized by division (A) of this section, would qualify a facility or unit of a facility to have its rate determined under that division, but who is not in such a unit. The rules may require that a facility that qualifies for a rate adjustment under this division receive authorization from the department to admit or retain a resident who qualifies the facility for the rate adjustment and shall specify the criteria and procedures the department will apply when granting that authorization.

Sec. 5111.259. The director of job and family services may submit a request to the United States secretary of health and human services for approval to establish a centers of excellence component of the medicaid program. The purpose of the centers of excellence component is to increase the efficiency and quality of nursing facility services provided to medicaid recipients with complex nursing facility service needs. If federal approval for the centers of excellence component is granted, the director may adopt rules under section 5111.02 of the Revised Code governing the component, including rules that establish a method of determining the medicaid reimbursement rates for nursing facilities providing nursing facility services to medicaid recipients participating in the component. The rules may specify the extent to which, if any, of the provisions of section 5111.258 of the Revised Code are to apply to the centers of excellence component. If such rules are adopted, the nursing facilities that provide nursing facility services to medicaid recipients participating in the centers of excellence component shall be paid for those services in accordance with the method established in the rules notwithstanding anything to the contrary in sections 5111.20 to 5111.331 of the Revised Code.

Sec. 5111.261. (A) Except as provided in division (B) of this section and not later than three years after a provider files a cost report with the department of job and family services under section 5111.26 of the Revised Code, the provider may amend the cost report if the provider discovers a material error in the cost report or additional information to be included in the cost report. The department shall review the amended cost report for accuracy and notify the provider of its determination.

(B) A provider may not amend a cost report if the department has notified the provider that an audit of the cost report or a cost report of the

provider for a subsequent cost reporting period is to be conducted under section 5111.27 of the Revised Code. The provider may, however, provide the department information that affects the costs included in the cost report. Such information may not be provided after the adjudication of the final settlement of the cost report.

Sec. 5111.262. No person, other than the provider of a nursing facility, shall submit a claim for medicaid reimbursement for a service provided to a nursing facility resident if the service is included in a medicaid payment made to the provider of a nursing facility under sections 5111.20 to 5111.33 of the Revised Code or in the reimbursable expenses reported on a provider's cost report for a nursing facility. No provider of a nursing facility shall submit a separate claim for medicaid reimbursement for a service provided to a resident of the nursing facility if the service is included in a medicaid payment made to the provider under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code or in the reimbursable expenses on the provider's cost report for the nursing facility.

Sec. ~~5111.261~~ 5111.263. Except as otherwise provided in section 5111.264 of the Revised Code, the department of job and family services, in determining whether an intermediate care facility for the mentally retarded's direct care costs and indirect care costs are allowable, shall place no limit on specific categories of reasonable costs other than compensation of owners, compensation of relatives of owners, and compensation of administrators.

Compensation cost limits for owners and relatives of owners shall be based on compensation costs for individuals who hold comparable positions but who are not owners or relatives of owners, as reported on facility cost reports. As used in this section, "comparable position" means the position that is held by the owner or the owner's relative, if that position is listed separately on the cost report form, or if the position is not listed separately, the group of positions that is listed on the cost report form and that includes the position held by the owner or the owner's relative. In the case of an owner or owner's relative who serves the facility in a capacity such as corporate officer, proprietor, or partner for which no comparable position or group of positions is listed on the cost report form, the compensation cost limit shall be based on civil service equivalents and shall be specified in rules adopted under section 5111.02 of the Revised Code.

Compensation cost limits for administrators shall be based on compensation costs for administrators who are not owners or relatives of owners, as reported on facility cost reports. Compensation cost limits for administrators of four or more intermediate care facilities for the mentally retarded shall be the same as the limits for administrators of intermediate

care facilities for the mentally retarded with one hundred fifty or more beds.

Sec. 5111.27. (A) The department of job and family services shall conduct a desk review of each cost report it receives under section 5111.26 of the Revised Code. Based on the desk review, the department shall make a preliminary determination of whether the reported costs are allowable costs. The department shall notify each provider of whether any of the reported costs are preliminarily determined not to be allowable, the rate calculation under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code that results from that determination, and the reasons for the determination and resulting rate. The department shall allow the provider to verify the calculation and submit additional information.

(B) The department may conduct an audit, as defined by rule adopted under section 5111.02 of the Revised Code, of any cost report ~~and shall notify the provider of its findings.~~

~~Audits shall be conducted by auditors under contract with or employed by the department~~. The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, ~~shall~~ may be determined based on prior performance of the provider ~~and may be based on~~, a risk analysis, or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors. An audit shall be conducted by auditors under contract with or employed by the department. The department shall notify a provider of the findings of an audit by issuing an audit report. An audit report regarding a nursing facility shall include notice of any fine imposed under section 5111.271 of the Revised Code. The department shall issue the audit report no later than three years after the cost report is filed, or upon the completion of a desk or field audit on the report or a report for a subsequent cost reporting period, whichever is earlier. ~~During the time within which the department may issue an audit report, the provider may amend the cost report upon discovery of a material error or material additional information. The department shall review the amended cost report for accuracy and notify the provider of its determination.~~

The department may establish a contract for the auditing of facilities by outside firms. Each contract entered into by bidding shall be effective for one to two years. The department shall establish an audit manual and program which shall require that all field audits, conducted either pursuant to a contract or by department employees:

(1) Comply with the applicable rules prescribed pursuant to Titles XVIII and XIX;

(2) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;

(3) Include a written summary as to whether the costs included in the report examined during the audit are allowable and are presented ~~fairly~~ in accordance with ~~generally accepted accounting principles and department rules~~ state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;

(4) Are conducted by accounting firms or auditors who, during the period of the auditors' professional engagement or employment and during the period covered by the cost reports, do not have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;

(5) Are conducted by accounting firms or auditors who, as a condition of the contract or employment, shall not audit any facility that has been a client of the firm or auditor;

(6) Are conducted by auditors who are otherwise independent as determined by the standards of independence ~~established by~~ included in the ~~American institute of certified public accountants~~ government auditing standards produced by the United States government accountability office;

(7) Are completed within the time period specified by the department;

(8) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's facility is entitled.

For the purposes of division (B)(4) of this section, employment of a member of an auditor's family by a nursing facility or intermediate care facility for the mentally retarded that the auditor does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

(C) The department, pursuant to rules adopted under section 5111.02 of the Revised Code, may conduct an exception review of assessment data submitted under section 5111.232 of the Revised Code. The department may conduct an exception review based on the findings of a certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.

Exception reviews shall be conducted at the facility by appropriate

health professionals under contract with or employed by the department of job and family services. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate assessments and resulting inaccurate case-mix scores.

The rules shall establish an exception review program that requires that exception reviews do all of the following:

(1) Comply with Titles XVIII and XIX;

(2) Provide a written summary that states whether the resident assessment forms have been completed accurately;

(3) Are conducted by health professionals who, during the period of their professional engagement or employment with the department, neither have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;

(4) Are conducted by health professionals who, as a condition of their engagement or employment with the department, shall not review any provider that has been a client of the professional.

For the purposes of division (C)(3) of this section, employment of a member of a health professional's family by a nursing facility or intermediate care facility for the mentally retarded that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

If an exception review is conducted before the effective date of the rate that is based on the case-mix data subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the department, in accordance with those rules, may use the findings to recalculate individual resident case-mix scores, quarterly average facility case-mix scores, and annual average facility case-mix scores. The department may use the recalculated quarterly and annual facility average case-mix scores to calculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters.

(D) The department shall prepare a written summary of any audit disallowance or exception review finding that is made after the effective date of the rate that is based on the cost or case-mix data. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance or finding, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5111.28 of the Revised Code.

(E) The department shall not reduce rates calculated under sections

5111.20 to ~~5111.33~~ 5111.331 of the Revised Code on the basis that the provider charges a lower rate to any resident who is not eligible for the medicaid program.

(F) The department shall adjust the rates calculated under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code to account for reasonable additional costs that must be incurred by intermediate care facilities for the mentally retarded to comply with requirements of federal or state statutes, rules, or policies enacted or amended after January 1, 1992, or with orders issued by state or local fire authorities.

Sec. 5111.271. (A) Subject to division (D) of this section, the department of job and family services shall fine the provider of a nursing facility if the report of an audit conducted under division (B) of section 5111.27 of the Revised Code regarding a cost report for the nursing facility includes either of the following:

(1) Adverse findings that exceed three per cent of the total amount of medicaid-reimbursable costs reported in the cost report;

(2) Adverse findings that exceed twenty per cent of medicaid-reimbursable costs for a particular cost center reported in the cost report.

(B) A fine issued under this section shall equal the greatest of the following:

(1) If the adverse findings exceed three per cent but do not exceed ten per cent of the total amount of medicaid-reimbursable costs reported in the cost report, the greater of three per cent of those reported costs or ten thousand dollars;

(2) If the adverse findings exceed ten per cent but do not exceed twenty per cent of the total amount of medicaid-reimbursable costs reported in the cost report, the greater of six per cent of those reported costs or twenty-five thousand dollars;

(3) If the adverse findings exceed twenty per cent of the total amount of medicaid-reimbursable costs reported in the cost report, the greater of ten per cent of those reported costs or fifty thousand dollars;

(4) If the adverse findings exceed twenty per cent but do not exceed twenty-five per cent of medicaid-reimbursable costs for a particular cost center reported in the cost report, the greater of three per cent of the total amount of medicaid-reimbursable costs reported in the cost report or ten thousand dollars;

(5) If the adverse findings exceed twenty-five per cent but do not exceed thirty per cent of medicaid-reimbursable costs for a particular cost center reported in the cost report, the greater of six per cent of the total amount of

medicaid-reimbursable costs reported in the cost report or twenty-five thousand dollars;

(6) If the adverse findings exceed thirty per cent of medicaid-reimbursable costs for a particular cost center reported in the cost report, the greater of ten per cent of the total amount of medicaid-reimbursable costs reported in the cost report or fifty thousand dollars.

(C) Fines paid under this section shall be deposited into the health care services administration fund created under section 5111.94 of the Revised Code.

(D) The department may not collect a fine under this section until all appeal rights relating to the audit report that is the basis for the fine are exhausted.

Sec. 5111.28. (A) If a provider properly amends its cost report under section ~~5111.27~~ 5111.261 of the Revised Code and the amended report shows that the provider received a lower rate under the original cost report than it was entitled to receive, the department of job and family services shall adjust the provider's rate prospectively to reflect the corrected information. The department shall pay the adjusted rate beginning two months after the first day of the month after the provider files the amended cost report. If the department finds, from an exception review of resident assessment information conducted after the effective date of the rate for direct care costs that is based on the assessment information, that inaccurate assessment information resulted in the provider receiving a lower rate than it was entitled to receive, the department prospectively shall adjust the provider's rate accordingly and shall make payments using the adjusted rate for the remainder of the calendar quarter for which the assessment information is used to determine the rate, beginning one month after the first day of the month after the exception review is completed.

(B) If the provider properly amends its cost report under section ~~5111.27~~ 5111.261 of the Revised Code, the department makes a finding based on an audit under ~~that~~ section 5111.27 of the Revised Code, or the department makes a finding based on an exception review of resident assessment information conducted under ~~that~~ section 5111.27 of the Revised Code after the effective date of the rate for direct care costs that is based on the assessment information, any of which results in a determination that the provider has received a higher rate than it was entitled to receive, the department shall recalculate the provider's rate using the revised information. The department shall apply the recalculated rate to the periods when the provider received the incorrect rate to determine the amount of the

overpayment. The provider shall refund the amount of the overpayment.

In addition to requiring a refund under this division, the department may charge the provider interest at the applicable rate specified in this division from the time the overpayment was made.

(1) If the overpayment resulted from costs reported for calendar year 1993, the interest shall be no greater than one and one-half times the average bank prime rate.

(2) If the overpayment resulted from costs reported for subsequent calendar years:

(a) The interest shall be no greater than two times the average bank prime rate if the overpayment was equal to or less than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.

(b) The interest shall be no greater than two and one-half times the current average bank prime rate if the overpayment was greater than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.

(C) The department also may impose the following penalties:

(1) If a provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, no more than the greater of one thousand dollars per audit or twenty-five per cent of the cumulative amount by which the costs for which documentation was not furnished increased the total medicaid payments to the provider during the fiscal year for which the costs were used to establish a rate;

(2) If an exiting operator or owner fails to provide notice of a facility closure, voluntary termination, or voluntary withdrawal of participation in the medicaid program as required by section 5111.66 of the Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5111.67 of the Revised Code, no more than the current average bank prime rate plus four per cent of the last two monthly payments.

(D) If the provider continues to participate in the medicaid program, the department shall deduct any amount that the provider is required to refund under this section, and the amount of any interest charged or penalty imposed under this section, from the next available payment from the department to the provider. The department and the provider may enter into an agreement under which the amount, together with interest, is deducted in installments from payments from the department to the provider.

(E) The department shall transmit refunds and penalties to the treasurer of state for deposit in the general revenue fund.

(F) For the purpose of this section, the department shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the department shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

Sec. 5111.29. (A) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that establish a process under which a provider, or a group or association of providers, may seek reconsideration of rates established under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, including a rate for direct care costs recalculated before the effective date of the rate as a result of an exception review of resident assessment information conducted under section 5111.27 of the Revised Code.

(1) Except as provided in divisions (A)(2) to (4) of this section, the only issue that a provider, group, or association may raise in the rate reconsideration shall be whether the rate was calculated in accordance with sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code and the rules adopted under section 5111.02 of the Revised Code. The rules shall permit a provider, group, or association to submit written arguments or other materials that support its position. The rules shall specify time frames within which the provider, group, or association and the department must act. If the department determines, as a result of the rate reconsideration, that the rate established for one or more facilities of a provider is less than the rate to which the facility is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the provider the difference between the amount the provider was paid for that period for the facility and the amount the provider should have been paid for the facility.

(2) The rules shall provide that during a fiscal year, the department, by means of the rate reconsideration process, may increase the rate determined for an intermediate care facility for the mentally retarded as calculated under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code if the provider of the facility demonstrates that the facility's actual, allowable costs have increased because of extreme circumstances. A facility may qualify for a rate increase only if the facility's per diem, actual, allowable costs have increased to a level that exceeds its total rate. The rules shall specify the circumstances that would justify a rate increase under division (A)(2) of this section. The rules shall provide that the extreme circumstances include

natural disasters, renovations approved under division (D) of section 5111.251 of the Revised Code, an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program, increased security costs for an inner-city facility, and a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. An increase under division (A)(2) of this section is subject to any rate limitations or maximum rates established by sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code for specific cost centers. Any rate increase granted under division (A)(2) of this section shall take effect on the first day of the first month after the department receives the request.

(3) The rules shall provide that the department, through the rate reconsideration process, may increase an intermediate care facility for the mentally retarded's rate as calculated under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code if the department, in the department's sole discretion, determines that the rate as calculated under those sections works an extreme hardship on the facility.

(4) The rules shall provide that when beds certified for the medicaid program are added to an existing intermediate care facility for the mentally retarded or replaced at the same site, the department, through the rate reconsideration process, shall increase the intermediate care facility for the mentally retarded's rate for capital costs proportionately, as limited by any applicable limitation under section 5111.251 of the Revised Code, to account for the costs of the beds that are added or replaced. The department shall make this increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under division (A)(4) of this section after June 30, 1993, shall remain in effect until the effective date of a rate calculated under section 5111.251 of the Revised Code that includes costs incurred for a full calendar year for the bed addition or bed replacement. The facility shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under division (A)(4) of this section, if the facility is operated by the same provider, the provider shall subtract from the interest costs it reports on its cost report an amount equal to the difference between the following:

(a) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;

(b) The actual, allowable interest costs attributable to the loan that were

used to calculate the rates paid to the provider for the facility during the same calendar year.

(5) The department's decision at the conclusion of the reconsideration process shall not be subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.

(B) All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Any audit disallowance that the department makes as the result of an audit under section 5111.27 of the Revised Code;

(2) Any adverse finding that results from an exception review of resident assessment information conducted under section 5111.27 of the Revised Code after the effective date of the facility's rate that is based on the assessment information;

(3) Any medicaid payment deemed an overpayment under section 5111.683 of the Revised Code;

(4) Any penalty the department imposes under division (C) of section 5111.28 of the Revised Code or section 5111.683 of the Revised Code.

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, the department of job and family services may compute the rate for intermediate care facilities for the mentally retarded operated by the department of developmental disabilities or the department of mental health according to the reasonable cost principles of Title XVIII.

Sec. 5111.33. Reimbursement to a provider of an intermediate care facility for the mentally retarded under sections 5111.20 to ~~5111.32~~ 5111.331 of the Revised Code shall include payments to the provider, at a rate equal to the percentage of the per resident per day rates that the department of job and family services has established for the provider's ~~nursing facility or intermediate care~~ facility ~~for the mentally retarded~~ under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code for the fiscal year for which the cost of services is reimbursed, to reserve a bed for a recipient during a temporary absence under conditions prescribed by the department, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the facility, when the resident's plan of care provides for such absence and federal participation in the payments is available. The maximum period during which payments may be made to reserve a bed shall not exceed the maximum period specified under federal regulations, and shall not be more than thirty days during any calendar year for hospital stays, visits with relatives and friends, and participation in therapeutic programs.

Recipients ~~who have been identified by the department as requiring the~~

~~level of care of an intermediate care facility for the mentally retarded~~ shall not be subject to a maximum period during which payments may be made to reserve a bed in an intermediate care facility for the mentally retarded if prior authorization of the department is obtained for hospital stays, visits with relatives and friends, and participation in therapeutic programs. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code establishing conditions under which prior authorization may be obtained.

Sec. 5111.331. (A) The department of job and family services may make payments to a provider of a nursing facility under sections 5111.20 to 5111.331 of the Revised Code to reserve a bed for a recipient during a temporary absence under conditions prescribed by the department, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the facility, when the resident's plan of care provides for such absence and federal participation in the payments is available.

(B) The maximum period for which payments may be made to reserve a bed in a nursing facility shall not exceed thirty days in a calendar year.

(C) The department shall establish the per diem rates to be paid to providers of nursing facilities for reserving beds under this section. In establishing the per diem rates, the department shall do the following:

(1) In the case of a payment to reserve a bed for a day during calendar year 2011, set the per diem rate at an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day;

(2) In the case of a payment to reserve a bed for a day during calendar year 2012 and each calendar year thereafter, set the per diem rate at an amount equal to the following:

(a) In the case of a nursing facility that had an occupancy rate in the preceding calendar year exceeding ninety-five per cent, an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day;

(b) In the case of a nursing facility that had an occupancy rate in the preceding calendar year not exceeding ninety-five per cent, an amount not exceeding eighteen per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day.

Sec. 5111.35. As used in this section "a resident's rights" means the rights of a nursing facility resident under sections 3721.10 to 3721.17 of the Revised Code and subsection (c) of section 1819 or 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and

regulations issued under those subsections.

As used in sections 5111.35 to 5111.62 of the Revised Code:

(A) "Certification requirements" means the requirements for nursing facilities established under sections 1819 and 1919 of the "Social Security Act."

(B) "Compliance" means substantially meeting all applicable certification requirements.

(C) "Contracting agency" means a state agency that has entered into a contract with the department of job and family services under section 5111.38 of the Revised Code.

(D)(1) "Deficiency" means a finding cited by the department of health during a survey, on the basis of one or more actions, practices, situations, or incidents occurring at a nursing facility, that constitutes a severity level three finding, severity level four finding, scope level three finding, or scope level four finding. Whenever the finding is a repeat finding, "deficiency" also includes any finding that is a severity level two and scope level one finding, a severity level two and scope level two finding, or a severity level one and scope level two finding.

(2) "Cluster of deficiencies" means deficiencies that result from noncompliance with two or more certification requirements and are causing or resulting from the same action, practice, situation, or incident.

(E) "Emergency" means either of the following:

(1) A deficiency or cluster of deficiencies that creates a condition of immediate jeopardy;

(2) An unexpected situation or sudden occurrence of a serious or urgent nature that creates a substantial likelihood that one or more residents of a nursing facility may be seriously harmed if allowed to remain in the facility, including the following:

(a) A flood or other natural disaster, civil disaster, or similar event;

(b) A labor strike that suddenly causes the number of staff members in a nursing facility to be below that necessary for resident care.

(F) "Finding" means a finding of noncompliance with certification requirements determined by the department of health under section 5111.41 of the Revised Code.

(G) "Immediate jeopardy" means that one or more residents of a nursing facility are in imminent danger of serious physical or life-threatening harm.

(H) "Medicaid eligible resident" means a person who is a resident of a nursing facility, or is applying for admission to a nursing facility, and is eligible to receive financial assistance under the medical assistance program for the care the person receives in such a facility.

(I) "Noncompliance" means failure to substantially meet all applicable certification requirements.

(J) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(K) "Provider" means a person, institution, or entity that furnishes nursing facility services under a medical assistance program provider agreement.

(L) "Provider agreement" means a contract between the department of job and family services and a provider for the provision of nursing facility services under the medicaid program.

(M) "Repeat finding" or "repeat deficiency" means a finding or deficiency cited pursuant to a survey, to which both of the following apply:

(1) The finding or deficiency involves noncompliance with the same certification requirement, and the same kind of actions, practices, situations, or incidents caused by or resulting from the noncompliance, as were cited in the immediately preceding standard survey or another survey conducted subsequent to the immediately preceding standard survey of the facility. For purposes of this division, actions, practices, situations, or incidents may be of the same kind even though they involve different residents, staff, or parts of the facility.

(2) The finding or deficiency is cited subsequent to a determination by the department of health that the finding or deficiency cited on the immediately preceding standard survey, or another survey conducted subsequent to the immediately preceding standard survey, had been corrected.

~~(M)~~(N)(1) "Scope level one finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect one or a very limited number of facility residents and involve one or a very limited number of facility staff members.

(2) "Scope level two finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect more than a limited number of facility residents or involve more than a limited number of facility staff members, but the number or percentage of facility residents affected or staff members involved and the number or frequency of the actions, situations, practices, or incidents in short succession does not establish any reasonable degree of predictability of similar actions, situations, practices, or incidents occurring in the future.

(3) "Scope level three finding" means a finding of noncompliance by a

nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect more than a limited number of facility residents or involve more than a limited number of facility staff members, and the number or percentage of facility residents affected or staff members involved or the number or frequency of the actions, situations, practices, or incidents in short succession establishes a reasonable degree of predictability of similar actions, situations, practices, or incidents occurring in the future.

(4) "Scope level four finding" means a finding of noncompliance by a nursing facility causing or resulting from actions, situations, practices, or incidents that involve a sufficient number or percentage of facility residents or staff members or occur with sufficient regularity over time that the noncompliance can be considered systemic or pervasive in the facility.

~~(N)~~(O)(1) "Severity level one finding" means a finding of noncompliance by a nursing facility that has not caused and, if continued, is unlikely to cause physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(2) "Severity level two finding" means a finding of noncompliance by a nursing facility that, if continued over time, will cause, or is likely to cause, physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(3) "Severity level three finding" means a finding of noncompliance by a nursing facility that has caused physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(4) "Severity level four finding" means a finding of noncompliance by a nursing facility that has caused life-threatening harm to a facility resident or caused a resident's death.

~~(O)~~(P) "State agency" has the same meaning as in section 1.60 of the Revised Code.

~~(P)~~(Q) "Substandard care" means care furnished in a facility in which the department of health has cited a deficiency or deficiencies that constitute one of the following:

(1) A severity level four finding, regardless of scope;

(2) A severity level three and scope level four finding, in the quality of care provided to residents;

(3) A severity level three and scope level three finding, in the quality of care provided to residents.

~~(Q)~~(R)(1) "Survey" means a survey of a nursing facility conducted under section 5111.39 of the Revised Code.

(2) "Standard survey" means a survey conducted by the department of health under division (A) of section 5111.39 of the Revised Code and includes an extended survey.

(3) "Follow-up survey" means a survey conducted by the department of health to determine whether a nursing facility has substantially corrected deficiencies cited in a previous survey.

Sec. 5111.511. (A) If the department of job and family services determines that a nursing facility is experiencing or is likely to experience a serious financial loss or failure that jeopardizes or is likely to jeopardize the health, safety, and welfare of its residents, the department, subject to the provider's consent, may appoint a temporary resident safety assurance manager in the nursing facility to take actions the department determines are appropriate to ensure the health, safety, and welfare of the residents.

(B) A temporary resident safety assurance manager appointed under this section is vested with the authority necessary to take actions the department of job and family services determines are appropriate to ensure the health, safety, and welfare of the residents.

(C) A temporary resident safety assurance manager appointed under this section may use any of the following funds to pay for costs the manager incurs on behalf of the nursing facility:

(1) Medicaid payments made in accordance with the provider agreement for the nursing facility;

(2) Funds from the residents protection fund that the department provides the manager under section 5111.62 of the Revised Code;

(3) Other funds the department determines are appropriate if such use of the funds is consistent with the appropriations that authorize the use of the funds and all other state and federal laws governing the use of the funds.

(D) The provider is liable to the department for the amount of any payments the department makes to the temporary resident safety assurance manager, other than payments specified in division (C)(1) of this section. The department may recover the amount the provider owes the department by doing any of the following:

(1) Offsetting medicaid payments made to the provider in accordance with the provider agreement;

(2) Placing a lien on any of the provider's real and personal property;

(3) Initiating other collection actions.

(E) No action the department takes under this section is subject to appeal under Chapter 119. of the Revised Code.

(F) In rules adopted under section 5111.36 of the Revised Code, the director of job and family services may establish all of the following:

(1) Qualifications persons must meet to be appointed temporary resident safety assurance managers under this section;

(2) Procedures for maintaining a list of qualified temporary resident safety assurance managers;

(3) Procedures consistent with federal law for paying for the services of temporary resident safety assurance managers;

(4) Accounting and reporting requirements for temporary resident safety assurance managers;

(5) Other procedures and requirements the director determines are necessary to implement this section.

Sec. 5111.52. (A) As used in this section~~:~~

~~(1) "Provider agreement" means a contract between the department of job and family services and a nursing facility for the provision of nursing facility services under the medical assistance program.~~

~~(2) "Terminating"~~, "terminating" includes not renewing.

(B) A nursing facility's participation in the medical assistance program shall be terminated under sections 5111.35 to 5111.62 of the Revised Code as follows:

(1) If the department of job and family services is terminating the facility's participation, it shall issue an order terminating the facility's provider agreement.

(2) If the department of health, acting as a contracting agency, is terminating the facility's participation, it shall issue an order terminating certification of the facility's compliance with certification requirements. When the department of health terminates certification, the department of job and family services shall terminate the facility's provider agreement. The department of job and family services is not required to provide an adjudication hearing when it terminates a provider agreement following termination of certification by the department of health.

(3) If a state agency other than the department of health, acting as a contracting agency, is terminating the facility's participation, it shall notify the department of job and family services, and the department of job and family services shall issue an order terminating the facility's provider agreement. The contracting agency shall conduct any administrative proceedings concerning the order.

(C) If the following conditions are met, the department of job and family services may make medical assistance payments to a nursing facility for a period not exceeding thirty days after the effective date of termination

under sections 5111.35 to 5111.62 of the Revised Code of the facility's participation in the medical assistance program:

(1) The payments are for medicaid eligible residents admitted to the facility prior to the effective date of the termination;

(2) The provider is making reasonable efforts to transfer medicaid eligible residents to other care settings.

The period during which payments may be made under this division begins on the later of the effective date of the termination or, if the facility has appealed a termination order, the date of issuance of the adjudication order upholding termination.

Sec. 5111.54. (A) A temporary manager of a nursing facility appointed by the department of job and family services or a contracting agency under sections 5111.35 to 5111.62 of the Revised Code shall meet all of the following qualifications:

(1) Be licensed as a nursing home administrator under Chapter 4751. of the Revised Code;

(2) Have demonstrated competence as a nursing home administrator;

(3) Have had no disciplinary action taken against the temporary manager by any licensing board or professional society in this state.

(B) The salary of a temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall be paid by the facility and set by the department of job and family services or contracting agency, in the case of a temporary manager, or by the court, in the case of a special master, at a rate not to exceed the maximum allowable compensation for an administrator under the medical assistance program. The extent to which this compensation is allowable under the medical assistance program is subject to and limited by this chapter and rules of the department.

Subject to division (C) of this section, any costs incurred on behalf of a nursing facility by a temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall be paid by the facility. The allowability of these costs under the medical assistance program shall be subject to and governed by this chapter and the rules of the department. This division does not prohibit a facility from applying for or receiving any waiver of cost ceilings available under rules of the department.

(C) No temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall enter into any employment contract on behalf of a facility, or purchase any capital goods using facility funds totaling more than ten thousand dollars, unless the temporary manager or special master has obtained prior approval for the contract or purchase

from either the provider or the court.

(D)(1) A temporary manager appointed for a nursing facility under section 5111.46 of the Revised Code is hereby vested, subject to division (C) of this section, with the legal authority necessary to correct any deficiency or cluster of deficiencies at a facility, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(2) A temporary manager appointed under section 5111.51 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to eliminate the emergency, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(3) A temporary manager appointed under section 5111.53 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to ensure the transfer of medicaid eligible residents to other appropriate care settings and, if applicable, the orderly closure of the facility, and to otherwise ensure the health and safety of the residents.

(E) Prior to acting under division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code to appoint a temporary manager or apply for a special master, the department of job and family services or contracting agency shall order the facility to substantially correct the deficiency or deficiencies within five days after receiving the statement and inform the facility, in the statement it provides pursuant to division (B) of section 5111.49 of the Revised Code, of the order and that it will not take that action unless the facility fails to substantially correct the deficiency or deficiencies within that five-day period. At the end of the five-day period, the department of health shall conduct a follow-up survey that focuses on the deficiency or deficiencies. If the department of health determines that the facility has substantially corrected the deficiency or deficiencies within that time, the department of job and family services or contracting agency shall not appoint a temporary manager or apply for a special master. If the department of health determines that the facility has failed to substantially correct the deficiency or deficiencies within that time, the department of job and family services or contracting agency may proceed with appointment of the temporary manager or application for a special master. Until the statement required under division (B) of section 5111.49 of the Revised Code is actually delivered, no action taken by the department or agency to appoint a temporary manager or apply for a temporary manager under division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code shall have any legal effect. No action taken by a facility under this division to substantially

correct a deficiency or deficiencies shall be considered an admission by the facility of the existence of a deficiency or deficiencies.

(F) Appointment of a temporary manager under division (A)(1)(b) or (2)(b) of section 5111.46 or division (A)(1)(d) of section 5111.51 of the Revised Code shall expire at the end of the seventh day following the appointment. If the department of job and family services or contracting agency finds that the deficiency or deficiencies that prompted the appointment under division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code cannot be substantially corrected, or the condition of immediate jeopardy that prompted the appointment under division (A)(1)(d) of section 5111.51 of the Revised Code cannot be eliminated, prior to the expiration of the appointment, it may take one of the following actions:

(1) Appoint, subject to the continuing consent of the provider, a temporary manager for the facility;

(2) Apply to the common pleas court of the county in which the facility is located for an order appointing a special master who, under the authority and direct supervision of the court and subject to divisions (B) and (C) of this section, may take such additional actions as are necessary to correct the deficiency or deficiencies or eliminate the condition of immediate jeopardy and bring the facility into compliance with certification requirements.

(G) The court, on finding that the deficiency or deficiencies for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code has been substantially corrected, or the emergency for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (B)(2) of section 5111.51 of the Revised Code has been eliminated, that the facility has been brought into compliance with certification requirements, and that the provider has established the management capability to ensure continued compliance with the certification requirements, shall immediately terminate its jurisdiction over the facility and return control and management of the facility to the provider. If the deficiency or deficiencies cannot be substantially corrected, or the emergency cannot be eliminated practicably within a reasonable time following appointment of the special master, the court may order the special master to close the facility and transfer all residents to other nursing facilities or other appropriate care settings.

(H) This section does not apply to temporary resident safety assurance managers appointed under section 5111.511 of the Revised Code.

Sec. 5111.62. The proceeds of all fines, including interest, collected under sections 5111.35 to 5111.62 of the Revised Code shall be deposited in

the state treasury to the credit of the residents protection fund, which is hereby created. The proceeds of all fines, including interest, collected under section 173.42 of the Revised Code shall be deposited in the state treasury to the credit of the residents protection fund.

~~Moneys~~ Money in the fund shall be used for the protection of the health or property of residents of nursing facilities in which the department of health finds deficiencies, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for the loss of money managed by the facility under section 3721.15 of the Revised Code. Money in the fund may also be used to make payments under section 5111.511 of the Revised Code.

The fund shall be maintained and administered by the department of job and family services under rules developed in consultation with the departments of health and aging and adopted by the director of job and family services under Chapter 119. of the Revised Code.

Sec. 5111.65. As used in sections 5111.65 to 5111.689 of the Revised Code:

(A) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section.

(B) "Change of operator" means an entering operator becoming the operator of a nursing facility or intermediate care facility for the mentally retarded in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;

(c) A lease of the facility to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.

(D) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility.

(E) "Effective date of an involuntary termination" means the following:

(1) In the context of a nursing facility, the date the department of job and family services terminates the operator's provider agreement for the nursing facility;

(2) In the context of an intermediate care facility for the mentally retarded, the date the department terminates the operator's provider agreement for the facility or the last day that such a provider agreement is in effect when the department cancels or refuses to renew it.

(F) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients.

~~(F)~~(G) "Effective date of a voluntary withdrawal of participation" means

the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

~~(G)~~(H) "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs or following an involuntary termination.

~~(H)~~(I) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a change of operator;

(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure;

(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination;

(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation;

(5) An operator of a nursing facility or intermediate care facility for the mentally retarded that is undergoing or has undergone an involuntary termination.

~~(I)~~(J)(1) ~~"Facility~~ Subject to divisions (J)(2) and (3) of this section, "facility closure" means ~~discontinuance~~ either of the following:

(a) Discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents;

(b) Conversion of the building, or part of the building, that houses a nursing facility or intermediate care facility for the mentally retarded to a different use with any necessary license or other approval needed for that use being obtained and one or more of the facility's residents remaining in the facility to receive services under the new use. ~~A~~

(2) A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility;

(b) The facility's residents relocating to another of the operator's facilities;

(c) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286

(1965), 42 U.S.C. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities;

(d) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code;

(e) Any action the department of developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code.

~~(2)~~(3) A facility closure does not occur if all of the facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the facility not later than thirty days after the evacuation occurs.

~~(J)~~(K) "Fiscal year," "franchise permit fee," "intermediate care facility for the mentally retarded," "nursing facility," "operator," "owner," and "provider agreement" have the same meanings as in section 5111.20 of the Revised Code.

~~(K)~~(L) "Involuntary termination" means the following:

(1) In the context of a nursing facility, the department of job and family services' termination of the operator's provider agreement for the nursing facility when the termination is not taken at the operator's request;

(2) In the context of an intermediate care facility for the mentally retarded, the department's termination of, cancellation of, or refusal to renew the operator's provider agreement for the facility when such action is not taken at the operator's request.

(M) "Voluntary termination" means an operator's voluntary election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.

~~(L)~~(N) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.

Sec. 5111.66. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services written notice of a facility closure, voluntary termination, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation. The written notice shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code.

The written notice shall include all of the following:

(A) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(B) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the written notice;

(C) The exiting operator's medicaid provider agreement number for the facility that is the subject of the written notice;

(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation;

(E) The signature of the exiting operator's or owner's representative.

Sec. 5111.67. (A) An exiting operator or owner and entering operator shall provide the department of job and family services written notice of a change of operator if the nursing facility or intermediate care facility for the mentally retarded participates in the medicaid program and the entering operator seeks to continue the facility's participation. The written notice shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code. The written notice shall be provided to the department not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents. ~~The~~

The written notice shall include all of the following:

(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator;

(3) The exiting operator's ~~medicaid provider agreement~~ seven-digit medicaid legacy number and ten-digit national provider identifier number for the facility that is the subject of the change of operator;

(4) The name of the entering operator;

(5) The effective date of the change of operator;

(6) The manner in which the entering operator becomes the facility's operator, including through sale, lease, merger, or other action;

(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step;

(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator;

(9) The names and addresses of the persons to whom the department should send initial correspondence regarding the change of operator;

(10) If the nursing facility also participates in the medicare program, notification of whether the entering operator intends to accept assignment of the exiting operator's medicare provider agreement;

(11) The signature of the exiting operator's or owner's representative.

(B) ~~The entering operator shall include a completed application for a provider agreement with the written notice to the department. The entering operator shall attach to the application the following:~~

~~(1) If the written notice is provided to the department before the date the exiting operator or owner and entering operator complete the transaction for the change of operator, all the proposed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator;~~

~~(2) If the written notice is provided to the department on or after the date the exiting operator or owner and entering operator complete the transaction for the change of operator, copies of all the executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator.~~ An exiting operator or owner and entering operator immediately shall provide the department written notice of any changes to information included in a written notice of a change of operator that occur after that notice is provided to the department. The notice of the changes shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code.

Sec. 5111.671. The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the effective date of the change of operator if all of the following requirements are met:

(A) The department receives a properly completed written notice required by section 5111.67 of the Revised Code on or before the date required by that section.

(B) The ~~entering operator furnishes to the~~ department ~~copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator not later than ten days after the effective date of the change of operator~~ receives both of the following in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code and not later than ten days after the effective date of the change of operator:

(1) From the entering operator, a completed application for a provider agreement and all other forms and documents specified in rules adopted under section 5111.689 of the Revised Code;

(2) From the exiting operator or owner, all forms and documents specified in rules adopted under section 5111.689 of the Revised Code.

(C) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.

Sec. 5111.672. (A) The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the date determined under division (B) of this section if all of the following are the case:

(1) The department receives a properly completed written notice required by section 5111.67 of the Revised Code.

(2) The ~~entering operator furnishes to the~~ department ~~copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator~~ receives, from the entering operator and in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code, a completed application for a provider agreement and all other forms and documents specified in rules adopted under that section.

(3) The department receives, from the exiting operator or owner and in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code, all forms and documents specified in rules adopted under that section.

~~(3) The~~ (4) One or more of the following apply:

(a) The requirement of division (A)(1) of this section is met after the time required by section 5111.67 of the Revised Code~~, the~~;

(b) The requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator~~, or both~~;

(c) The requirement of division (A)(3) of this section is met more than ten days after the effective date of the change of operator.

~~(4)~~(5) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.

(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows:

(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate payments are made, and make the withholding required by section 5111.681 of the Revised Code~~, and withhold the final payment to the exiting operator until one hundred~~

~~eighty days after either of the following:~~

~~(a) The date that the exiting operator submits to the department a properly completed cost report under section 5111.682 of the Revised Code;~~

~~(b) The date that the department waives the cost report requirement of section 5111.682 of the Revised Code~~.

(2) The effective date shall be not earlier than the ~~later~~ latest of the following:

(a) The effective date of the change of operator ~~or the~~;

(b) The date that the ~~exiting operator or owner and~~ entering operator ~~comply~~ complies with section 5111.67 of the Revised Code and division (A)(2) of this section;

(c) The date that the exiting operator or owner complies with section 5111.67 of the Revised Code and division (A)(3) of this section.

(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section:

(a) Forty-five days if the change of operator does not entail the relocation of residents;

(b) Ninety days if the change of operator entails the relocation of residents.

Sec. 5111.68. (A) On receipt of a written notice under section 5111.66 of the Revised Code of a facility closure, voluntary termination, or voluntary withdrawal of participation ~~or~~, on receipt of a written notice under section 5111.67 of the Revised Code of a change of operator, or on the effective date of an involuntary termination, the department of job and family services shall estimate the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program, including a franchise permit fee.

(B) In estimating the exiting operator's other actual and potential debts to the department and the United States centers for medicare and medicaid services under the medicaid program, the department shall use a debt estimation methodology the director of job and family services shall establish in rules adopted under section 5111.689 of the Revised Code. The methodology shall provide for estimating all of the following that the department determines are applicable:

(1) Refunds due the department under section 5111.27 of the Revised Code;

(2) Interest owed to the department and United States centers for

medicare and medicaid services;

(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;

(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program;

(5) Other amounts the department determines are applicable.

(C) The department shall provide the exiting operator written notice of the department's estimate under division (A) of this section not later than thirty days after the department receives the notice under section 5111.66 of the Revised Code of the facility closure, voluntary termination, or voluntary withdrawal of participation ~~or~~; the department receives the notice under section 5111.67 of the Revised Code of the change of operator; or the effective date of the involuntary termination. The department's written notice shall include the basis for the estimate.

Sec. 5111.681. (A) Except as provided in divisions (B) ~~and~~, (C), and (D) of this section, the department of job and family services may withhold from payment due an exiting operator under the medicaid program the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code that the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program.

(B) In the case of a change of operator and subject to division ~~(D)~~(E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or entering operator or an affiliated operator executes a successor liability agreement meeting the requirements of division ~~(E)~~(F) of this section:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (B)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code and the amount for which the

exiting operator, entering operator, or affiliated operator assumes liability.

(C) In the case of a voluntary termination, voluntary withdrawal of participation, or facility closure and subject to division ~~(D)~~(E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or an affiliated operator executes a successor liability agreement meeting the requirements of division ~~(E)~~(F) of this section:

(1) If the exiting operator or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator or affiliated operator assumes liability for only the portion of the amount specified in division (C)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code and the amount for which the exiting operator or affiliated operator assumes liability.

(D) In the case of an involuntary termination and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator, the entering operator, or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section and the department approves the successor liability agreement:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (D)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability.

(E) For an exiting operator or affiliated operator to be eligible to enter into a successor liability agreement under division (B) ~~or,~~ (C), or (D) of this

section, both of the following must apply:

(1) The exiting operator or affiliated operator must have one or more valid provider agreements, other than the provider agreement for the nursing facility or intermediate care facility for the mentally retarded that is the subject of the involuntary termination, voluntary termination, voluntary withdrawal of participation, facility closure, or change of operator;

(2) During the twelve-month period preceding either the effective date of the involuntary termination or the month in which the department receives the notice of the voluntary termination, voluntary withdrawal of participation, or facility closure under section 5111.66 of the Revised Code or the notice of the change of operator under section 5111.67 of the Revised Code, the average monthly medicaid payment made to the exiting operator or affiliated operator pursuant to the exiting operator's or affiliated operator's one or more provider agreements, other than the provider agreement for the nursing facility or intermediate care facility for the mentally retarded that is the subject of the involuntary termination, voluntary termination, voluntary withdrawal of participation, facility closure, or change of operator, must equal at least ninety per cent of the sum of the following:

(a) The average monthly medicaid payment made to the exiting operator pursuant to the exiting operator's provider agreement for the nursing facility or intermediate care facility for the mentally retarded that is the subject of the involuntary termination, voluntary termination, voluntary withdrawal of participation, facility closure, or change of operator;

(b) Whichever of the following apply:

(i) If the exiting operator or affiliated operator has assumed liability under one or more other successor liability agreements, the total amount for which the exiting operator or affiliated operator has assumed liability under the other successor liability agreements;

(ii) If the exiting operator or affiliated operator has not assumed liability under any other successor liability agreements, zero.

~~(E)~~(F) A successor liability agreement executed under this section must comply with all of the following:

(1) It must provide for the operator who executes the successor liability agreement to assume liability for either of the following as specified in the agreement:

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code;

(b) The portion of the amount specified in division ~~(E)~~(F)(1)(a) of this

section that represents the franchise permit fee the exiting operator owes.

(2) It may not require the operator who executes the successor liability agreement to furnish a surety bond.

(3) It must provide that the department, after determining under section 5111.685 of the Revised Code the actual amount of debt the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, may deduct the lesser of the following from medicaid payments made to the operator who executes the successor liability agreement:

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code;

(b) The amount for which the operator who executes the successor liability agreement assumes liability under the agreement.

(4) It must provide that the deductions authorized by division ~~(E)~~(F)(3) of this section are to be made for a number of months, not to exceed six, agreed to by the operator who executes the successor liability agreement and the department or, if the operator who executes the successor liability agreement and department cannot agree on a number of months that is less than six, a greater number of months determined by the attorney general pursuant to a claims collection process authorized by statute of this state.

(5) It must provide that, if the attorney general determines the number of months for which the deductions authorized by division ~~(E)~~(F)(3) of this section are to be made, the operator who executes the successor liability agreement shall pay, in addition to the amount collected pursuant to the attorney general's claims collection process, the part of the amount so collected that, if not for division ~~(G)~~(H) of this section, would be required by section 109.081 of the Revised Code to be paid into the attorney general claims fund.

~~(F)~~(G) Execution of a successor liability agreement does not waive an exiting operator's right to contest the amount specified in the notice the department provides the exiting operator under division (C) of section 5111.68 of the Revised Code.

~~(G)~~(H) Notwithstanding section 109.081 of the Revised Code, the entire amount that the attorney general, whether by employees or agents of the attorney general or by special counsel appointed pursuant to section 109.08 of the Revised Code, collects under a successor liability agreement, other than the additional amount the operator who executes the agreement is required by division ~~(E)~~(F)(5) of this section to pay, shall be paid to the

department of job and family services for deposit into the appropriate fund. The additional amount that the operator is required to pay shall be paid into the state treasury to the credit of the attorney general claims fund created under section 109.081 of the Revised Code.

Sec. 5111.687. The department of job and family services, at its sole discretion, may release the amount withheld under division (A) of section 5111.681 of the Revised Code if the exiting operator submits to the department written notice of a postponement of a change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation are postponed for at least thirty days but less than ninety days after the date originally proposed for the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation as reported in the written notice required by section 5111.66 or 5111.67 of the Revised Code. The department shall release the amount withheld if the exiting operator submits to the department written notice of a cancellation or postponement of a change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation are canceled or postponed for more than ninety days after the date originally proposed for the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation as reported in the written notice required by section 5111.66 or 5111.67 of the Revised Code. A written notice shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code.

After the department receives a written notice regarding a cancellation or postponement of a facility closure, voluntary termination, or voluntary withdrawal of participation, the exiting operator or owner shall provide new written notice to the department under section 5111.66 of the Revised Code regarding any transactions leading to a facility closure, voluntary termination, or voluntary withdrawal of participation at a future time. After the department receives a written notice regarding a cancellation or postponement of a change of operator, the exiting operator or owner and entering operator shall provide new written notice to the department under section 5111.67 of the Revised Code regarding any transactions leading to a change of operator at a future time.

Sec. 5111.689. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code to implement sections 5111.65

to 5111.689 of the Revised Code, including rules applicable to an exiting operator that provides written notification under section 5111.66 of the Revised Code of a voluntary withdrawal of participation. Rules adopted under this section shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply. The rules shall specify all of the following:

(A) The method by which written notices to the department required by sections 5111.65 to 5111.689 of the Revised Code are to be provided;

(B) The forms and documents that are to be provided to the department under sections 5111.671 and 5111.672 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

Sec. 5111.83. (A) Not later than January 1, 2012, the director of job and family services shall apply to the United States secretary of health and human services for approval of a medicaid administrative claiming program under which federal financial participation is received as reimbursement for administrative costs incurred by the department of health and the Arthur G. James and Richard J. Solove research institute of the Ohio state university in analyzing and evaluating both of the following pursuant to sections 3701.261 to 3701.236 of the Revised Code:

(1) Cancer reports under the Ohio cancer incidence surveillance system;

(2) The incidence, prevalence, costs, and medical consequences of cancer on medicaid recipients and other low-income populations.

(B) The director of job and family services shall consult with the director of health in seeking approval of the medicaid administrative claiming program. The directors shall cooperate in seeking the approval to the extent they find the approval necessary for the effective and efficient administration of the medicaid program.

Sec. 5111.85. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code:

"Home and community-based services medicaid waiver component"

means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.

"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5111.16 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

(1) Eligibility requirements for the medicaid waiver components;

(2) The type, amount, duration, and scope of services the medicaid waiver components provide;

(3) The conditions under which the medicaid waiver components cover services;

(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;

(5) The manner in which the medicaid waiver components pay for services;

(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;

(7) Procedures for ~~both of the following:~~

~~(a) Identifying individuals who meet all of the following requirements:~~

~~(i) Are~~ prioritizing and approving for enrollment individuals who are eligible for a home and community-based services medicaid waiver component and ~~on a waiting list for the component;~~

~~(ii) Are receiving inpatient hospital services or residing in an intermediate care facility for the mentally retarded or nursing facility (as appropriate for the component);~~

~~(iii) Choose~~ choose to be enrolled in the component~~.~~

~~(b) Approving the enrollment of individuals identified under the procedures established under division (B)(7)(a) of this section into the home~~

~~and community-based services medicaid waiver component.~~;

(8) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.

(9) Other policies necessary for the efficient administration of the medicaid waiver components.

(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.

(D) ~~Any~~ The following apply to procedures established under division (B)(7) of this section:

(1) Any such procedures established for the medicaid-funded component of the PASSPORT program shall be consistent with section 173.401 of the Revised Code. ~~Any~~

(2) Any such procedures established for the Ohio home care program shall be consistent with section 5111.862 of the Revised Code.

(3) Any such procedures established for the unified long-term services and support medicaid waiver program shall be consistent with section 5111.865 of the Revised Code.

(4) Any such procedures established ~~under division (B)(7) of this section~~ for the medicaid-funded component of the assisted living program shall be consistent with section 5111.894 of the Revised Code.

Sec. 5111.861. (A) As used in this section:

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) Subject to division (C) of this section, there is hereby created the Ohio home care program. The program shall provide home and community-based services. The department of job and family services shall administer the program.

(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the Ohio home care program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio home care program should be terminated, the program shall cease to exist on a date the

departments shall specify.

Sec. 5111.862. (A) As used in this section:

"Hospital long-term care unit" has the same meaning as in section 3721.50 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Ohio home care program" means the medicaid waiver component created under section 5111.861 of the Revised Code.

"Residential treatment facility" means a residential facility licensed by the department of mental health under section 5119.22 of the Revised Code that serves children and either has more than sixteen beds or is part of a campus of multiple facilities that, combined, have a total of more than sixteen beds.

(B) Subject to division (C) of section 5111.861 of the Revised Code, the department of job and family services shall establish a home first component for the Ohio home care program. An individual is eligible for the Ohio home care program's home first component if the individual has been determined to be eligible for the Ohio home care program and at least one of the following applies:

(1) If the individual is under twenty-one years of age, the individual received inpatient hospital services for at least fourteen consecutive days, or had at least three inpatient hospital stays during the twelve months, immediately preceding the date the individual applies for the Ohio home care program.

(2) If the individual is at least twenty-one but less than sixty years of age, the individual received inpatient hospital services for at least fourteen consecutive days immediately preceding the date the individual applies for the Ohio home care program.

(3) The individual received private duty nursing services under the medicaid program for at least twelve consecutive months immediately preceding the date the individual applies for the Ohio home care program.

(4) The individual does not reside in a nursing facility or hospital long-term care unit at the time the individual applies for the Ohio home care program but is at risk of imminent admission to a nursing facility or hospital long-term care unit due to a documented loss of a primary caregiver.

(5) The individual resides in a nursing facility at the time the individual applies for the Ohio home care program.

(6) At the time the individual applies for the Ohio home care program, the individual participates in the money follows the person demonstration project authorized by section 6071 of the "Deficit Reduction Act of 2005,"

Pub. L. No. 109-171, as amended, and either resides in a residential treatment facility or inpatient hospital setting.

(C) An individual determined to be eligible for the home first component of the Ohio home care program shall be enrolled in the Ohio home care program in accordance with rules adopted under section 5111.85 of the Revised Code.

Sec. 5111.863. (A) As used in this section:

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) Subject to division (C) of this section, there is hereby created the Ohio transitions II aging carve-out program. The program shall provide home and community-based services. The department of job and family services shall administer the program.

(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the Ohio transitions II aging carve-out program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio transitions II aging carve-out program should be terminated, the program shall cease to exist on a date the departments shall specify.

Sec. 5111.864. (A) As used in this section:

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) The director of job and family services shall submit a request to the United States secretary of health and human services pursuant to section 1915n of the "Social Security Act," 95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended, to obtain approval to create a unified long-term services and support medicaid waiver component to provide home and community-based services to eligible individuals of any age who require the level of care provided by nursing facilities. The director of job and family services shall work with the director of aging in seeking approval of the unified long-term services and support medicaid waiver component and, if the approval is obtained, in creating and implementing the component.

If the request to create the unified long-term services and support medicaid waiver component is approved, the director of job and family

services, working with the director of aging, shall adopt rules under section 5111.85 of the Revised Code to implement the component. The rules may authorize the director of aging to adopt rules in accordance with Chapter 119. of the Revised Code governing aspects of the unified long-term services and support medicaid waiver component.

Sec. 5111.865. (A) As used in this section, "unified long-term services and support medicaid waiver program" or "program" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) If the United States secretary of health and human services approves the request submitted under section 5111.864 of the Revised Code to create the unified long-term services and support medicaid waiver program, the department of job and family services shall establish a home first component for the program. The home first component shall be similar to the home first component of the medicaid-funded component of the PASSPORT program established under section 173.401 of the Revised Code, the home first component of the Ohio home care program established under section 5111.862 of the Revised Code, and the home first component of the medicaid-funded component of the assisted living program established under section 5111.894 of the Revised Code.

Sec. 5111.871. The department of job and family services shall enter into a contract with the department of developmental disabilities under section 5111.91 of the Revised Code with regard to one or more of the medicaid waiver components ~~of the medicaid program~~ established by the department of job and family services under ~~one or more of the medicaid waivers sought under~~ section 5111.87 of the Revised Code. Subject, if needed, to the approval of the United States secretary of health and human services, the contract shall include the medicaid waiver component known as the transitions developmental disabilities waiver. The contract shall provide for the department of developmental disabilities to administer the components in accordance with the terms of the waivers. The contract shall include a schedule for the department of developmental disabilities to begin administering the transitions developmental disabilities waiver. The directors of job and family services and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the components.

If the department of developmental disabilities or the department of job and family services denies an individual's application for home and community-based services provided under any of these medicaid components, the department that denied the services shall give timely notice to the individual that the individual may request a hearing under section

5101.35 of the Revised Code.

The departments of developmental disabilities and job and family services may approve, reduce, deny, or terminate a service included in the individualized service plan developed for a medicaid recipient eligible for home and community-based services provided under any of these medicaid components. The departments shall consider the recommendations a county board of developmental disabilities makes under division (A)(1)(c) of section 5126.055 of the Revised Code. If either department approves, reduces, denies, or terminates a service, that department shall give timely notice to the medicaid recipient that the recipient may request a hearing under section 5101.35 of the Revised Code.

If supported living, as defined in section 5126.01 of the Revised Code, is to be provided as a service under any of these components, any person or government entity with a current, valid medicaid provider agreement and a current, valid certificate under section 5123.161 of the Revised Code may provide the service.

If a service is to be provided under any of these components by a residential facility, as defined in section 5123.19 of the Revised Code, any person or government entity with a current, valid medicaid provider agreement and a current, valid license under section 5123.19 of the Revised Code may provide the service.

Sec. 5111.872. ~~When~~ (A) Subject to division (B) of this section, when the department of developmental disabilities allocates enrollment numbers to a county board of developmental disabilities for home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under any of the medicaid waiver components ~~of the medicaid program~~ that the department administers under section 5111.871 of the Revised Code, the department shall consider all of the following:

~~(A)~~(1) The number of individuals with mental retardation or other developmental disability who are on a waiting list the county board establishes under ~~division (C) of~~ section 5126.042 of the Revised Code for those services and are given priority on the waiting list ~~pursuant to division (D) or (E) of that section~~;

~~(B)~~(2) The implementation component required by division (A)(3) of section 5126.054 of the Revised Code of the county board's plan approved under section 5123.046 of the Revised Code;

~~(C)~~(3) Anything else the department considers necessary to enable county boards to provide those services to individuals in accordance with the priority requirements ~~of divisions (D) and (E) of~~ for waiting lists

established under section 5126.042 of the Revised Code for those services.

(B) Division (A) of this section applies to home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.

Sec. 5111.873. (A) ~~Not later than the effective date of the first of any medicaid waivers the United States secretary of health and human services grants pursuant to a request made under section 5111.87 of the Revised Code~~ Subject to division (D) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing ~~statewide fee schedules~~ the amount of reimbursement or the methods by which amounts of reimbursement are to be determined for home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the components of the medicaid program that the department of developmental disabilities administers under section 5111.871 of the Revised Code. ~~The~~ With respect to these rules ~~shall provide for,~~ all of the following apply:

(1) The rules shall establish procedures for the department of developmental disabilities to follow in arranging for the initial and ongoing collection of cost information from a comprehensive, statistically valid sample of persons and government entities providing the services at the time the information is obtained~~;~~.

(2) The rules shall establish procedures for the collection of consumer-specific information through an assessment instrument the department of developmental disabilities shall provide to the department of job and family services~~;~~.

(3) With the information collected pursuant to divisions (A)(1) and (2) of this section, an analysis of that information, and other information the director determines relevant, ~~methods and~~ the rules shall establish reimbursement standards ~~for calculating the fee schedules~~ that do all of the following:

(a) Assure that ~~the fees are~~ reimbursement is consistent with efficiency, economy, and quality of care;

(b) Consider the intensity of consumer resource need;

(c) Recognize variations in different geographic areas regarding the resources necessary to assure the health and welfare of consumers;

(d) Recognize variations in environmental supports available to consumers.

(B) As part of the process of adopting rules under this section, the

director shall consult with the director of developmental disabilities, representatives of county boards of developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies.

(C) The directors of job and family services and developmental disabilities shall review the rules adopted under this section at times they determine are necessary to ensure that the ~~methods and~~ amount of reimbursement or the methods by which the amounts of reimbursement are to be determined continue to meet the reimbursement standards established ~~by the rules for calculating the fee schedules continue to do everything that~~ under division (A)(3) of this section ~~requires~~.

(D) This section applies to home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code:

"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid-covered intermediate care facility for the mentally retarded services.

"Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded that is certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and licensed as a residential facility under section 5123.19 of the Revised Code.

"Residential facility" has the same meaning as in section 5123.19 of the Revised Code.

(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, the operator of an intermediate care facility for the mentally retarded may convert some or all of the beds in the facility from providing ICF/MR services to providing home and community-based services if all of the following requirements are met:

(1) The operator provides the directors of health, job and family

services, and developmental disabilities at least ninety days' notice of the operator's intent to ~~relinquish the facility's certification as an intermediate care facility for the mentally retarded and to begin providing home and community-based services~~ make the conversion.

(2) The operator complies with the requirements of sections 5111.65 to 5111.689 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) ~~The~~ If the operator intends to convert all of the facility's beds, the operator notifies each of the facility's residents that the facility is to cease providing ICF/MR services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the operator intends to convert some but not all of the facility's beds, the operator notifies each of the facility's residents that the facility is to convert some of its beds from providing ICF/MR services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services from any provider of ICF/MR services that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The operator meets the requirements for providing home and community-based services, including the following:

(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility;

(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's residential facility license under section 5123.19 of the Revised Code.

~~(5)~~(6) The ~~director~~ directors of developmental disabilities ~~approves~~ and job and family services approve the conversion.

(C) A decision by the directors to approve or refuse to approve a proposed conversion of beds is final. In making a decision, the directors shall consider all of the following:

(1) The fiscal impact on the facility if some but not all of the beds are converted;

(2) The fiscal impact on the medical assistance program;

(3) The availability of home and community-based services.

(D) The notice provided to the directors under division (B)(1) of this section shall specify whether some or all of the facility's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the facility's beds are to be converted and how many of the beds are to continue to provide ICF/MR services. The notice to the director of developmental disabilities ~~under division (B)(1) of this section~~ shall specify whether the operator wishes to surrender the facility's license as a residential facility under section 5123.19 of the Revised Code.

~~(D)~~(E)(1) If the ~~director~~ directors of developmental disabilities ~~approves~~ and job and family services approve a conversion under division ~~(B)~~(C) of this section, the director of health shall ~~terminate~~ do the following:

(a) Terminate the certification of the intermediate care facility for the mentally retarded if the notice specifies that all of the facility's beds are to be converted;

(b) Reduce the facility's certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted. ~~The~~

(2) The director of health shall notify the director of job and family services of the termination or reduction. On receipt of the director of health's notice, the director of job and family services shall ~~terminate~~ do the following:

(a) Terminate the operator's medicaid provider agreement that authorizes the operator to provide ICF/MR services at the facility if the facility's certification was terminated;

(b) Amend the operator's medicaid provider agreement to reflect the facility's reduced certified capacity if the facility's certified capacity is reduced. ~~The~~

(3) In the case of action taken under division (E)(2)(a) of this section, the operator is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the director of job and family services terminates the medicaid provider agreement.

Sec. 5111.877. The director of job and family services may seek approval from the United States secretary of health and human services for not more than a total of ~~one~~ two hundred slots for home and community-based services for the purposes of sections 5111.874, 5111.875, and 5111.876 of the Revised Code.

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of the Revised Code:

(1) "Adult" means an individual at least eighteen years of age.

(2) "Authorized representative" means the following:

(a) In the case of a consumer who is a minor, the consumer's parent, custodian, or guardian;

(b) In the case of a consumer who is an adult, an individual selected by the consumer pursuant to section 5111.8810 of the Revised Code to act on the consumer's behalf for purposes regarding home care attendant services.

(3) "Authorizing health care professional" means a health care professional who, pursuant to section 5111.887 of the Revised Code, authorizes a home care attendant to assist a consumer with self-administration of medication, nursing tasks, or both.

(4) "Consumer" means an individual to whom all of the following apply:

(a) The individual is enrolled in a participating medicaid waiver component.

(b) The individual has a medically determinable physical impairment to which both of the following apply:

(i) It is expected to last for a continuous period of not less than twelve months.

(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.

(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.

(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.

(5) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(6) "Custodian" has the same meaning as in section 2151.011 of the Revised Code.

(7) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.

(8) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(9) "Health care professional" means a physician or registered nurse.

(10) "Home care attendant" means an individual holding a valid medicaid provider agreement in accordance with section 5111.881 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.

(11) "Home care attendant services" means all of the following as provided by a home care attendant:

(a) Personal care aide services;

(b) Assistance with the self-administration of medication;

(c) Assistance with nursing tasks.

(12) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.

(13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.

(15) "Minor" means an individual under eighteen years of age.

(16) "Participating medicaid waiver component" means both of the following:

(a) The ~~medicaid waiver component known as~~ Ohio home care ~~that the department of job and family services administers~~ program created under section 5111.861 of the Revised Code;

(b) The ~~medicaid waiver component known as~~ Ohio transitions II aging carve-out ~~that the department of job and family services administers~~ program created under section 5111.863 of the Revised Code.

(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. "Registered nurse" includes an advanced practice nurse, as defined in section 4723.01 of the Revised Code.

(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

(B) The director of job and family services may submit requests to the United States secretary of health and human services to amend the federal

medicaid waivers authorizing the participating medicaid waiver components to have those components cover home care attendant services in accordance with sections 5111.88 to 5111.8810 and rules adopted under section 5111.8811 of the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 of the Revised Code, those sections shall be implemented regarding a participating medicaid waiver component only if the secretary approves a waiver amendment for the component.

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.894 of the Revised Code:

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

"Assisted living program" means the program created under this section.

"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.

"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the assisted living program.

"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.

"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

~~"State administrative agency" means the department of job and family services if the department of job and family services administers the assisted living program or the department of aging if the department of aging administers the assisted living program.~~

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of

the Revised Code.

(B) There is hereby created the assisted living program. The program shall provide assisted living services to individuals who meet the program's applicable eligibility requirements ~~established under section 5111.891 of the Revised Code~~. ~~The~~ Subject to division (C) of this section, the program ~~may not serve more individuals than the number that is set by the United States secretary of health and human services when the medicaid waiver authorizing the program is approved~~ shall have a medicaid-funded component and a state-funded component.

(C)(1) Unless the medicaid-funded component of the assisted living program is terminated under division (C)(2) of this section, all of the following apply:

(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code.

(b) The contract shall include an estimate of the medicaid-funded component's costs. ~~The program~~

(c) The medicaid-funded component shall be operated as a separate medicaid waiver component ~~until the United States secretary approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code. The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver.~~

~~If the director of budget and management approves the contract, the department of job and family services shall enter into a contract with the department of aging under section 5111.91 of the Revised Code that provides for the department of aging to administer the assisted living program. The contract shall include an estimate of the program's costs.~~

~~The~~ (d) The medicaid-funded component may not serve more individuals than is set by the United States secretary of health and human services in the assisted living waiver.

(e) The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the ~~assisted living program~~ medicaid-funded component. ~~The~~

(f) The director of aging may adopt rules under Chapter 119. of the Revised Code regarding the ~~program~~ medicaid-funded component that the rules adopted by the director of job and family services under division (C)(1)(e) of this section authorize the director of aging to adopt.

(2) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services

shall work together to determine whether the medicaid-funded component of the assisted living program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the assisted living program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.

(D) The department of aging shall administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.

An individual who is eligible for the state-funded component may participate in the component for not more than three months.

The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component.

Sec. 5111.891. To be eligible for the medicaid-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code;

(B) ~~At the time the individual applies for the assisted living program, be one of the following:~~

~~(1) A nursing facility resident who is seeking to move to a residential care facility and would remain in a nursing facility for long-term care if not for the assisted living program;~~

~~(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program:~~

~~(a) The PASSPORT program created under section 173.40 of the Revised Code;~~

~~(b) The choices program created under section 173.403 of the Revised Code;~~

~~(c) A medicaid waiver component that the department of job and family services administers.~~

~~(3) A resident of a residential care facility who has resided in a residential care facility for at least six months immediately before the date the individual applies for the assisted living program.~~

~~(C) At the time the individual receives~~ While receiving assisted living services under the ~~assisted living program~~ medicaid-funded component, reside in a residential care facility that is authorized by a valid medicaid provider agreement to participate in the ~~assisted living program~~ component, including both of the following:

(1) A residential care facility that is owned or operated by a

metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;

(2) A county or district home licensed as a residential care facility.

~~(D)~~(C) Meet all other eligibility requirements for the ~~assisted living program~~ medicaid-funded component established in rules adopted ~~under~~ pursuant to division (C) of section ~~5111.85~~ 5111.89 of the Revised Code.

Sec. 5111.892. To be eligible for the state-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) The individual must need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code;

(B) The individual must have an application for the medicaid-funded component of the assisted living program (or, if the medicaid-funded component is terminated under division (C)(2) of section 5111.89 of the Revised Code, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of section 5111.89 of the Revised Code, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of section 5111.89 of the Revised Code, the unified long-term services and support medicaid waiver component).

(C) While receiving assisted living services under state-funded component, the individual must reside in a residential care facility that is authorized by a valid provider agreement to participate in the component, including both of the following:

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;

(2) A county or district home licensed as a residential care facility.

(D) The individual must meet all other eligibility requirements for the state-funded component established in rules adopted under division (D) of section 5111.89 of the Revised Code.

Sec. ~~5111.892~~ 5111.893. A residential care facility providing services covered by the assisted living program to an individual enrolled in the

program shall have staff on-site twenty-four hours each day who are able to do all of the following:

(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence;

(B) Provide supervision services for those individuals;

(C) Help keep the individuals safe and secure.

Sec. 5111.894. (A) ~~The state administrative agency~~ Subject to division (C)(2) of section 5111.89 of the Revised Code, the department of aging shall establish a home first component of the assisted living program under which eligible individuals may be enrolled in the medicaid-funded component of the assisted living program in accordance with this section. An individual is eligible for the assisted living program's home first component if ~~all~~ both of the following apply:

(1) The individual ~~is~~ has been determined to be eligible for the medicaid-funded component of the assisted living program.

(2) ~~The individual is on the unified waiting list established under section 173.404 of the Revised Code.~~

~~(3)~~ At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the assisted living program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living

program, the individual should be admitted to a nursing facility.

(e) The individual resided in a residential care facility for at least six months immediately before applying for the medicaid-funded component of the assisted living program and is at risk of imminent admission to a nursing facility because the costs of residing in the residential care facility have depleted the individual's resources such that the individual is unable to continue to afford the cost of residing in the residential care facility.

(B) Each month, each area agency on aging shall identify individuals residing in the area that the area agency on aging serves who are eligible for the home first component of the assisted living program. When an area agency on aging identifies such an individual and determines that there is a vacancy in a residential care facility participating in the medicaid-funded component of the assisted living program that is acceptable to the individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the assisted living program is appropriate for the individual and whether the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility. If the administrator determines that the assisted living program is appropriate for the individual and the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility, the administrator shall so notify the ~~state administrative agency~~ department of aging. On receipt of the notice from the administrator, the ~~state administrative agency~~ department shall approve the individual's enrollment in the medicaid-funded component of the assisted living program regardless of the unified waiting list established under section 173.404 of the Revised Code, unless the enrollment would cause the ~~assisted living program~~ component to exceed any limit on the number of individuals who may participate in the ~~program~~ component as set by the United States secretary of health and human services ~~when the medicaid waiver authorizing~~ in the ~~program is approved~~ assisted living waiver.

~~(C) Each quarter, the state administrative agency shall certify to the director of budget and management the estimated increase in costs of the assisted living program resulting from enrollment of individuals in the assisted living program pursuant to this section.~~

Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:

(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with;

(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with;

(C) How providers will be paid for providing the services;

(D) The department of mental health's or department of alcohol and drug addiction services' responsibilities ~~for reimbursing~~ with regard to providers, including program oversight and quality assurance.

Sec. 5111.912. If the department of job and family services enters into a contract with the department of mental health under section 5111.91 of the Revised Code, the department of ~~mental health and boards of alcohol, drug addiction, and mental health~~ job and family services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of mental health administers. If necessary, the director of job and family services shall submit a medicaid state plan amendment to the United States secretary of health and human services regarding the department of job and family services' duty under this section.

Sec. 5111.913. If the department of job and family services enters into a contract with the department of alcohol and drug addiction services under section 5111.91 of the Revised Code, the department of ~~alcohol and drug addiction services and boards of alcohol, drug addiction, and mental health~~ job and family services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of alcohol and drug addiction services administers. If necessary, the director of job and family services shall submit a medicaid state plan amendment to the United States secretary of health and human services regarding the department of job and family services' duty under this section.

Sec. 5111.94. (A) As used in this section, "vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

(B) There is hereby created in the state treasury the health care services administration fund. Except as provided in division (C) of this section, all the following shall be deposited into the fund:

(1) Amounts deposited into the fund pursuant to sections 5111.92 and 5111.93 of the Revised Code;

(2) The amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers

pursuant to a tort action under the department's right of recovery under section 5101.58 of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery;

(3) Subject to division (D) of this section, the amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

(4) Amounts from assessments on hospitals under section 5112.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5112.07 of the Revised Code that are deposited into the fund in accordance with the law;

(5) Amounts that the department of education pays to the department of job and family services, if any, pursuant to an interagency agreement entered into under section 5111.713 of the Revised Code;

(6) The application fees charged to providers under section 5111.063 of the Revised Code;

(7) The fines collected under section 5111.271 of the Revised Code.

(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.

(D) In determining under division (B)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.

(E) The director of job and family services shall use funds available in the health care services administration fund to pay for costs associated with the administration of the medicaid program.

Sec. 5111.941. ~~(A)~~ The medicaid revenue and collections fund is hereby created in the state treasury. Except as otherwise provided by statute or as authorized by the controlling board, ~~both of the following shall be credited to the fund:~~

~~(1) The~~ the nonfederal share of all medicaid-related revenues, collections, and recoveries~~;~~

~~(2) The monthly premiums charged under the children's buy-in program pursuant to section 5101.5213 of the Revised Code~~ shall be credited to the fund.

~~(B)~~ The department of job and family services shall use money credited to the medicaid revenue and collections fund to pay for medicaid services and contracts ~~and the children's buy-in program established under sections~~

~~5101.5211 to 5101.5216 of the Revised Code~~.

Sec. 5111.944. (A) As used in this section:

"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).

"Dual eligible integrated care demonstration project" means the demonstration project authorized by section 5111.981 of the Revised Code.

"Medicare program" means the program created under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) There is created in the state treasury the integrated care delivery systems fund. If the terms of the federal approval for the dual eligible integrated care demonstration project provide for the state to receive a portion of the amounts that the demonstration project saves the medicare program, such amounts shall be deposited into the fund. The department of job and family services shall use the money in the fund to further develop integrated delivery systems and improved care coordination for dual eligible individuals.

Sec. 5111.945. There is created in the state treasury the health care special activities fund. The department of job and family services shall deposit all funds it receives pursuant to the administration of the medicaid program into the fund, other than any such funds that are required by law to be deposited into another fund. The department shall use the money in the fund to pay for expenses related to the services provided under, and the administration of, the medicaid program.

Sec. 5111.97. (A) As used in this section ~~and in section 5111.971 of the Revised Code~~, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The ~~program~~ project may be established as a separate ~~non-medicaid~~ nonmedicaid program or integrated into a new or existing program of medicaid-funded home and community-based services authorized by a waiver approved by the United States department of health and human services. The director shall permit any recipient of medicaid-funded nursing facility services to apply for participation in the ~~program~~ project, but may limit the number of ~~program~~ project participants. ~~If an application is received before the applicant has been a recipient of medicaid-funded nursing facility services for six months, the~~

The director shall ensure that an assessment of an applicant is conducted

as soon as practicable to determine whether the applicant is eligible for participation in the ~~program~~ project. To the maximum extent possible, the assessment and eligibility determination shall be completed not later than the date that occurs six months after the applicant became a recipient of medicaid-funded nursing facility services.

(C) To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements:

(1) ~~Be~~ The medicaid recipient must be a recipient of medicaid-funded nursing facility services, at the time of applying for the project benefits~~;~~.

(2) ~~Need the level of care provided by nursing facilities;~~

~~(3) For participation in a non-medicaid~~ If the project is established as a nonmedicaid program, ~~receive services~~ the medicaid recipient must be able to remain in the community ~~with a~~ as a result of receiving project benefits and the projected cost of the benefits to the project does not ~~exceeding~~ exceed eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility~~;~~

~~(4) For participation in a program established as part of~~.

(3) If the project is integrated into a medicaid-funded home and community-based services waiver program, the medicaid recipient must meet waiver enrollment criteria.

(D) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:

(1) The first month's rent in a community setting;

(2) Rental deposits;

(3) Utility deposits;

(4) Moving expenses;

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.

(E) If the project is established as a ~~non-medicaid~~ nonmedicaid program, no participant may receive more than two thousand dollars worth of benefits under the project.

(F) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver program to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the ~~program~~ project.

Sec. 5111.981. (A) As used in this section:

"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).

"Medicare program" means the program created under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) Subject to division (C) of this section, the director of job and family services may implement a demonstration project to test and evaluate the integration of the care that dual eligible individuals receive under the medicare and medicaid programs. No provision of Title LI of the Revised Code applies to the demonstration project if that provision implements or incorporates a provision of federal law governing the medicaid program and that provision of federal law does not apply to the demonstration project.

(C) Before implementing the demonstration project under division (B) of this section, the director shall obtain the approval of the United States secretary of health and human services in the form of a federal medicaid waiver, medicaid state plan amendment, or demonstration grant. The director is required to seek the federal approval only if the director seeks to implement the demonstration project. The director shall implement the demonstration project in accordance with the terms of the federal approval, including the terms regarding the duration of the demonstration project.

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the Revised Code:

(A) "Franchise permit fee rate" means the following:

(1) ~~Until August 1, 2009, eleven dollars and ninety-eight cents;~~

~~(2) For the period beginning August 1, 2009, and ending June 30, 2010, fourteen dollars and seventy-five cents;~~

~~(3)~~ For fiscal year ~~2011~~ 2012, ~~thirteen~~ seventeen dollars and ~~fifty-five~~ ninety-nine cents;

~~(4)~~(2) For fiscal year ~~2012~~ 2013 and each fiscal year thereafter, ~~the rate used for the immediately preceding fiscal year as adjusted in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code~~ eighteen dollars and thirty-two cents.

(B) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii), as amended, that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the

percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(C) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code, except that, until August 1, 2009, it does not include any such facility operated by the department of developmental disabilities.

~~(C)~~(D) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

Sec. 5112.31. The department of job and family services shall do all of the following:

(A) Subject to ~~division~~ divisions (B) and (C) of this section and for the purposes specified in sections 5112.37 and 5112.371 of the Revised Code, assess for each fiscal year each intermediate care facility for the mentally retarded a franchise permit fee equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The ~~following number of days:~~

~~(a) For fiscal year 2010, the following:~~

~~(i) For the part of fiscal year 2010 during which the franchise permit fee rate is eleven dollars and ninety-eight cents, the number of days during fiscal year 2010 during which the franchise permit fee rate is that amount;~~

~~(ii) For the part of fiscal year 2010 during which the franchise permit fee rate is fourteen dollars and seventy-five cents, the number of days during fiscal year 2010 during which the franchise permit fee is that amount;~~

~~(iii) For fiscal year 2011 and each fiscal year thereafter, the~~ number of days in the fiscal year.

(B) If the total amount of the franchise permit fee assessed under division (A) of this section for a fiscal year exceeds ~~five and one-half per cent~~ the indirect guarantee percentage of the actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year, do both of the following:

(1) Recalculate the assessments under division (A) of this section using a per bed per day rate equal to ~~five and one-half per cent~~ the indirect guarantee percentage of actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under division (A) of this section and the

amount recalculated under division (B)(1) of this section as a credit against the assessments imposed under division (A) of this section for the subsequent fiscal year.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.37. There is hereby created in the state treasury the home and community-based services for the mentally retarded and developmentally disabled fund. ~~Eighty-four~~ Eighty-one and ~~two tenths~~ seventy-seven hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year ~~2010~~ 2012 shall be deposited into the fund. ~~Seventy-nine~~ Eighty-two and ~~twelve hundredths~~ two tenths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year ~~2011~~ 2013 and thereafter shall be deposited into the fund. The department of job and family services shall distribute the money in the fund in accordance with rules adopted under section 5112.39 of the Revised Code. The departments of job and family services and developmental disabilities shall use the money for the medicaid program established under Chapter 5111. of the Revised Code and home and community-based services to mentally retarded and developmentally disabled persons.

Sec. 5112.371. There is hereby created in the state treasury the department of developmental disabilities operating and services fund. ~~Fifteen and eight tenths per cent of all~~ All installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code ~~for state fiscal year 2010~~ that are not deposited into the home and community-based services for the mentally retarded and developmentally disabled fund shall be deposited into the department of developmental disabilities operating and services fund. ~~Twenty and eighty-eight hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2011 and thereafter shall be deposited into the fund.~~ The money in the fund shall be used for the expenses of the programs that the

department of ~~mental retardation and~~ developmental disabilities administers and the department's administrative expenses.

Sec. 5112.39. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(A) ~~Establish a composite inflation factor for the purpose of division (A)(4) of section 5112.30 of the Revised Code;~~

~~(B)~~ Prescribe the actions the department will take to cease implementation of sections 5112.30 to 5112.39 of the Revised Code if the United States secretary of health and human services determines that the franchise permit fee imposed under section 5112.31 of the Revised Code is an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396b(w), as amended;

~~(C)~~(B) Establish the method of distributing the money in the home and community-based services for the mentally retarded and developmentally disabled fund created by section 5112.37 of the Revised Code;

~~(D)~~(C) Establish any other requirements or procedures the director considers necessary to implement sections 5112.30 to 5112.39 of the Revised Code.

Sec. 5112.40. As used in sections 5112.40 to 5112.48 of the Revised Code:

(A) "Applicable assessment percentage" means the percentage specified in rules adopted under section 5112.46 of the Revised Code that is used in calculating a hospital's assessment under section 5112.41 of the Revised Code.

(B) "Assessment program year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year.

~~(B)~~(C) "Cost reporting period" means the period of time used by a hospital in reporting costs for purposes of the medicare program.

~~(C)~~(D) "Federal fiscal year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year.

~~(D)~~(E)(1) Except as provided in division ~~(D)~~(E)(2) of this section, "hospital" means a hospital to which any of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital and provides inpatient hospital services, as defined in 42 C.F.R. 440.10.

(b) The hospital is recognized under the medicare program as a cancer

hospital and is exempt from the medicare prospective payment system.

(c) The hospital is a psychiatric hospital licensed under section 5119.20 of the Revised Code.

(2) "Hospital" does not include either of the following:

(a) A federal hospital;

(b) A hospital that does not charge any of its patients for its services.

~~(E)~~(F) "Hospital care assurance program" means the program established under sections 5112.01 to 5112.21 of the Revised Code.

~~(F)~~(G) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(G)~~(H) "Medicare" means the program established under Title XVIII of the Social Security Act.

~~(H)~~(I) "State fiscal year" means the twelve-month period beginning the first day of July of a calendar year and ending the last day of June of the following calendar year.

~~(I)~~(J)(1) Except as provided in divisions ~~(I)~~(J)(2) and (3) of this section, "total facility costs" means the total costs to a hospital for all care provided to all patients, including the direct, indirect, and overhead costs to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation.

(2) "Total facility costs" excludes all of the following of a hospital's costs as shown on the cost-reporting data used for purposes of determining the hospital's assessment under section 5112.41 of the Revised Code:

(a) Skilled nursing services provided in distinct-part nursing facility units;

(b) Home health services;

(c) Hospice services;

(d) Ambulance services;

(e) Renting durable medical equipment;

(f) Selling durable medical equipment.

(3) "Total facility costs" excludes any costs excluded from a hospital's total facility costs pursuant to rules, if any, adopted under division (B)(1) of section 5112.46 of the Revised Code.

Sec. 5112.41. (A) For the purposes specified in section 5112.45 of the Revised Code and subject to section 5112.48 of the Revised Code, there is hereby imposed an assessment on all hospitals each assessment program year. The amount of a hospital's assessment for an assessment program year shall equal~~, except as provided in division (D) of this section,~~ the applicable assessment percentage ~~specified in division (B) of this section~~ of the

hospital's total facility costs for the period of time specified in division ~~(C)~~(B) of this section. The amount of a hospital's total facility costs shall be derived from cost-reporting data for the hospital submitted to the department of job and family services for purposes of the hospital care assurance program. If a hospital has not submitted that cost-reporting data to the department, the amount of a hospital's total facility costs shall be derived from other financial statements that the hospital shall provide to the department as directed by the department. The cost-reporting data or financial statements used to determine a hospital's assessment is subject to the same type of adjustments made to the cost-reporting data under the hospital care assurance program.

(B) ~~The percentage specified in this division is the following:~~

~~(1) For the first assessment program year beginning after the effective date of this section, one and fifty-two hundredths per cent;~~

~~(2) Subject to division (D) of this section, for the second assessment program year after the effective date of this section and each successive assessment program year, one and sixty-one hundredths per cent.~~

~~(C)~~ The period of time specified in this division is the hospital's cost reporting period that ends in the state fiscal year that ends in the federal fiscal year that precedes the federal fiscal year that precedes the assessment program year for which the assessment is imposed.

~~(D) The department of job and family services shall apply to the United States secretary of health and human services for a waiver under 42 U.S.C. 1396b(w)(3)(E) to establish, for the second assessment program year after the effective date of this section and each successive assessment program year, a tiered assessment on hospitals' total facility costs instead of applying the percentage specified in division (B)(2) of this section. If the United States secretary denies the waiver, the department shall apply the percentage specified in division (B)(2) of this section for the second assessment program year after the effective date of this section and each successive assessment program year.~~

~~(E)~~(C) The assessment imposed by this section on a hospital is in addition to the assessment imposed by section 5112.06 of the Revised Code.

Sec. 5112.46. (A) The director of job and family services ~~may~~ shall adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code as necessary to implement sections 5112.40 to 5112.48 of the Revised Code, including rules that specify the percentage of hospitals' total facility costs to be used in calculating hospitals' assessments under section 5112.41 of the Revised Code.

(B) The rules adopted under this section may ~~provide~~ do the following:

(1) Provide that a hospital's total facility costs for the purpose of the assessment under section 5112.41 of the Revised Code exclude any of the following:

~~(1)~~(a) A hospital's costs associated with providing care to recipients of any of the following:

~~(a)~~(i) The medicaid program;

~~(b)~~(ii) The medicare program;

~~(c)~~(iii) The disability financial assistance program established under Chapter 5115. of the Revised Code;

~~(d)~~(iv) The program for medically handicapped children established under section 3701.023 of the Revised Code;

~~(e)~~(v) Services provided under the maternal and child health services block grant established under Title V of the Social Security Act.

~~(2)~~(b) Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program.

(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals;

(3) To reduce hospitals' cash flow difficulties, establish a schedule for hospitals to pay their assessments that is different from the schedule established under section 5112.43 of the Revised Code.

(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under section 1903(w)(3)(E) of the "Social Security Act," 105 Stat. 1796 (1991), 42 U.S.C. 1396b(w)(3)(E), as amended, if the varied percentages would cause the assessments to not be imposed uniformly.

Sec. 5112.99. (A) The director of job and family services shall impose a penalty for each day that a hospital fails to report the information required under section 5112.04 of the Revised Code on or before the dates specified in that section. The amount of the penalty shall be established by the director in rules adopted under section 5112.03 of the Revised Code.

(B) In addition to any other remedy available to the department of job and family services under law to collect unpaid assessments and transfers under sections 5112.01 to 5112.21 of the Revised Code, the director shall impose a penalty of ten per cent of the amount due on any hospital that fails to pay assessments or make intergovernmental transfers by the dates required by rules adopted under section 5112.03 of the Revised Code.

(C) In addition to any other remedy available to the department of job and family services under law to collect unpaid assessments imposed under section 5112.41 of the Revised Code, the director shall impose a penalty of ten per cent of the amount due on any hospital that fails to pay the assessment by the date it is due.

(D) The director shall waive the penalties provided for in ~~divisions (A) and (B) of~~ this section for good cause shown by the hospital.

~~(D)~~(E) All penalties imposed under this section shall be deposited into the health care administration fund created by section 5111.94 of the Revised Code.

Sec. 5112.991. The department of job and family services may offset the amount of a hospital's unpaid penalty imposed under section 5112.99 of the Revised Code from one or more payments due the hospital under the medicaid program. The total amount that may be offset from one or more payments shall not exceed the amount of the unpaid penalty.

Sec. 5119.01. The director of mental health is the chief executive and administrative officer of the department of mental health. The director may establish procedures for the governance of the department, conduct of its employees and officers, performance of its business, and custody, use, and preservation of departmental records, papers, books, documents, and property. Whenever the Revised Code imposes a duty upon or requires an action of the department or any of its institutions, the director shall perform the action or duty in the name of the department, except that the medical director appointed pursuant to section 5119.07 of the Revised Code shall be responsible for decisions relating to medical diagnosis, treatment, rehabilitation, quality assurance, and the clinical aspects of the following: licensure of hospitals and residential facilities, research, community mental health plans, and delivery of mental health services.

The director shall:

(A) Adopt rules for the proper execution of the powers and duties of the department with respect to the institutions under its control, and require the performance of additional duties by the officers of the institutions as necessary to fully meet the requirements, intents, and purposes of this chapter. In case of an apparent conflict between the powers conferred upon any managing officer and those conferred by such sections upon the department, the presumption shall be conclusive in favor of the department.

(B) Adopt rules for the nonpartisan management of the institutions under the department's control. An officer or employee of the department or any officer or employee of any institution under its control who, by solicitation or otherwise, exerts influence directly or indirectly to induce any

other officer or employee of the department or any of its institutions to adopt the exerting officer's or employee's political views or to favor any particular person, issue, or candidate for office shall be removed from the exerting officer's or employee's office or position, by the department in case of an officer or employee, and by the governor in case of the director.

(C) Appoint such employees, including the medical director, as are necessary for the efficient conduct of the department, and prescribe their titles and duties;

(D) Prescribe the forms of affidavits, applications, medical certificates, orders of hospitalization and release, and all other forms, reports, and records that are required in the hospitalization or admission and release of all persons to the institutions under the control of the department, or are otherwise required under this chapter or Chapter 5122. of the Revised Code;

(E) Contract with hospitals licensed by the department under section 5119.20 of the Revised Code for the care and treatment of mentally ill patients, or with persons, organizations, or agencies for the custody, evaluation, supervision, care, or treatment of mentally ill persons receiving services elsewhere than within the enclosure of a hospital operated under section 5119.02 of the Revised Code;

(F) Exercise the powers and perform the duties relating to community mental health facilities and services that are assigned to the director under this chapter and Chapter 340. of the Revised Code;

(G) Develop and implement clinical evaluation and monitoring of services that are operated by the department;

(H) ~~At the director's discretion, adopt rules establishing standards for the adequacy of services provided by community mental health facilities, and certify the compliance of such facilities with the standards for the purpose of authorizing their participation in the health care plans of health insuring corporations under Chapter 1751. and sickness and accident insurance policies issued under Chapter 3923. of the Revised Code. The director shall cease to certify such compliance two years after June 6, 2001. The director shall rescind the rules after the date the director ceases to certify such compliance.~~

~~(I)~~ Adopt rules establishing standards for the performance of evaluations by a forensic center or other psychiatric program or facility of the mental condition of defendants ordered by the court under section 2919.271, or 2945.371 of the Revised Code, and for the treatment of defendants who have been found incompetent to stand trial and ordered by the court under section 2945.38, 2945.39, 2945.401, or 2945.402 of the Revised Code to receive treatment in facilities;

~~(J)~~(I) On behalf of the department, have the authority and responsibility for entering into contracts and other agreements;

~~(K)~~(J) Prepare and publish regularly a state mental health plan that describes the department's philosophy, current activities, and long-term and short-term goals and activities;

~~(L)~~(K) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;

~~(M)~~(L) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code.

Sec. 5119.012. The department of mental health has all the authority necessary to carry out its powers and duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code.

Sec. 5119.013. Pursuant to the director of mental health's authority under division (I) of section 5119.01 of the Revised Code, the director may contract with agencies, institutions, and other entities both public and private, as necessary for the department of mental health to carry out its duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code. Chapter 125. of the Revised Code does not apply to contracts the director enters into under this section for services provided to individuals with mental illness by agencies, institutions, and other entities not owned or operated by the department of mental health.

Sec. 5119.02. (A) The department of mental health shall maintain, operate, manage, and govern state institutions for the care and treatment of mentally ill persons.

(B) The department of mental health may designate all institutions under its jurisdiction by appropriate respective names, regardless of present statutory designation.

(C) Subject to section 5139.08 and pursuant to Chapter 5122. of the Revised Code and on the agreement of the departments of mental health and youth services, the department of mental health may receive from the department of youth services for psychiatric observation, diagnosis, or treatment any person eighteen years of age or older in the custody of the department of youth services. The departments shall enter into a written agreement specifying the procedures necessary to implement this division.

(D) The department of mental health shall ~~provide and~~ designate hospitals, facilities, and community mental health agencies for the custody, care, and special treatment of, and authorize payment for such custody, care,

and special treatment provided to, persons who are charged with a crime and who are found incompetent to stand trial or not guilty by reason of insanity.

(E) The department of mental health may do all of the following:

(1) Require reports from the managing officer of any institution under the department's jurisdiction, relating to the admission, examination, comprehensive evaluation, diagnosis, release, or discharge of any patient;

(2) Visit each institution regularly to review its operations and to investigate complaints made by any patient or by any person on behalf of a patient, provided these duties may be performed by a person designated by the director.

(F) The department of mental health shall divide the state into districts for the purpose of designating the institution in which mentally ill persons are hospitalized, and may change the districts.

(G) In addition to the powers expressly conferred, the department of mental health shall have all powers and authority necessary for the full and efficient exercise of the executive, administrative, and fiscal supervision over the state institutions described in this section.

(H) The department of mental health may provide for the custody, supervision, control, treatment, and training of mentally ill persons hospitalized elsewhere than within the enclosure of a hospital, if the department so determines with respect to any individual or group of individuals. In all such cases, the department shall ensure adequate and proper supervision for the protection of such persons and of the public.

Sec. 5119.06. ~~(A)~~ The department of mental health shall:

~~(1) Establish and~~ (A) To the extent the department has available resources and in consultation with boards of alcohol, drug addiction, and mental health services, support a ~~program at the state level to promote a~~ community support system in accordance with section 340.03 of the Revised Code ~~to be available for every alcohol, drug addiction, and mental health service district~~ on a district or multi-district basis. The department shall define the essential elements of a community support system, shall assist in identifying resources, and ~~coordinating the planning, evaluation, and delivery of services to facilitate the access of mentally ill people to public services at federal, state, and local levels, and shall operate~~ may prioritize support for one or more of the elements.

(B) Operate inpatient and other mental health services ~~pursuant to the approved community mental health plan.~~

~~(2)~~;

(C) Provide training, consultation, and technical assistance regarding mental health programs and services and appropriate prevention and mental

health promotion activities, including those that are culturally sensitive, to employees of the department, community mental health agencies and boards, and other agencies providing mental health services;

~~(3) Promote~~ (D) To the extent the department has available resources, promote and support a full range of mental health services that are available and accessible to all residents of this state, especially for severely mentally disabled children, adolescents, and adults, and other special target populations, including racial and ethnic minorities, as determined by the department~~.~~;

~~(4)~~(E) Design and set criteria for the determination of severe mental disability;

~~(5)~~(F) Establish standards for evaluation of mental health programs;

~~(6)~~(G) Promote, direct, conduct, and coordinate scientific research, taking ethnic and racial differences into consideration, concerning the causes and prevention of mental illness, methods of providing effective services and treatment, and means of enhancing the mental health of all residents of this state;

~~(7)~~(H) Foster the establishment and availability of vocational rehabilitation services and the creation of employment opportunities for consumers of mental health services, including members of racial and ethnic minorities;

~~(8)~~(I) Establish a program to protect and promote the rights of persons receiving mental health services, including the issuance of guidelines on informed consent and other rights;

~~(9)~~(J) Establish, in consultation with board of alcohol, drug addiction, and mental health services representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code;

~~(10)~~(K) Promote the involvement of persons who are receiving or have received mental health services, including families and other persons having a close relationship to a person receiving mental health services, in the planning, evaluation, delivery, and operation of mental health services~~.~~;

~~(11)~~(L) Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of mental health. These constituencies shall include consumers of mental health services and their families, and may include public and private providers, employee organizations, and others when appropriate. Whenever the department proposes the adoption, amendment, or rescission of rules under Chapter 119. of the Revised Code, the notification and consultation

required by this division shall occur prior to the commencement of proceedings under Chapter 119. The department shall adopt rules under Chapter 119. of the Revised Code that establish procedures for the notification and consultation required by this division.

~~(12)~~(M) In cooperation with board of alcohol, drug addiction, and mental health services representatives, provide training regarding the provision of community-based mental health services to those department employees who are utilized in state-operated, community-based mental health services;

~~(13)~~(N) Provide consultation to the department of rehabilitation and correction concerning the delivery of mental health services in state correctional institutions~~;~~.

~~(B) The department of mental health may negotiate and enter into agreements with other agencies and institutions, both public and private, for the joint performance of its duties.~~

Sec. 5119.18. There is hereby created in the state treasury the department of mental health trust fund. Not later than the first day of September of each year, the director of mental health shall certify to the director of budget and management the amount of all of the unexpended, unencumbered balances of general revenue fund appropriations made to the department of mental health for the previous fiscal year, excluding funds appropriated for rental payments to the Ohio public facilities commission. On receipt of the certification, the director of budget and management shall transfer cash to the trust fund in an amount up to, but not exceeding, the total of the amounts certified by the director of mental health.

In addition, the trust fund shall receive all amounts, subject to any provisions in bond documents, received from the sale or lease of lands and facilities by the department.

All moneys in the trust fund shall be used by the department of mental health ~~for mental health purposes specified in division (A) of section 5119.06 of the Revised Code~~ to pay for expenditures the department incurs in performing any of its duties under this chapter. The use of moneys in the trust fund pursuant to this section does not represent an ongoing commitment to the continuation of the trust fund or to the use of moneys in the trust fund.

Sec. 5119.22. (A)(1) As used in this section and section 5119.221 of the Revised Code:

(a) "Community mental health agency" means a community mental health agency as defined in division (H) of section 5122.01 of the Revised Code~~, or, until two years after the effective date of this amendment, a~~

~~community mental health facility certified by the department of mental health pursuant to division (H) of section 5119.01 of the Revised Code~~.

(b) "Community mental health services" means any of the services listed in section 340.09 of the Revised Code.

(c) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication in accordance with rules adopted under this section;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under this section.

"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(1)(c) of this section to be considered to be providing personal care services.

(d) "Residential facility" means a publicly or privately operated home or facility that provides one of the following:

(i) Room and board, personal care services, and community mental health services to one or more persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;

(ii) Room and board and personal care services to one or two persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;

(iii) Room and board to five or more persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.

The following are not residential facilities: the residence of a relative or guardian of a mentally ill individual, a hospital subject to licensure under section 5119.20 of the Revised Code, a residential facility as defined in section 5123.19 of the Revised Code, a facility providing care for a child in the custody of a public children services agency or a private agency certified under section 5103.03 of the Revised Code, a foster care facility subject to section 5103.03 of the Revised Code, an adult care facility subject to licensure under ~~Chapter 3722.~~ sections 5119.70 to 5119.88 of the Revised Code, and a nursing home, residential care facility, or home for the aging

subject to licensure under section 3721.02 of the Revised Code.

(2) Nothing in division (A)(1)(d) of this section shall be construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance.

(3) Except in the case of a residential facility described in division (A)(1)(d)(i) of this section, members of the staff of a residential facility shall not administer medication to residents, all medication taken by residents of a residential facility shall be self-administered, and no person shall be admitted to or retained by a residential facility unless the person is capable of taking the person's own medication and biologicals, as determined in writing by the person's personal physician. Members of the staff of a residential facility may do any of the following:

(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(b) Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this section, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(B) Every person operating or desiring to operate a residential facility shall apply for licensure of the facility to the department of mental health and shall send a copy of the application to the board of alcohol, drug addiction, and mental health services whose service district includes the county in which the person operates or desires to operate a residential facility. The board shall review such applications and recommend approval or disapproval to the department. Each recommendation shall be consistent with the board's community mental health plan.

(C) The department of mental health shall inspect and license the operation of residential facilities. The department shall consider the past record of the facility and the applicant or licensee in arriving at its licensure decision. The department may issue full, probationary, and interim licenses. A full license shall expire two years after the date of issuance, a probationary license shall expire in a shorter period of time as prescribed by

rule adopted by the director of mental health pursuant to Chapter 119. of the Revised Code, and an interim license shall expire ninety days after the date of issuance. The department may refuse to issue or renew and may revoke a license if it finds the facility is not in compliance with rules adopted by the department pursuant to division (G) of this section or if any facility operated by the applicant or licensee has had repeated violations of statutes or rules during the period of previous licenses. Proceedings initiated to deny applications for full or probationary licenses or to revoke such licenses are governed by Chapter 119. of the Revised Code.

(D) The department may issue an interim license to operate a residential facility if both of the following conditions are met:

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under Chapter 119. of the Revised Code.

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

(E) The department of mental health may conduct an inspection of a residential facility:

(1) Prior to the issuance of a license to a prospective operator;

(2) Prior to the renewal of any operator's license;

(3) To determine whether a facility has completed a plan of correction required pursuant to this division and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;

(4) Upon complaint by any individual or agency;

(5) At any time the director considers an inspection to be necessary in order to determine whether a residential facility is in compliance with this section and rules adopted pursuant to this section.

In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility, its personnel, activities, and services. The department shall have access to examine all records, accounts, and any other documents relating to the operation of the residential facility, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection

and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.

(F) No person shall do any of the following:

(1) Operate a residential facility unless the facility holds a valid license;

(2) Violate any of the conditions of licensure after having been granted a license;

(3) Interfere with a state or local official's inspection or investigation of a residential facility;

(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.

(G) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code, prescribing minimum standards for the health, safety, adequacy, and cultural specificity and sensitivity of treatment of and services for persons in residential facilities; establishing procedures for the issuance, renewal or revocation of the licenses of such facilities; establishing the maximum number of residents of a facility; establishing the rights of residents and procedures to protect such rights; and requiring an affiliation agreement approved by the board between a residential facility and a mental health agency. Such affiliation agreement must be consistent with the residential portion of the community mental health plan submitted pursuant to section 340.03 of the Revised Code.

(H) The department may investigate any facility that has been reported to the department or that the department has reasonable cause to believe is operating as a residential facility without a valid license.

(I) The department may withhold the source of any complaint reported as a violation of this act when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.

(J) The director of mental health may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a real and present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a

facility without a license or there is a real and present danger to the health or safety of any residents of the facility.

(K) Whoever violates division (F) of this section or any rule adopted under this section is liable for a civil penalty of one hundred dollars for the first offense; for each subsequent offense, such violator is liable for a civil penalty of five hundred dollars. If the violator does not pay, the attorney general, upon the request of the director of mental health, shall bring a civil action to collect the penalty. Fines collected pursuant to this section shall be deposited into the state treasury to the credit of the mental health sale of goods and services fund.

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following:

(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of Chapter 340. and sections 5119.61 to 5119.63 of the Revised Code.

(1) The rules shall include all of the following:

(a) Rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division (C)(2) of section ~~173.35~~ 5119.69 of the Revised Code;

(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section ~~3722.18~~ 5119.88 of the Revised Code regarding referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A) of section ~~3722.18~~ 5119.88 of the Revised Code;

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental

health services when making a report to the director of mental health under section ~~3722.17~~ 5119.87 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section 5111.023 of the Revised Code, for providing services listed in division (B) of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state mental health plan, including the needs of residents of the district now residing in state mental institutions, ~~approve and allocate funds to support community programs,~~ and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;

(C) ~~Withhold state and federal funds for any program, in whole or in part, from a board of alcohol, drug addiction, and mental health services in the event of failure of that program to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.62 of the Revised Code or rules of the department of mental health. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the services not in compliance until the time that there is compliance. The director shall establish rules pursuant to Chapter 119. of the Revised Code to implement this division.~~

~~(D) Withhold state or federal funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, developmental disability, or the inability to pay;~~

~~(E)~~ Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;

~~(F) Provide~~ (D) At the director's discretion, provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

~~(G)~~(E) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

~~(H) Develop~~ (F) To the extent the director determines necessary and after consulting with boards of alcohol, drug addiction, and mental health services, develop and operate, or contract for the operation of, a community mental health information system or systems.

Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following:

(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised Code;

(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds.

Boards shall submit the information specified in division ~~(H)~~(F)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any

personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

~~(H)~~(G) Review each board's community mental health plan submitted pursuant to section 340.03 of the Revised Code and approve or disapprove it in whole or in part. Periodically, in consultation with representatives of boards and after considering the recommendations of the medical director, the director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:

(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute ~~thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire~~, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. ~~Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the~~ The director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5119.611. (A) A community mental health agency that seeks certification of its community mental health services shall submit an application to the director of mental health. On receipt of the application, the director may visit and shall evaluate the agency to determine whether its

services satisfy the standards established by rules adopted under division (C) of this section. The director shall make the evaluation, and, if the director visits the agency, shall make the visit, in cooperation with the board of alcohol, drug addiction, and mental health services with which the agency seeks to contract under division (A)(8)(a) of section 340.03 of the Revised Code.

(B) Subject to section 5119.612 of the Revised Code, the director shall determine whether the services of an applicant's community mental health agency satisfy the standards for certification of the services. If the director determines that a community mental health agency's services satisfy the standards for certification and the agency has paid the fee required under division ~~(B)~~(D) of this section, the director shall certify the services.

(C) If the director determines that a community mental health agency's services do not satisfy the standards for certification, the director shall identify the areas of noncompliance, specify what action is necessary to satisfy the standards, and offer technical assistance to the board of alcohol, drug addiction, and mental health services so that the board may assist the agency in satisfying the standards. The director shall give the agency a reasonable time within which to demonstrate that its services satisfy the standards or to bring the services into compliance with the standards. If the director concludes that the services continue to fail to satisfy the standards, the director may request that the board reallocate the funds for the community mental health services the agency was to provide to another community mental health agency whose community mental health services satisfy the standards. If the board does not reallocate those funds in a reasonable period of time, the director may withhold state and federal funds for the community mental health services and allocate those funds directly to a community mental health agency whose community mental health services satisfy the standards.

~~(B)~~(D) Each community mental health agency seeking certification of its community mental health services under this section shall pay a fee for the certification ~~review~~ required by this section. Fees shall be paid into the sale of goods and services fund created pursuant to section 5119.161 of the Revised Code.

~~(C)~~(E) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall do all of the following:

(1) Establish certification standards for community mental health services, including assertive community treatment and intensive home-based mental health services, that are consistent with nationally recognized

applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of services or the health and safety of clients of community mental health services. The standards shall address at a minimum all of the following:

(a) Reporting major unusual incidents to the director;

(b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;

(c) Seclusion;

(d) Restraint;

(e) Development of written policies addressing the rights of clients, including all of the following:

(i) The right to a copy of the written policies addressing client rights;

(ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;

(iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;

(iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.

(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;

(3) Establish the process for certification of community mental health services;

(4) Set the amount of certification review fees based on a portion of the cost of performing the review;

(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.

Sec. 5119.612. (A) In lieu of a determination by the director of mental health of whether the services of a community mental health agency satisfy the standards for certification under section 5119.611 of the Revised Code, the director shall accept appropriate accreditation of an applicant's mental health services, integrated mental health and alcohol and other drug addiction services, or integrated mental health and physical health services being provided in this state from any of the following national accrediting organizations as evidence that the applicant satisfies the standards for certification:

(1) The joint commission;

(2) The commission on accreditation of rehabilitation facilities;

(3) The council on accreditation.

(B) If the director determines that an applicant's accreditation is current, is appropriate for the services for which the applicant is seeking certification, and the applicant meets any other requirements established under this section or in rules adopted under this section, the director shall certify the applicant's services that are accredited. Except as provided in division (C)(2) of this section, the director shall issue the certification without further evaluation of the services.

(C) For purposes of this section, all of the following apply:

(1) The director may review the accrediting organizations listed in division (A) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the director considers appropriate for mental health services, physical health services, or both. The director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

(2) The director may visit or otherwise evaluate a community mental health agency at any time based on cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the director.

(3) The director shall require a community mental health agency to notify the director not later than ten days after any change in the agency's accreditation status. The agency may notify the director by providing a copy of the relevant document the agency received from the accrediting organization.

(4) The director shall require a community mental health agency to submit to the director reports of major unusual incidents.

(5) The director may require a community mental health agency to submit to the director cost reports pertaining to the agency.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. In adopting the rules, the director shall do all of the following:

(1) Specify the documentation that must be submitted as evidence of holding appropriate accreditation;

(2) Establish a process by which the director may review the accreditation standards and processes used by the national accrediting organizations listed in division (A) of this section;

(3) Specify the circumstances under which reports of major unusual

incidents and agency cost reports must be submitted to the director;

(4) Specify the circumstances under which the director may visit or otherwise evaluate a community mental health agency for cause;

(5) Establish a process by which the director, based on deficiencies identified as a result of visiting or evaluating a community mental health agency under division (C)(2) of this section, may take any of a range of corrective actions, with the most stringent being revocation of the certification of the agency's services.

Sec. ~~5119.612~~ 5119.613. The director of mental health shall require that each board of alcohol, drug addiction, and mental health services ensure that each community mental health agency with which it contracts under division (A)(8)(a) of section 340.03 of the Revised Code to provide community mental health services establish grievance procedures consistent with rules adopted under section 5119.611 of the Revised Code that are available to all applicants for and clients of the community mental health services.

Sec. ~~5119.613~~ 5119.614. For purposes of ~~Chapter 3722.~~ sections 5119.70 to 5119.88 of the Revised Code, the director of mental health shall approve a standardized form to be used in all areas of this state by adult care facilities and boards of alcohol, drug addiction, and mental health services when entering into mental health resident program participation agreements. As part of approving the form, the director shall specify the requirements that adult care facilities must meet in order to be authorized to admit residents who are receiving or are eligible for publicly funded mental health services.

Sec. 5119.62. (A) ~~Upon approving the plan submitted pursuant to section 340.03 of the Revised Code, the director~~ The department of mental health shall ~~authorize the payment of funds~~ establish a methodology for allocating to ~~a board~~ boards of alcohol, drug addiction, and mental health services ~~from~~ the funds appropriated ~~for such purpose~~ by the general assembly to the department for the purpose of local mental health systems of care. The ~~director~~ department shall ~~release all or part of such~~ establish the methodology after notifying and consulting with relevant constituencies as required by division (L) of section 5119.06 of the Revised Code. The methodology may provide for the funds to be allocated to boards on a district or multi-district basis. Subject to sections 5119.622 and 5119.623 of the Revised Code, the department shall allocate the funds ~~as is~~ to the boards in a manner consistent with the methodology, this section, other state and federal laws, rules, and regulations~~, and the approved plan~~.

(B)~~(1) The director, in consultation with relevant constituencies as~~

~~required by division (A)(11) of section 5119.06 of the Revised Code, shall establish a formula for allocating to boards of alcohol, drug addiction, and mental health services appropriations from the general revenue fund for the purpose of local management of mental health services as this purpose is identified in appropriations to the department of mental health in appropriation acts. The formula shall include as a factor the number of severely mentally disabled persons residing in each alcohol, drug addiction, and mental health service district and may include other factors, including, but not limited to, the historical utilization of public hospitals by persons in each service district. The appropriations shall be allocated to each board in accordance with the formula but shall be distributed only to those boards that elect the option provided under division (B)(3)(a) of this section.~~

~~(2) The director shall allocate each fiscal year to boards of alcohol, drug addiction, and mental health services for services to severely mentally disabled persons a percentage of the appropriations to the department from the general revenue fund for the purposes of hospital personal services, hospital maintenance, and hospital equipment as those purposes are identified in appropriations to the department in appropriation acts. After excluding funds for providing services to persons committed to the department pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, 2945.402, or 5139.08 of the Revised Code, the percentage of those appropriations so allocated each year shall equal ten per cent in fiscal year 1990, twenty per cent in fiscal year 1991, forty per cent in fiscal year 1992, sixty per cent in fiscal year 1993, eighty per cent in fiscal year 1994, and one hundred per cent in fiscal year 1995 and thereafter. The amounts so allocated shall be transferred from the appropriations for the purposes of hospital personal services, hospital maintenance, and hospital equipment and credited to appropriations for the purpose of local management of mental health services. Appropriations for the purpose of local management of mental health services may be used by the department and by the boards~~ The department may allocate to boards a portion of the funds appropriated by the general assembly to the department for the operation of state hospital services. If the department allocates the funds, the department shall do all of the following:

(1) In consultation with the boards:

(a) Annually determine the unit costs of providing state hospital services; and

(b) Establish the methodology for allocating the funds to the boards.

(2) Determine the type of unit costs of providing state hospital services to be included as a factor in the methodology and include that unit cost as a

factor in the methodology;

(3) Subject to sections 5119.622 and 5119.623 of the Revised Code, allocate the funds to the boards in a manner consistent with the methodology, this section, other state and federal laws, rules, and regulations.

~~(3) No~~(c) Not later than the first day of April of each year, the department ~~of mental health~~ shall notify each board ~~of alcohol, drug addiction, and mental health services~~ of the department's estimate of the amount of ~~general revenue~~ funds to be allocated to the board under ~~division (D) of~~ this section during the fiscal year beginning on the next July first. ~~No~~ If the department makes an allocation under division (B) of this section, the department shall also notify each board of the unit costs of providing state hospital services for the upcoming fiscal year as determined under that division. Not later than the first day of May of each year, each board shall notify the ~~director~~ department as to which of the following options it has elected for ~~that~~ the upcoming fiscal year:

~~(a)~~(1) The board elects to accept distribution of the amount allocated to it under ~~division (B)(1) of~~ this ~~section. Any board that makes such an election shall agree to make payments into the risk fund established in division (E) of this section, to make any payments for utilization of state hospitals that are required under division (E)(3) of this section, to use the funds distributed to it within the limitations set forth in division (B)(2) of this section, and to provide the department with a statement of projected utilization of state hospitals and other state-operated services by residents of its service district during the fiscal year.~~

~~The department shall retain and expend the funds projected to be utilized for state hospitals and other state-operated services~~ section. Funds distributed to each board shall be used to supplement and not to supplant other state, local, or federal funds that are being used to support community-based programs for severely mentally disabled children, adolescents, and adults, unless the funds have been specifically designated for the initiation of programs in accordance with the community mental health plan developed and submitted under section 340.03 and approved under section 5119.61 of the Revised Code. Notwithstanding section 131.33 of the Revised Code, any board may expend unexpended funds distributed to the board from appropriations for the purpose of local management of mental health services in the fiscal year following the fiscal year ~~in~~ for which the appropriations are made, in accordance with the approved community mental health plan.

~~(b) The~~ (2) Subject to division (D) of this section, the board elects not to

accept the amount allocated to it under ~~division (B)(1) of~~ this section, authorizes the department to determine the use of its allocation, and agrees to provide the department with a statement of projected utilization of state hospitals and other state-operated services by residents of its service district during the fiscal year.

~~(4) Beginning with the notification required to be made by May 1, 1995, under division (B)(3) of this section, no~~ (D) No board ~~of alcohol, drug addiction, and mental health services~~ shall elect the option in division ~~(B)(3)(b)~~(C)(2) of this section unless ~~one~~ all of the following ~~applies~~ apply:

~~(a) The~~ (1) Either the total ~~general revenue~~ funds estimated by the department to be allocated to the board under this section for the next fiscal year ~~is~~ are reduced by a substantial amount, as defined in guidelines adopted by the director of mental health under division ~~(B)(4)~~(E) of this section, in comparison to the amount allocated for the current fiscal year, for reasons not related to performance~~;~~

~~(b) The amount of estimated general revenue funds to be allocated to the board is not reduced by a substantial amount but~~ or the board has experienced other circumstances specified in the guidelines ~~adopted by the director under division (B)(4) of this section~~.

~~The director shall consult with boards of alcohol, drug addiction, and mental health services and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of general revenue funds for the purpose of electing the option under division (B)(3)(b) of this section, and what other circumstances qualify a board to elect that option.~~

~~Beginning with the notification required to be made by May 1, 1995, under division (B)(3) of this section, no board shall notify the director that it elects the option under division (B)(3)(b) of this section unless it has conducted~~ (2) The board provides the department written confirmation that the board has received input about the impact that the board's election will have on the mental health system in the board's district from all of the following:

(a) Individuals who receive mental health services and such individuals' families;

(b) Boards of county commissioners;

(c) Judges of juvenile and probate courts;

(d) County sheriffs, jail administrators, and other local law enforcement officials.

(3) Not later than seven days before notifying the department of its election and after providing the department the written confirmation

required by division (D)(2) of this section, the board conducts a public hearing on the issue ~~no later than seven days before making the notification~~.

~~(C) Boards of alcohol, drug addiction, and mental health services and community mental health agencies~~ (E) For the purpose of division (D)(1) of this section, the director of mental health shall consult with the boards and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of funds and what other circumstances qualify a board to elect the option in division (C)(2) of this section.

(F) No board shall ~~not~~ use state funds for the purpose of ~~influencing employees with respect to unionization. As used in this division, "influencing" means~~ discouraging employees from seeking collective bargaining representation or encouraging employees to decertify a recognized collective bargaining agent.

~~(D) The director shall develop, and review at least annually, a methodology, including the formula developed under division (B)(1) of this section, for distributing and allocating funds to boards. The methodology shall be consistent with state and federal law and regulations. A portion of the funds shall be distributed based on the ratio of the population of the district served by the board to the total population of the state as determined from the federal census or the most recent estimates produced by the United States census bureau's federal state cooperative program for population program series P-26 or the population estimates and projections program series P-25, whichever is most recent.~~

~~(E)(1) There is hereby created in the state treasury the department of mental health risk fund, which shall receive payments from boards that have elected the option provided in division (B)(3)(a) of this section. All investment earnings of the fund shall be credited to the fund. Moneys in the fund shall be used for the following purposes:~~

~~(a) To assist boards that elect the option provided in division (B)(3)(a) of this section and that serve service districts in which the costs of utilization of state hospitals by residents in a fiscal year exceed the amount allocated to the district under the formula developed under division (B)(1) of this section. The department shall define such costs by unit and establish them annually after consultation with representatives of such boards.~~

~~(b) To make payments to boards that elect the option provided in division (B)(3)(a) of this section and that experience conditions of financial hardship, as determined by the director.~~

~~The director of mental health, in consultation with representatives of the boards, shall develop guidelines for the use of moneys in the risk fund.~~

~~(2) On or before the first day of April of each year, the department shall~~

~~specify the percentage of the amount of money allocated under division (B)(1) of this section for distribution to boards subject to division (E) of this section that each such board is to transmit to the director of mental health for deposit in the risk fund for the following fiscal year. On or before the first day of August of each year, each such board shall transmit to the director for deposit to the credit of the risk fund the amount obtained by multiplying that percentage by the amount allocated for distribution to such boards.~~

~~(3) Whenever the costs of utilization of state hospitals by residents in a district served by a board subject to division (E) of this section exceed the amount allocated to the district under the formula, responsibility for payment of the excess costs shall be borne by the board of that district and the risk fund as follows:~~

~~(a) The board and the risk fund each are responsible for payment of one-half of any costs that exceed one hundred per cent of the amount allocated under the formula but do not exceed one hundred five per cent of that amount.~~

~~(b) The board is responsible for payment of one-fourth, and the risk fund responsible for three-fourths, of any costs that exceed one hundred five per cent of the amount allocated under the formula but do not exceed one hundred ten per cent of that amount.~~

~~(c) The risk fund is responsible for payment of any costs that exceed one hundred ten per cent of the amount allocated under the formula but do not exceed one hundred fifteen per cent of that amount.~~

~~(d) The board is responsible for payment of all costs that exceed one hundred fifteen per cent of the amount allocated under the formula.~~

~~(F)~~(G) The department shall charge against the allocation made to a board under division (B)~~(1)~~ of this section, if any, any unreimbursed costs for services provided by the department. ~~This requirement is not affected by any election a board makes under division (B)(3) of this section.~~

(H) A board's use of funds allocated under this section is subject to audit by county, state, and federal authorities.

Sec. 5119.621. (A) As used in this section, "administrative function" means a function related to one or more of the following:

(1) Continuous quality improvement;

(2) Utilization review;

(3) Resource development;

(4) Fiscal administration;

(5) General administration;

(6) Any other function related to administration that is required by

Chapter 340. of the Revised Code.

(B) Each board of alcohol, drug addiction, and mental health services shall submit an annual report to the department of mental health specifying how the board used ~~state and federal~~ funds allocated to the board~~, according to the formula the director of mental health establishes~~ under section 5119.62 of the Revised Code~~,~~ for administrative functions in the year preceding the report's submission. The director of mental health shall establish the date by which the report must be submitted each year.

Sec. 5119.622. The director of mental health, in whole or in part, may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.62 of the Revised Code if the board fails to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.621 of the Revised Code or rules of the department of mental health regarding a community mental health service. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the community mental health service for which the board is not in compliance until the time that there is compliance. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5119.623. The director of mental health may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.62 of the Revised Code if the board denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, or developmental disability.

Sec. ~~173.35~~ 5119.69. (A) ~~As used in this section, "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program created under section 173.40 of the Revised Code.~~

~~(B)~~ The department of ~~aging~~ mental health shall ~~administer~~ implement the residential state supplement program under which the state supplements the supplemental security income payments received by aged, blind, or

disabled adults under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as amended. Residential state supplement payments shall be used for the provision of accommodations, supervision, and personal care services to supplemental security income recipients who the department determines are at risk of needing institutional care.

(B) In implementing the program, the department may designate one or more entities to be responsible for providing administrative services regarding the program. The department may designate an entity to be a residential state supplement administrative agency under this division either by entering into a contract with the entity to serve in that capacity or by otherwise delegating to the entity the responsibility to serve in that capacity.

(C) For an individual to be eligible for residential state supplement payments, all of the following must be the case:

(1) Except as provided by division (G) of this section, the individual must reside in one of the following:

(a) An adult foster home certified under section ~~173.36~~ 5119.692 of the Revised Code;

(b) A home or facility, other than a nursing home or nursing home unit of a home for the aging, licensed by the department of health under Chapter 3721. ~~or 3722.~~ of the Revised Code ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section~~ or the department of mental health under sections 5119.70 to 5119.88 of the Revised Code;

(c) A residential facility as defined in division (A)(1)(d)(ii) of section 5119.22 of the Revised Code licensed by the department of mental health ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section~~;

(d) An apartment or room used to provide community mental health housing services certified by the department of mental health under section 5119.611 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)(14) of section 340.03 of the Revised Code ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section~~.

(2) ~~Effective July 1, 2000, a PASSPORT~~ A residential state supplement administrative agency must have determined that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. If the individual is eligible for supplemental security income payments or social security disability insurance benefits because of a mental disability, the ~~PASSPORT~~ residential state supplement administrative agency shall refer the individual to a community mental

health agency for the community mental health agency to issue in accordance with section 340.091 of the Revised Code a recommendation on whether the ~~PASSPORT~~ residential state supplement administrative agency should determine that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. ~~Division (C)(2) of this section does not apply to an individual receiving residential state supplement payments on June 30, 2000, until the individual's first eligibility redetermination after that date.~~

(3) The individual satisfies all eligibility requirements established by rules adopted under division (D) of this section.

(D)~~(1)~~ The directors of ~~aging~~ mental health and job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement the residential state supplement program.

To the extent permitted by Title XVI of the "Social Security Act," and any other provision of federal law, the director of job and family services ~~shall~~ may adopt rules establishing standards for adjusting the eligibility requirements concerning the level of impairment a person must have so that the amount appropriated for the program by the general assembly is adequate for the number of eligible individuals. The rules shall not limit the eligibility of disabled persons solely on a basis classifying disabilities as physical or mental. The director of job and family services also ~~shall~~ may adopt rules that establish eligibility standards for aged, blind, or disabled individuals who reside in one of the homes or facilities specified in division (C)(1) of this section but who, because of their income, do not receive supplemental security income payments. The rules may provide that these individuals may include individuals who receive other types of benefits, including, social security disability insurance benefits provided under Title II of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401, as amended. Notwithstanding division ~~(B)~~(A) of this section, such payments may be made if funds are available for them.

The director of ~~aging shall~~ mental health may adopt rules establishing the method to be used to determine the amount an eligible individual will receive under the program. The amount the general assembly appropriates for the program ~~shall~~ may be a factor included in the method that ~~department~~ director establishes.

~~(2) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for certification of living facilities described in division (C)(1) of this section.~~

~~The directors of aging and mental health shall enter into an agreement to certify facilities that apply for certification and meet the standards~~

~~established by the director of aging under this division.~~

(E) The county department of job and family services of the county in which an applicant for the residential state supplement program resides shall determine whether the applicant meets income and resource requirements for the program.

(F) The department of ~~aging~~ mental health shall maintain a waiting list of any individuals eligible for payments under this section but not receiving them because moneys appropriated to the department for the purposes of this section are insufficient to make payments to all eligible individuals. An individual may apply to be placed on the waiting list even though the individual does not reside in one of the homes or facilities specified in division (C)(1) of this section at the time of application. The director of ~~aging~~ mental health, by rules adopted in accordance with Chapter 119. of the Revised Code, ~~shall~~ may specify procedures and requirements for placing an individual on the waiting list and priorities for the order in which individuals placed on the waiting list are to begin to receive residential state supplement payments. The rules specifying priorities may give priority to individuals placed on the waiting list on or after July 1, 2006, who receive supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as amended. The rules shall not affect the place on the waiting list of any person who was on the list on July 1, 2006. The rules specifying priorities may also set additional priorities based on living arrangement, such as whether an individual resides in a facility listed in division (C)(1) of this section or has been admitted to a nursing facility.

(G) An individual in a licensed or certified living arrangement receiving state supplementation on November 15, 1990, under former section 5101.531 of the Revised Code shall not become ineligible for payments under this section solely by reason of the individual's living arrangement as long as the individual remains in the living arrangement in which the individual resided on November 15, 1990.

(H) The department of ~~aging~~ mental health shall notify each person denied approval for payments under this section of the person's right to a hearing. On request, the hearing shall be provided ~~by the department of job and family services~~ in accordance with ~~section 5101.35~~ Chapter 119. of the Revised Code.

Sec. ~~173.351~~ 5119.691. (A) As used in this section:

~~"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.~~

"Long-term care consultation program" means the program the

department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Residential state supplement administrative agency" means an entity designated as such by the department of mental health under section 5119.69 of the Revised Code.

"Residential state supplement program" means the program administered pursuant to section ~~173.35~~ 5119.69 of the Revised Code.

(B) ~~Each month, each area agency on aging~~ On a periodic schedule determined by the department of mental health, each residential state supplement administrative agency shall determine whether individuals who reside in the area that the ~~area~~ agency ~~on aging~~ serves and are on a waiting list for the residential state supplement program have been admitted to a nursing facility. If ~~an area~~ a residential state supplement administrative agency ~~on aging~~ determines that such an individual has been admitted to a nursing facility, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the residential state supplement program is appropriate for the individual and whether the individual would rather participate in the program than continue residing in the nursing facility. If the administrator determines that the residential state supplement program is appropriate for the individual and the individual would rather participate in the program than continue residing in the nursing facility, the administrator shall so notify the department of ~~aging~~ mental health. On receipt of the notice from the administrator, the department of ~~aging~~ mental health shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division (F) of section ~~173.35~~ 5119.69 of the Revised Code. Each quarter, the department of ~~aging~~ mental health shall certify to the director of budget and management the estimated increase in costs of the residential state supplement program resulting from enrollment of individuals in the program pursuant to this section.

~~(C) Not later than the last day of each calendar year, the director of aging shall submit to the general assembly a report regarding the number of individuals enrolled in the residential state supplement program pursuant to~~

~~this section and the costs incurred and savings achieved as a result of the enrollments.~~

Sec. ~~173.36~~ 5119.692. As used in this section, "adult foster home" means a residence, other than a ~~residence certified or~~ residential facility licensed ~~by the department of mental health~~ under section 5119.22 of the Revised Code, in which accommodations and personal care services, as defined in section ~~3722.01~~ 5119.70 of the Revised Code, are provided to one or two adults who are unrelated to the owners of the residence.

The department of ~~aging~~ mental health shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the certification of adult foster homes. The department or its designee shall certify adult foster homes that apply for certification and meet the standards established by the department.

Sec. 5119.693. (A) As used in this section:

(1) "Adult resident" means an individual residing in an adult foster home certified by the department of mental health.

(2) "Applicant" means a person who is under final consideration for employment with an adult foster home in a full-time, part-time, or temporary position that involves providing direct care to an adult resident. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the owner or administrator of an adult foster home shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the owner or administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the owner or administrator may request that the superintendent include information from the federal bureau of investigation

in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the department of mental health in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult foster home shall employ a person in a position that involves providing direct care to an adult resident if the person has been convicted of or pleaded guilty to any of the following:

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

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

(2)(a) An adult foster home may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the foster home shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, an adult foster home may employ conditionally an applicant who has been referred to the adult foster home by an employment service

that supplies full-time, part-time, or temporary staff for positions involving the direct care of adult residents and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) An adult foster home that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the foster home shall terminate the individual's employment unless the foster home chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the foster home about the individual's criminal record.

(D)(1) Each adult foster home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) An adult foster home may charge an applicant a fee not exceeding the amount the foster home pays under division (D)(1) of this section. An adult foster home may collect a fee only if it notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The owner or administrator of the foster home requesting the criminal records check or the owner's or administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to adult residents that is owned or operated by the same entity that owns or operates the adult foster home;

(4) A court, hearing officer, or other necessary individual involved in a

case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section.

(F) The department of mental health may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which an adult foster home may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.

(G) The owner or administrator of an adult foster home shall inform each individual, at the time of initial application for a position that involves providing direct care to an adult resident, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who an adult foster home employs in a position that involves providing direct care to adult residents, all of the following shall apply:

(1) If the foster home employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the foster home shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the foster home employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the foster home shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the foster home in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the foster home shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The owner or administrator of an adult foster home is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the foster home by an employment service

that supplies full-time, part-time, or temporary staff for positions involving the direct care of adult residents and both of the following apply:

(a) The owner or administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the adult foster home chooses to employ the individual pursuant to division (F) of this section.

(2) The owner or administrator of an adult foster home is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the foster home by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of adult residents and if the owner or administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the adult care foster home. If an adult foster home employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the adult foster home, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. ~~3722.01~~ 5119.70. (A) As used in ~~this chapter~~ sections 5119.70 to 5119.88:

(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the

manager, if different from the owner, is responsible.

(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.

(3) "Adult" means an individual eighteen years of age or older.

(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.

(6)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assistance with activities of daily living;

(ii) Assistance with self-administration of medication, in accordance with rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code;

(iii) Preparation of special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section for the facility to be considered to be providing personal care services.

(7) "Adult family home" means a residence or facility that provides accommodations and supervision to three to five unrelated adults, at least three of whom require personal care services.

(8) "Adult group home" means a residence or facility that provides accommodations and supervision to six to sixteen unrelated adults, at least three of whom require personal care services.

(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom require personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:

(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice

patients;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

(c) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

(d) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

(e) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(f) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;

(g) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;

(h) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;

(i) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

(j) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans.

(10) ~~"Residents' rights advocate" means:~~

~~(a) An employee or representative of any state or local government entity that has a responsibility for residents of adult care facilities and has registered with the department of health under section 3701.07 of the Revised Code;~~

~~(b) An employee or representative, other than a manager or employee of an adult care facility or nursing home, of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has registered with the department of health under section 3701.07 of the Revised Code, and whose purposes include educating and counseling residents, assisting residents in resolving problems and~~

~~complaints concerning their care and treatment, and assisting them in securing adequate services.~~

~~(11)~~ "Sponsor" means an adult relative, friend, or guardian of a resident of an adult care facility who has an interest in or responsibility for the resident's welfare.

~~(12)~~(11) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.

~~(13)~~(12) "Mental health agency" means a community mental health agency, as defined in division (H) of section ~~5119.22~~ 5122.01 of the Revised Code, under contract with an ADAMHS board pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.

~~(14)~~(13) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services;

~~(15)~~(14) "Mental health resident program participation agreement" means a written agreement between an adult care facility and the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the facility is located, under which the facility is authorized to admit residents who are receiving or are eligible for publicly funded mental health services.

~~(16)~~(15) "~~PASSPORT~~ RSS administrative agency" means an entity ~~under contract with the department of aging to provide~~ that provides administrative services regarding the ~~PASSPORT~~ residential state supplement program ~~created under section 173.40 of the Revised Code~~ on behalf of the department of mental health, either by having entered into a contract with the department to serve in that capacity or by having the department otherwise delegate to it the responsibility to serve in that capacity.

(B) For purposes of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(C) Nothing in division (A)(6) of this section shall be construed to permit personal care services to be imposed upon a resident who is capable of performing the activity in question without assistance.

Sec. ~~3722.011~~ 5119.701. (A) All medication taken by residents of an adult care facility shall be self-administered, except that medication may be administered to a resident as part of the skilled nursing care provided in

accordance with division (B) of section ~~3722.16~~ 5119.86 of the Revised Code. No person shall be admitted to or retained by an adult care facility unless the person is capable of self-administering the person's medication, as determined in writing by a physician, except that a person may be admitted to or retained by such a facility if the person's medication is administered as part of the skilled nursing care provided in accordance with division (B) of section ~~3722.16~~ 5119.86 of the Revised Code.

(B) Members of the staff of an adult care facility shall not administer medication to residents but may do any of the following:

Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

Sec. ~~3722.02~~ 5119.71. A person seeking a license to operate an adult care facility shall submit to the director of mental health an application on a form prescribed by the director and the following:

(A) In the case of an adult group home seeking licensure as an adult care facility, evidence that the home has been inspected and approved by a local certified building department or by the division of labor in the department of commerce as meeting the applicable requirements of sections 3781.06 to 3781.18 and 3791.04 of the Revised Code and any rules adopted under those sections and evidence that the home has been inspected by the state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal and found to be in compliance with rules adopted under section 3737.83 of the Revised Code regarding fire prevention and safety in adult group homes;

(B) Valid approvals of the facility's water and sewage systems issued by the responsible governmental entity, if applicable;

(C) A statement of ownership containing the following information:

(1) If the owner is an individual, the owner's name, address, telephone number, business address, business telephone number, and occupation. If the owner is an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity.

(2) If the owner does not own the building or if the owner owns only part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;

(3) The address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 of the Revised Code in which the owner has an ownership interest of five per cent or more;

(4) The identity of the manager of the adult care facility, if different from the owner;

(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;

(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;

(7) Information about any arrest of the owner or manager for, or adjudication or conviction of, a criminal offense related to the provision of care in an adult care facility or any facility described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 of the Revised Code or the ability to operate a facility;

(8) Any other information the director may require regarding the owner's ability to operate the facility.

(D) If the facility is an adult group home, a balance sheet showing the assets and liabilities of the owner and a statement projecting revenues and expenses for the first twelve months of the facility's operation;

(E) A statement containing the following information regarding admissions to the facility:

(1) The intended bed capacity of the facility;

(2) If the facility will admit persons referred by or receiving services from an ADAMHS board or a mental health agency, the total number of beds anticipated to be occupied as a result of those admissions.

(F) A nonrefundable license application fee in an amount established in rules adopted ~~by the public health council pursuant to this chapter~~ under

section 5119.79 of the Revised Code.

Sec. ~~3722.021~~ 5119.711. In determining the number of residents in a facility for the purpose of licensure ~~under this chapter~~ as an adult care facility, the director of mental health shall consider all the individuals for whom the facility provides accommodations as one group unless either of the following is the case:

(A) In addition to being an adult care facility, the facility is a nursing home licensed under Chapter 3721. of the Revised Code, a residential facility licensed under that chapter, or both. In that case, all the individuals in the part or unit licensed as a nursing home, residential care facility, or both, shall be considered as one group and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(B) The facility maintains, in addition to an adult care facility, a separate and discrete part or unit that provides accommodations to individuals who do not receive supervision or personal care services from the adult care facility, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the adult care facility if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the adult care facility, to the extent of its authority, permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

Sec. ~~3722.022~~ 5119.712. A person may not apply for a license to operate an adult care facility if the person is or has been the owner or manager of an adult care facility for which a license to operate was revoked or for which renewal of a license was refused for any reason other than nonpayment of the license renewal fee, unless both of the following conditions are met:

(A) A period of not less than two years has elapsed since the date the director of mental health issued the order revoking or refusing to renew the facility's license.

(B) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to be free from abuse, neglect, or exploitation.

Sec. ~~3722.03~~ 5119.72. (A) Any person may operate an adult family home licensed as an adult care facility as a permitted use in any residential district or zone, including any single-family residential district or zone of any political subdivision. Such adult family homes may be required to

comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(B) Any person may operate an adult group home licensed as an adult care facility as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit development districts as defined in section 519.021 of the Revised Code may exclude adult group homes from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate adult group homes in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation.

(C) This section does not affect any right of a political subdivision to permit a person to operate an adult group home licensed under this chapter in a single-family residential district or zone under conditions established by the political subdivision.

(D)(1) Notwithstanding divisions (A) and (B) of this section and except as otherwise provided in division (D)(2) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of adult family homes and adult group homes required to be licensed as adult care facilities.

(2) Nothing in division (D)(1) of this section authorizes a political subdivision to prevent or limit the continued existence and operation of adult family homes and adult group homes existing and operating on the effective date of this section and required to be licensed as adult care facilities. A political subdivision may consider the existence of such homes for the purpose of limiting the excessive concentration of adult family homes or adult group homes required to be licensed as adult care facilities that are not existing and operating on the effective date of this section.

Sec. ~~3722.04~~ 5119.73. (A) The director of mental health shall inspect, license, and regulate adult care facilities. Except as otherwise provided in division (D) of this section, the director shall issue a license to an adult care facility that meets the requirements of section ~~3722.02~~ 5119.71 of the

Revised Code and that the director determines to be in substantial compliance with the rules adopted ~~by the public health council~~ pursuant to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code. The director shall consider the past record of the owner and manager and any individuals who are principal participants in an entity that is the owner or manager in operating facilities providing care to adults. The director may, in accordance with Chapter 119. of the Revised Code, deny a license if the past record indicates that the owner or manager is not suitable to own or manage an adult care facility.

The license shall contain the name and address of the facility for which it was issued, the date of expiration of the license, and the maximum number of residents that may be accommodated by the facility. A license for an adult care facility shall be valid for a period of two years after the date of issuance. No single facility may be licensed to operate as more than one adult care facility.

(B) The director shall renew a license for a two-year period if the facility continues to be in compliance with the requirements of this chapter and in substantial compliance with the rules adopted ~~under this chapter~~ pursuant to sections 5119.70 to 5119.88 of the Revised Code. The owner shall submit a nonrefundable license renewal application fee in an amount established in rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code. Before the license of an adult group home is renewed, if any alterations have been made to the buildings, a certificate of occupancy for the facility shall have been issued by the division of labor in the department of commerce or a local certified building department. The facility shall have water and sewage system approvals, if required by law, and, in the case of an adult group home, documentation of continued compliance with the rules adopted by the state fire marshal under division (F) of section 3737.83 of the Revised Code.

(C)(1) During each licensure period, the director shall make at least one unannounced inspection of an adult care facility in addition to inspecting the facility to determine whether a license should be issued or renewed, and may make additional unannounced inspections as the director considers necessary. Other inspections may be made at any time that the director considers appropriate. Inspections may be conducted as desk audits or on-site inspections.

The director shall take all reasonable actions to avoid giving notice of an inspection by the manner in which the inspection is scheduled or performed.

If an inspection is conducted to investigate an alleged violation of the

requirements of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code in a facility with residents referred by or receiving services from a mental health agency or ADAMHS board or a facility with residents receiving assistance under the residential state supplement program administered by the department of ~~aging~~ mental health pursuant to section ~~173.35~~ 5119.69 of the Revised Code, the director ~~shall~~ may coordinate the inspection with the appropriate mental health agency, ADAMHS board, or ~~PASSPORT~~ residential state supplement administrative agency designated under section 5119.69 of the Revised Code. ~~As the director considers appropriate, the~~ The director ~~shall~~ may conduct the inspection jointly with the mental health agency, ADAMHS board, or ~~PASSPORT~~ residential state supplement administrative agency.

Not later than sixty days after the date of an inspection of a facility, the director shall send a report of the inspection to the regional long-term care ombudsperson ~~in whose region~~ representing the program in the area in which the facility is located.

(2) The state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal shall inspect an adult group home seeking a license or renewal ~~under this chapter~~ as an adult care facility prior to issuance of a license or renewal, at least once annually thereafter, and at any other time at the request of the director, to determine compliance with the rules adopted under division (F) of section 3737.83 of the Revised Code.

(D) The director may waive any of the licensing requirements established by rule ~~adopted by the public health council~~ pursuant to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code upon written request of the facility. The director may grant a waiver if the director determines that the strict application of the licensing requirement would cause undue hardship to the facility and that granting the waiver would not jeopardize the health or safety of any resident. The director may provide a facility with an informal hearing concerning the denial of a waiver request, but the facility shall not be entitled to a hearing under Chapter 119. of the Revised Code unless the director takes an action that requires a hearing to be held under section ~~3722.05~~ 5119.74 of the Revised Code.

(E)(1) Not later than thirty days after each of the following, the owner of an adult care facility shall submit an inspection fee of twenty dollars for each bed for which the facility is licensed:

(a) Issuance or renewal of a license;

(b) The unannounced inspection required by division (C)(1) of this section that is in addition to the inspection conducted to determine whether a

license should be issued or renewed;

(c) If, during an inspection conducted in addition to the two inspections required by division (C)(1) of this section, the facility was found to be in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or the rules adopted under ~~it~~ those sections, receipt by the facility of the report of that investigation.

(2) The director may revoke the license of any adult care facility that fails to submit the fee within the thirty-day period.

(3) All inspection fees received by the director, all civil penalties assessed under section ~~3722.08~~ 5119.77 of the Revised Code, all fines imposed under section ~~3722.99~~ 5119.99 of the Revised Code, and all license application and renewal application fees received under division (F) of section ~~3722.02~~ 5119.71 of the Revised Code or under division (B) of this section ~~shall be deposited into the general operations fund created in section 3701.83 of the Revised Code and~~ shall be used only to pay the costs of administering and enforcing the requirements of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code and rules adopted under ~~it~~ those sections.

(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section ~~3722.02~~ 5119.71 of the Revised Code or in the identity of the manager, not later than ten days after the change occurs.

(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:

(a) Any civil penalties imposed against the facility under section ~~3722.08~~ 5119.77 of the Revised Code for violations that occur before the date of transfer of ownership or during any period in which the seller or the seller's agent operates the facility;

(b) Any outstanding liability to the state, unless the buyer or transferee has agreed, as a condition of the sale or transfer, to accept the outstanding liabilities and to guarantee their payment, except that if the buyer or transferee fails to meet these obligations the seller or transferor shall remain responsible for the outstanding liability.

(G) The director shall annually publish a list of licensed adult care facilities, facilities for which licenses have been revoked, facilities for which license renewal has been refused, any facilities under an order suspending admissions pursuant to section ~~3722.07~~ 5119.76 of the Revised Code, and any facilities that have been assessed a civil penalty pursuant to section ~~3722.08~~ 5119.77 of the Revised Code. The director shall furnish information concerning the status of licensure of any facility to any person upon request.

The director shall annually send a copy of the list to the department of job and family services~~, to the department of mental health,~~ and to the department of aging.

Sec. ~~3722.041~~ 5119.731. (A) Sections 3781.06 to 3781.18 and 3791.04 of the Revised Code do not apply to an adult family home for which application is made to the director of mental health for licensure as an adult care facility ~~under this chapter~~. Adult family homes shall not be required to submit evidence to the director ~~of health~~ that the home has been inspected by a local certified building department or the division of labor in the department of commerce or by the state fire marshal or a fire prevention officer under section ~~3722.02~~ 5119.71 of the Revised Code, but shall be inspected by the director ~~of health~~ to determine compliance with this section. An inspection made under this section may be made at the same time as an inspection made under section ~~3722.04~~ 5119.73 of the Revised Code.

(B) The director shall not license or renew the license of an adult family home unless it meets the fire protection standards established by rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code.

Sec. ~~3722.05~~ 5119.74. If an adult care facility fails to comply with any requirement of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or with any rule adopted ~~pursuant to this chapter~~ under those sections, the director of mental health may do any one or all of the following:

(A) In accordance with Chapter 119. of the Revised Code, deny, revoke, or refuse to renew the license of the facility;

(B) Give the facility an opportunity to correct the violation, in accordance with section ~~3722.06~~ 5119.75 of the Revised Code;

(C) Issue an order suspending the admission of residents to the facility, in accordance with section ~~3722.07~~ 5119.76 of the Revised Code;

(D) Impose a civil penalty in accordance with section ~~3722.08~~ 5119.77 of the Revised Code;

(E) Petition the court of common pleas for injunctive relief in accordance with section ~~3722.09~~ 5119.78 of the Revised Code.

Sec. ~~3722.06~~ 5119.75. Except as otherwise provided in sections ~~3722.07~~ 5119.76 to ~~3722.09~~ 5119.78 of the Revised Code and except in cases of violations that jeopardize the health and safety of any of the residents, if the director of mental health determines that a licensed adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of rules adopted ~~pursuant to this chapter~~ under those sections, the director shall give the facility an opportunity to correct the violation. The director

shall notify the facility of the violation and specify a reasonable time for making the corrections. Notice of the violation shall be in writing and shall include a citation to the statute or rule violated. The director shall state the action that the director will take if the corrections are not made within the specified period of time.

The facility shall submit to the director a plan of correction stating the actions that will be taken to correct the violation. The director shall conduct an inspection to determine whether the facility has corrected the violation in accordance with the plan of correction.

If the director determines that the facility has failed to correct the violation in accordance with the plan of correction, the director may impose a penalty under section ~~3722.08~~ 5119.77 of the Revised Code. If the director determines that the license of the facility should be revoked or should not be renewed because the facility has failed to correct the violation within the time specified or because the violation jeopardizes the health or safety of any of the residents, the director shall revoke or refuse to renew the license in accordance with Chapter 119. of the Revised Code.

Sec. ~~3722.07~~ 5119.76. (A) If the director of mental health determines that an adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of rules adopted ~~pursuant to it~~ under those sections, the director may immediately issue an order suspending the admission of residents to the facility. This order shall be effective immediately without prior hearing, and no resident shall be admitted to the facility until termination of the order. The director shall send a copy of the order to each organization known by the director to have placed residents in the facility and upon termination of the order shall send written notice of the termination to each of these organizations. Upon inquiry by any person about the licensure status of the facility, the director shall disclose the existence of an order of suspension. If the director discloses the existence of such an order to any person pursuant to this division, ~~he~~ the director shall also notify that person, and any other person upon inquiry, of any subsequent termination of the order of suspension. The facility shall post the notice provided for in division (B) of this section prominently and shall inform any person who inquires about residence or placement in the facility of the order.

(B) The director shall give written notice of the order of suspension to the facility by certified mail, return receipt requested, or shall provide for delivery of the notice in person. If requested by the facility in a letter mailed or delivered not later than two working days after it has received the notice, the director shall hold a conference with representatives of the facility

concerning the suspension. The conference shall be held not later than seven days after the director receives the request.

The notice sent by the director shall contain all of the following:

(1) A description of the violation;

(2) A citation to the statute or rule violated;

(3) A description of the corrections required for termination of the order of suspension;

(4) Procedures for the facility to follow to request a conference on the order of suspension.

(C) At the conference the director shall discuss with the representatives of the facility the violation cited in the notice provided for in division (B) of this section and shall advise the representatives in regard to correcting the violations. Not later than five days after the conference, the director shall issue another order either upholding or terminating the suspension. If the director issues an order upholding the suspension, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the notice and hearing under that chapter shall be provided after the order is issued, and the suspension shall remain in effect during the hearing process unless terminated by the director or until ninety days have elapsed after a timely request for an adjudication hearing is received by the director, whichever is sooner.

Sec. ~~3722.08~~ 5119.77. (A) If the director of mental health determines that an adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or rules adopted under ~~it~~ those sections, the director may impose a civil penalty on the owner of the facility, pursuant to rules adopted ~~by the public health council~~ under ~~this chapter~~ sections 5119.79 and 5119.80 of the Revised Code. The director shall determine the classification and amount of the penalty by considering the following factors:

(1) The gravity of the violation, the severity of the actual or potential harm, and the extent to which the provisions of this chapter or rules adopted under it were violated;

(2) Actions taken by the owner or manager to correct the violation;

(3) The number, if any, of previous violations by the adult care facility.

(B) The director shall give written notice of the order imposing a civil penalty to the adult care facility by certified mail, return receipt requested, or shall provide for delivery of the notice in person. The notice shall specify the classification of the violation as determined by rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.80 of the Revised Code, the amount of the penalty and the rate of interest, the action

that is required to be taken to correct the violation, the time within which it is to be corrected as specified in division (C) of this section, and the procedures for the facility to follow to request a conference on the order imposing a civil penalty. If the facility requests a conference in a letter mailed or delivered not later than two working days after it has received the notice, the director shall hold a conference with representatives of the facility concerning the civil penalty. The conference shall be held not later than seven days after the director receives the request. The conference shall be conducted as prescribed in division (C) of section ~~3722.07~~ 5119.76 of the Revised Code. If the director issues an order upholding the civil penalty, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the order of the director shall be in effect during proceedings instituted pursuant to that chapter until a final adjudication is made.

(C) The director shall order that the condition or practice constituting a class I violation be abated or eliminated within twenty-four hours or any longer period that the director considers reasonable. The notice for a class II or a class III violation shall specify a time within which the violation is required to be corrected.

(D) If the facility does not request a conference or if, after a conference, it fails to take action to correct a violation in the time prescribed by the director, the director shall issue an order upholding the penalty, plus interest at the rate specified in section 1343.03 of the Revised Code for each day beyond the date set for payment of the penalty. The director may waive the interest payment for the period prior to the conference if the director concludes that the conference was necessitated by a legitimate dispute.

(E) The director may cancel or reduce the penalty for a class I violation if the facility corrects the violation within the time specified in the notice, except that the director shall impose the penalty even though the facility has corrected the violation if a resident suffers physical harm because of the violation or the facility has been cited previously for the same violation. The director may cancel the penalty for a class II or class III violation if the facility corrects the violation within the time specified in the notice and the facility has not been cited previously for the same violation. Each day of a violation of any class, after the date the director sets for abatement or elimination, constitutes a separate and additional violation.

(F) If an adult care facility fails to pay a penalty imposed under this section, the director may commence a civil action to collect the penalty. The license of an adult care facility that has failed to pay a penalty imposed under this section shall not be renewed until the penalty has been paid.

(G) If a penalty is imposed under this section, a fine shall not be imposed under section ~~3722.99~~ 5119.99 of the Revised Code for the same violation.

Sec. ~~3722.09~~ 5119.78. (A) If the director of mental health determines that the operation of an adult care facility jeopardizes the health or safety of any of the residents of the facility or if the director determines that an adult care facility is operating without a license, the director may petition the court of common pleas in the county in which the facility is located for appropriate injunctive relief against the facility. If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

(B) The court petitioned under division (A) of this section shall grant injunctive relief upon a showing that the operation of the facility jeopardizes the health or safety of any of the residents of the facility or that the facility is operating without a license. When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an order requiring the facility to assist ~~resident rights advocates~~ with the safe and orderly relocation of the facility's residents.

Sec. ~~3722.10~~ 5119.79. (A) The ~~public health council shall have the exclusive authority to adopt, and the council~~ department of mental health shall adopt~~,~~ rules governing the licensing and operation of adult care facilities. The rules shall be adopted in accordance with Chapter 119. of the Revised Code ~~and shall~~. Subject to any provision of sections 5119.70 to 5119.88 of the Revised Code for which rules are required to be adopted, the rules may specify ~~all~~ any of the following:

(1) Procedures for the issuance, renewal, and revocation of licenses, for the granting and denial of waivers, and for the issuance and termination of orders of suspension of admission pursuant to section ~~3722.07~~ 5119.76 of the Revised Code;

(2) The qualifications required for owners, managers, and employees of adult care facilities, including character, training, education, experience, and financial resources and the number of staff members required in a facility;

(3) Adequate space, equipment, safety, and sanitation standards for the premises of adult care facilities, and fire protection standards for adult family homes as required by section ~~3722.041~~ 5119.731 of the Revised Code;

(4) The personal, social, dietary, and recreational services to be provided to each resident of adult care facilities;

(5) Rights of residents of adult care facilities, in addition to the rights enumerated under section ~~3722.12~~ 5119.81 of the Revised Code, and procedures to protect and enforce the rights of these residents;

(6) Provisions for keeping records of residents and for maintaining the confidentiality of the records as required by division (B) of section ~~3722.12~~ 5119.81 of the Revised Code. The provisions for maintaining the confidentiality of records shall, at the minimum, meet the requirements for maintaining the confidentiality of records under Title XIX of the "Social Security Act," 49 Stat. 620, 42 U.S.C. 301, as amended, and regulations promulgated thereunder.

(7) Measures to be taken by adult care facilities relative to residents' medication, including policies and procedures concerning medication, storage of medication in a locked area, and disposal of medication and assistance with self-administration of medication, if the facility provides assistance;

(8) Requirements for initial and periodic health assessments of prospective and current adult care facility residents by physicians or other health professionals to ensure that they do not require a level of care beyond that which is provided by the adult care facility, including assessment of their capacity to self-administer the medications prescribed for them;

(9) Requirements relating to preparation of special diets;

(10) The amount of the fees for new and renewal license applications made pursuant to sections ~~3722.02~~ 5119.71 and ~~3722.04~~ 5119.73 of the Revised Code;

(11) Measures to be taken by any employee of the state or any political subdivision of the state authorized by this chapter to enter an adult care facility to inspect the facility or for any other purpose, to ensure that the employee respects the privacy and dignity of residents of the facility, cooperates with residents of the facility and behaves in a congenial manner toward them, and protects the rights of residents;

(12) How an owner or manager of an adult care facility is to comply with section ~~3722.18~~ 5119.88 of the Revised Code. ~~At a minimum, the~~ The rules ~~shall~~ may establish the procedures an owner or manager is to follow under division (A) of section ~~3722.18~~ 5119.88 of the Revised Code regarding referrals to the facility of prospective residents with mental illness or severe mental disability and effective arrangements for ongoing mental health services for such prospective residents. The procedures may provide for any of the following:

(a) That the owner or manager and the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the

facility is located sign a mental health resident program participation agreement, as developed by the director of mental health under section ~~5119.613~~ 5119.614 of the Revised Code;

(b) That the owner or manager comply with the requirements of its mental health resident program participation agreement;

(c) That the owner or manager and the mental health agencies and ADAMHS boards that refer such prospective residents to the facility develop and sign a mental health plan for ongoing mental health services for each such prospective resident;

(d) Any other process established by the ~~public health council in consultation with the director of health and~~ director of mental health regarding referrals and effective arrangements for ongoing mental health services for prospective residents with mental illness.

(13) Any other rules necessary for the administration and enforcement of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code.

(B) ~~After consulting with relevant constituencies, the director of mental health shall prepare and submit to the director of health recommendations for the content of rules to be adopted under division (A)(12) of this section.~~

~~(C)~~ The director of mental health shall advise adult care facilities regarding compliance with the requirements of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code and with the rules adopted pursuant to ~~this chapter~~ those sections.

~~(D)~~(C) Any duty or responsibility imposed upon the director of mental health by this chapter may be carried out by ~~an employee of the department of health~~ persons designated by the director.

~~(E)~~(D) Employees of the department of mental health may enter, for the purposes of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as an adult care facility without a valid license.

Sec. ~~3722.11~~ 5119.80. The ~~public health council~~ department of mental health shall~~, not later than twelve months after the effective date of this section,~~ adopt rules under Chapter 119. of the Revised Code that set guidelines for classifying violations of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or rules adopted under ~~it~~ those sections for the purpose of imposing civil penalties. The rules shall establish the following classifications:

(A) Class I violations are conditions or occurrences that present an immediate and serious threat to the physical or emotional health, safety, or security of residents of an adult care facility. Whoever is determined to have

committed a class I violation is subject to a civil penalty of not less than seven hundred dollars nor more than one thousand dollars for each violation.

(B) Class II violations are conditions or occurrences, other than class I violations, that directly threaten the physical or emotional health, safety, or security of residents of an adult care facility. Whoever is determined to have committed a class II violation is subject to a civil penalty of not less than five hundred dollars nor more than seven hundred dollars for each violation.

(C) Class III violations are conditions or occurrences, other than class I or class II violations, that indirectly or potentially threaten the physical or emotional health, safety, or security of residents of a facility. Whoever is determined to have committed a class III violation is subject to a civil penalty of not less than one hundred dollars nor more than five hundred dollars for each violation.

Sec. ~~3722.12~~ 5119.81. (A) As used in this section:

(1) "Abuse" means the unreasonable confinement or intimidation of a resident, or the infliction of injury or cruel punishment upon a resident, resulting in physical harm, pain, or mental anguish.

(2) "Exploitation" means the unlawful or improper utilization of an adult resident or ~~his~~ the resident's resources for personal or monetary benefit, profit, or gain.

(3) "Mechanical restraint" means any method of restricting a resident's freedom of movement, physical activity, or normal use of the resident's body, using an appliance or device manufactured for this purpose.

(4) "Neglect" means failure to provide a resident with the goods or services necessary to prevent physical harm, mental anguish, or mental illness.

~~(4)~~(5) "Physical restraint," ~~includes, but is not limited to, the locked door of a room or any article, device, or garment that interferes with the free movement of the resident and that he is unable to remove easily~~ also known as "manual restraint," means any method of physically restricting a resident's freedom of movement, physical activity, or normal use of the resident's body without the use of a mechanical restraint.

(6) "Seclusion" means the involuntary confinement of a resident alone in a room in which the resident is physically prevented from leaving.

(B) The rights of a resident of an adult care facility include all of the following:

(1) The right to a safe, healthy, clean, and decent living environment;

(2) The right to be treated at all times with courtesy and respect, and with full recognition of personal dignity and individuality;

(3) The right to practice a religion of ~~his~~ the resident's choice or to

abstain from the practice of religion;

(4) The right to manage personal financial affairs;

(5) The right to retain and use personal clothing;

(6) The right to ownership and reasonable use of personal property so as to maintain personal dignity and individuality;

(7) The right to participate in activities within the facility and to use the common areas of the facility;

(8) The right to engage in or refrain from engaging in activities of ~~his~~ the resident's own choosing within reason;

(9) The right to private and unrestricted communications, including:

(a) The right to receive, send, and mail sealed, unopened correspondence;

(b) The right to reasonable access to a telephone for private communications;

(c) The right to private visits at any reasonable hour.

(10) The right to initiate and maintain contact with the community, including the right to participate in the activities of community groups at ~~his~~ the resident's initiative or at the initiative of community groups;

(11) The right to state grievances to the owner or the manager of the facility, to any governmental agency, or to any other person without reprisal;

(12) Prior to becoming a resident, the right to visit the facility alone or with ~~his~~ the prospective resident's sponsor;

(13) The right to retain the services of any health or social services practitioner at ~~his~~ the resident's own expense;

(14) The right to refuse medical treatment or services, or if the resident has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code and has not been restored to legal capacity, the right to have ~~his~~ the resident's legal guardian make decisions about medical treatment and services for ~~him~~ the resident;

(15) The right to be free from abuse, neglect, or exploitation;

(16) The right to be free from seclusion and mechanical and physical restraints;

(17) The right not to be deprived of any legal rights solely by reason of residence in an adult care facility;

(18) The right to examine records maintained by the adult care facility concerning ~~him~~ the resident, upon request;

(19) The right to confidential treatment of ~~his~~ the resident's personal records, and the right to approve or refuse the release of these records to any individual outside the facility, except upon transfer to another adult care facility or a nursing home, residential care facility, home for the aging,

hospital, or other health care facility or provider, and except as required by law or rule or as required by a third-party payment contract;

(20) The right to be informed in writing of the rates charged by the facility as well as any additional charges, and to receive thirty days notice in writing of any change in the rates and charges;

(21) The right to have any significant change in ~~his~~ the resident's health reported to ~~his~~ the resident's sponsor;

(22) The right to share a room with a spouse if both are residents of the facility.

(C) A sponsor~~,~~ or the director of mental health~~, the director of aging, or a residents' rights advocate registered under section 3701.07 of the Revised Code~~ may assert on behalf of a resident any of the rights enumerated under this section, section ~~3722.14~~ 5119.83 of the Revised Code, or rules adopted ~~by the public health council~~ pursuant to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code. Any attempted waiver of these rights is void. No adult care facility or person associated with an adult care facility shall deny a resident any of these rights.

(D) Any resident whose rights under this section or section ~~3722.13~~ 5119.82 or ~~3722.14~~ 5119.83 of the Revised Code are violated has a cause of action against any person or facility committing the violation. ~~The action may be commenced by the resident or by his sponsor on his behalf.~~ The court may award actual and punitive damages for violation of the rights. The court may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed.

Sec. ~~3722.13~~ 5119.82. (A) Each adult care facility shall establish a written residents' rights policy containing the text of sections ~~3722.12~~ 5119.81 and ~~3722.14~~ 5119.83 of the Revised Code and rules adopted by the ~~public health council~~ pursuant to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, a discussion of the rights and responsibilities of residents under ~~that section~~ sections 5119.81 to 5119.83 of the Revised Code, and the text of any additional rule for residents promulgated by the facility. At the time of admission the manager shall give a copy of the residents' rights policy to the resident and the resident's sponsor, if any, and explain the contents of the policy to them. The facility shall establish procedures for facilitating the residents' exercise of their rights.

(B) Each adult care facility shall post prominently within the facility a copy of the residents' rights listed in division (B) of section ~~3722.12~~ 5119.81 of the Revised Code and any additional residents' rights established by rules adopted ~~by the public health council~~ pursuant to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, the addresses and telephone

numbers of the state long-term care ombudsperson and the regional long-term care ombudsperson program for the area in which the facility is located, and the telephone number maintained by the department ~~of health~~ for accepting complaints.

Sec. ~~3722.14~~ 5119.83. (A)(1) Except as provided in division (A)(2) of this section, an adult care facility may transfer or discharge a resident, in the absence of a request from the resident, only for the following reasons:

(a) Charges for the resident's accommodations and services have not been paid within thirty days after the date on which they became due;

(b) The mental, emotional, or physical condition of the resident requires a level of care that the facility is unable to provide;

(c) The health, safety, or welfare of the resident or of another resident requires a transfer or discharge;

(d) The facility's license has been revoked or renewal has been denied ~~pursuant to this chapter~~ by the director of mental health;

(e) The owner closes the facility;

(f) The resident is relocated as the result of a court's order issued under section ~~3722.09~~ 5119.78 of the Revised Code as part of the injunctive relief granted against a facility that is operating without a license;

(g) The resident is receiving publicly funded mental health services and the facility's mental health resident program participation agreement is terminated by the facility or ADAMHS board.

(2) An adult family home may transfer or discharge a resident if transfer or discharge is required for the health, safety, or welfare of an individual who resides in the home but is not a resident for whom supervision or personal services are provided.

(B)(1) The facility shall give a resident thirty days' advance notice, in writing, of a proposed transfer or discharge, except that if the transfer or discharge is for a reason given in divisions (A)(1)(b) to (g) or (A)(2) of this section and an emergency exists, the notice need not be given thirty days in advance. The facility shall state in the written notice the reasons for the proposed transfer or discharge. If the resident is entitled to a hearing as specified in division (B)(2) of this section, the written notice shall outline the procedure for the resident to follow in requesting a hearing.

(2) A resident may request a hearing if a proposed transfer or discharge is based on reason given in ~~division~~ divisions (A)(1)(a) to (c) or (A)(2) of this section. If the resident seeks a hearing, the resident shall submit a request to the director of mental health not later than ten days after receiving the written notice. The director shall hold the hearing not later than ten days after receiving the request. A representative of the director shall preside over

the hearing and shall issue a written recommendation of action to be taken by the director not later than three days after the hearing. The director shall issue an order regarding the transfer or discharge not later than two days after receipt of the recommendation. The order may prohibit or place conditions on the discharge or transfer. In the case of a transfer, the order may require that the transfer be to an institution or facility specified by the director. The hearing is not subject to section 121.22 of the Revised Code. The ~~public health council~~ department of mental health shall adopt rules governing any additional procedures necessary for conducting the hearing.

(C)(1) The owner of an adult care facility who is closing the facility shall inform the director ~~of health~~ in writing at least thirty days prior to the proposed date of closing. At the same time, the owner or manager shall inform each resident, the resident's guardian, the resident's sponsor, or any organization or agency acting on behalf of the resident, of the closing of the facility and the date of the closing.

(2) Immediately upon receiving notice that a facility is to be closed, the director shall monitor the transfer of residents to other facilities and ensure that residents' rights are protected. The director shall notify the ombudsperson in the region in which the facility is located of the closing.

(3) All charges shall be prorated as of the date on which the facility closes. If payments have been made in advance, the payments for services not rendered shall be refunded to the resident or the resident's guardian not later than seven days after the closing of the facility.

(4) Immediately upon the closing of a facility, the owner shall surrender the license to the director, and the license shall be canceled.

Sec. ~~3722.15~~ 5119.84. (A) The following may enter an adult care facility at any time:

(1) Employees designated by the director of mental health;

(2) Employees designated by the director of aging;

(3) Employees designated by the attorney general;

(4) Employees designated by a county department of job and family services to implement sections 5101.60 to 5101.71 of the Revised Code;

(5) Persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care ombudsperson program;

(6) ~~Employees of the department of mental health designated by the director of mental health;~~

~~(7)~~ Employees of a mental health agency under any of the following circumstances:

(a) When the agency has a client residing in the facility;

(b) When the agency is acting as an agent of an ADAMHS board other

than the board with which it is under contract;

(c) When there is a mental health resident program participation agreement between the facility and the ADAMHS board with which the agency is under contract.

~~(8)~~(7) Employees of an ADAMHS board under any of the following circumstances:

(a) When authorized by section 340.05 of the Revised Code;

(b) When a resident of the facility is receiving mental health services provided by that ADAMHS board or another ADAMHS board pursuant to division (A)(8)(b) of section 340.03 of the Revised Code;

(c) When a resident of the facility is receiving services from a mental health agency under contract with that ADAMHS board or another ADAMHS board;

(d) When there is a mental health resident program participation agreement between the facility and that ADAMHS board.

The employees specified in divisions (A)(1) to ~~(8)~~(7) of this section shall be afforded access to all records of the facility, including records pertaining to residents, and may copy the records. Neither these employees nor the director of mental health shall release, without consent, any information obtained from the records of an adult care facility that reasonably would tend to identify a specific resident of the facility, except as ordered by a court of competent jurisdiction or when the release is otherwise authorized by law.

(B) The following persons may enter any adult care facility during reasonable hours:

(1) ~~A resident's sponsor;~~

~~(2) Residents' rights advocates;~~

~~(3)~~ A resident's attorney;

~~(4)~~(2) A minister, priest, rabbi, or other person ministering to a resident's religious needs;

~~(5)~~(3) A physician or other person providing health care services to a resident;

~~(6)~~(4) Employees authorized by county departments of job and family services and local boards of health or health departments to enter adult care facilities;

~~(7)~~(5) A prospective resident ~~and prospective resident's sponsor~~.

(C) The manager of an adult care facility may require a person seeking to enter the facility to present identification sufficient to identify the person as an authorized person under this section.

Sec. ~~3722.151~~ 5119.85. (A) As used in this section:

(1) "Adult ~~care facility" has the same meaning as in section 3722.01 of the Revised Code~~ resident" means an individual residing in an adult care facility licensed by the department of mental health.

(2) "Applicant" means a person who is under final consideration for employment with an adult care facility in a full-time, part-time, or temporary position that involves providing direct care to an ~~older~~ adult resident. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" ~~and "older adult" have~~ has the same ~~meanings~~ meaning as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of an adult care facility shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or

provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the ~~public health council~~ department of mental health in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult care facility shall employ a person in a position that involves providing direct care to an ~~older~~ adult resident if the person has been convicted of or pleaded guilty to any of the following:

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

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

(2)(a) An adult care facility may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the facility shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, an adult care facility may employ conditionally an applicant who has been referred to the adult care facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of ~~older adults~~ adult residents and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) An adult care facility that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has

been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the facility shall terminate the individual's employment unless the facility chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the facility about the individual's criminal record.

(D)(1) Each adult care facility shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) An adult care facility may charge an applicant a fee not exceeding the amount the facility pays under division (D)(1) of this section. A facility may collect a fee only if it notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the facility requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to ~~older adults~~ adult residents that is owned or operated by the same entity that owns or operates the adult care facility;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section.

(F) The ~~public health council shall~~ department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules ~~shall~~ may specify circumstances under which an adult care facility may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the council.

(G) The chief administrator of an adult care facility shall inform each individual, at the time of initial application for a position that involves

providing direct care to an ~~older~~ adult resident, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who an adult care facility employs in a position that involves providing direct care to ~~older adults~~ adult residents, all of the following shall apply:

(1) If the facility employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the facility shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the facility employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the facility shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the facility in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the facility shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of an adult care facility is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of ~~older adults~~ adult residents and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the adult care facility chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of an adult care facility is not required to

request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of ~~older adults~~ adult residents and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the adult care facility. If an adult care facility employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the adult care facility, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. ~~3722.16~~ 5119.86. (A) No person shall:

(1) Operate an adult care facility unless the facility is validly licensed by the director of mental health under section ~~3722.04~~ 5119.73 of the Revised Code;

(2) Admit to an adult care facility more residents than the number authorized in the facility's license;

(3) Admit a resident to an adult care facility after the director has issued an order pursuant to section ~~3722.07~~ 5119.76 of the Revised Code suspending admissions to the facility. Violation of division (A)(3) of this section is cause for revocation of the facility's license.

(4) Interfere with any authorized inspection of an adult care facility conducted pursuant to section ~~3722.02~~ 5119.71 or ~~3722.04~~ 5119.73 of the Revised Code;

(5) Admit to an adult care facility a resident requiring publicly funded mental health services, unless both of the following conditions are met:

(a) The ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the facility is located is notified;

(b) The facility and ADAMHS board have entered into a mental health resident program participation agreement by using the standardized form approved by the director of mental health under section ~~5119.613~~ 5119.614 of the Revised Code.

(6) Violate any of the provisions of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or any of the rules adopted pursuant to ~~it~~ those sections.

(B) No adult care facility shall provide, or admit or retain any resident in need of, skilled nursing care unless all of the following conditions are met:

(1) The care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period.

(2) The care will be provided by one or more of the following:

(a) A home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(b) A hospice care program licensed under Chapter 3712. of the Revised Code;

(c) A nursing home licensed under Chapter 3721. of the Revised Code and owned and operated by the same person and located on the same site as the adult care facility;

(d) A mental health agency or, pursuant to division (A)(8)(b) of section 340.03 of the Revised Code, an ADAMHS board.

(3) Each individual employed by, under contract with, or otherwise used by any of the entities specified in division (B)(2) of this section to perform the skilled nursing care is authorized under the laws of this state to perform the care by being appropriately licensed, as specified in rules adopted under division (G) of this section.

(4) The staff of the one or more entities providing the skilled nursing care does not train the adult care facility staff to provide the skilled nursing care;

(5) The individual to whom the skilled nursing care is provided is suffering from a short-term illness;

(6) If the skilled nursing care is to be provided by the nursing staff of a nursing home, all of the following are the case:

(a) The adult care facility evaluates the individual receiving the skilled nursing care at least once every seven days to determine whether the individual should be transferred to a nursing home;

(b) The adult care facility meets at all times staffing requirements established by rules adopted under section ~~3722.10~~ 5119.79 of the Revised Code;

(c) The nursing home does not include the cost of providing skilled nursing care to the adult care facility residents in a cost report filed under section 5111.26 of the Revised Code;

(d) The nursing home meets at all times the nursing home licensure staffing ratios established by rules adopted under section 3721.04 of the Revised Code;

(e) The nursing home staff providing skilled nursing care to adult care facility residents are registered nurses or licensed practical nurses licensed under Chapter 4723. of the Revised Code and meet the personnel qualifications for nursing home staff established by rules adopted under section 3721.04 of the Revised Code;

(f) The skilled nursing care is provided in accordance with rules established for nursing homes under section 3721.04 of the Revised Code;

(g) The nursing home meets the skilled nursing care needs of the adult care facility residents;

(h) Using the nursing home's nursing staff does not prevent the nursing home or adult care facility from meeting the needs of the nursing home and adult care facility residents in a quality and timely manner.

(7) No adult care facility staff shall provide skilled nursing care.

Notwithstanding section 3721.01 of the Revised Code, an adult care facility in which residents receive skilled nursing care as described in division (B) of this section is not a nursing home.

(C) A home health agency or hospice care program that provides skilled nursing care pursuant to division (B) of this section may not be associated with the adult care facility unless the facility is part of a home for the aged as defined in section 5701.13 of the Revised Code or the adult care facility is owned and operated by the same person and located on the same site as a nursing home licensed under Chapter 3721. of the Revised Code that is associated with the home health agency or hospice care program. In addition, the following requirements shall be met:

(1) The adult care facility shall evaluate the individual receiving the skilled nursing care not less than once every seven days to determine whether the individual should be transferred to a nursing home;

(2) If the costs of providing the skilled nursing care are included in a cost report filed pursuant to section 5111.26 of the Revised Code by the nursing home that is part of the same home for the aged, the home health agency or hospice care program shall not seek reimbursement for the care under the medical assistance program established under Chapter 5111. of the Revised Code.

(D) No person knowingly shall place or recommend placement of any

person in an adult care facility that is operating without a license.

(E) No employee of a unit of local or state government, ADAMHS board, mental health agency, or ~~PASSPORT~~ RSS administrative agency shall place or recommend placement of any person in an adult care facility if the employee knows any of the following:

(1) That the facility cannot meet the needs of the potential resident;

(2) That placement of the resident would cause the facility to exceed its licensed capacity;

(3) That an enforcement action initiated by the director of mental health is pending and may result in the revocation of or refusal to renew the facility's license;

(4) That the potential resident is receiving or is eligible for publicly funded mental health services and the facility has not entered into a mental health resident program participation agreement.

(F) No person who has reason to believe that an adult care facility is operating without a license shall fail to report this information to the director of mental health.

(G) In accordance with Chapter 119. of the Revised Code, the ~~public health council~~ department of mental health shall adopt rules for purposes of division (B) of this section that do all of the following:

(1) Define a short-term illness for purposes of division (B)(5) of this section;

(2) Specify, consistent with rules pertaining to home health care adopted by the director of job and family services under the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, what constitutes a part-time, intermittent basis for purposes of division (B)(1) of this section;

(3) Specify what constitutes being appropriately licensed for purposes of division (B)(3) of this section.

Sec. ~~3722.17~~ 5119.87. (A) Any person who believes that an adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of any of the rules ~~promulgated~~ adopted pursuant to ~~it~~ those sections may report the information to the director of mental health. The director shall investigate each report made under this section or section ~~3722.16~~ 5119.86 of the Revised Code and shall inform the facility of the results of the investigation. When investigating a report made pursuant to section 340.05 of the Revised Code, the director shall consult with the ADAMHS board that made the report. The director shall keep a record of the investigation and the action taken as a result of the investigation.

The director shall not reveal, without consent, the identity of a person who makes a report under this section or division (G) of section ~~3722.16~~ 5119.86 of the Revised Code, the identity of a specific resident or residents referred to in such a report, or any other information that could reasonably be expected to reveal the identity of the person making the report or the resident or residents referred to in the report, except that the director may provide this information to a government agency responsible for enforcing laws applying to adult care facilities.

(B) Any person who believes that a resident's rights under sections ~~3722.12~~ 5119.81 to ~~3722.15~~ 5119.84 of the Revised Code have been violated may report the information to the state long-term care ombudsperson, the regional long-term care ombudsperson program for the area in which the facility is located, or the director of mental health. If the person believes that the resident has mental illness or severe mental disability and is suffering abuse or neglect, the person may report the information to the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the adult care facility is located or a mental health agency under contract with the board in addition to or instead of the ombudsperson, regional program, or director.

(C) Any person who makes a report pursuant to division (A) or (B) of this section or division (G) of section ~~3722.16~~ 5119.86 of the Revised Code or any person who participates in an administrative or judicial proceeding resulting from such a report is immune from any civil liability or criminal liability, other than perjury, that might otherwise be incurred or imposed as a result of these actions, unless the person has acted in bad faith or with malicious purpose.

Sec. ~~3722.18~~ 5119.88. Before an adult care facility admits a prospective resident who the owner or manager of the facility knows has been assessed as having a mental illness or severe mental disability, the owner or manager is subject to both of the following:

(A) If the prospective resident is referred to the facility by a mental health agency or ADAMHS board, the owner or manager shall follow procedures established in rules adopted under division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code regarding referrals and effective arrangements for ongoing mental health services.

(B) If the prospective resident is not referred to the facility by a mental health agency or ADAMHS board, the owner or manager shall offer to assist the prospective resident in obtaining appropriate mental health services and document the offer of assistance in accordance with rules adopted under division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code.

Sec. 5119.99. (A) Whoever violates section 5119.21 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (A)(1) of section 5119.86 of the Revised Code shall be fined two thousand dollars for a first offense; for each subsequent offense, such person shall be fined five thousand dollars.

(C) Whoever violates division (C) of section 5119.81 or division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F) of section 5119.86 of the Revised Code shall be fined five hundred dollars for a first offense; for each subsequent offense, such person shall be fined one thousand dollars.

Sec. 5120.092. There is hereby created in the state treasury the adult and juvenile correctional facilities bond retirement fund. The fund shall receive proceeds derived from the sale of state adult or juvenile correctional facilities. Investment income with respect to moneys on deposit in the fund shall be retained by the fund. No investment of moneys in, or transfer of moneys from, the fund shall be made if the effect of the investment or transfer would be to adversely affect the exclusion from gross income of the interest payable on state bonds issued for state adult or juvenile correctional facilities that have been sold under authority of Section 753.10 or 753.30 of the act in which this section was enacted. To the extent necessary to maintain the exclusion from gross income of the interest payable on those bonds, moneys in the fund shall first be used to redeem or defease the outstanding portion of such bonds. To accomplish the redemption or defeasance, the director of budget and management, at the request of the Ohio building authority, may direct that moneys in the fund be transferred to the appropriate trustees under the applicable bond trust agreements. Upon receipt of both (i) one or more opinions of a nationally recognized bond counsel firm appointed by the Ohio building authority stating that the aforementioned bonds have been redeemed or defeased and that the transfer of such moneys will not adversely affect the exclusion from gross income of the interest payable on such bonds, and (ii) a certification by both the director of administrative services and the director of rehabilitation and correction stating either that all sales of state adult and juvenile correctional facilities contemplated by Sections 753.10 and 753.30 of the act in which this section was enacted have been completed or that no further sales of any such facilities will be undertaken, the director of budget and management may direct that any moneys remaining in the fund after the redemption or defeasance of the aforementioned bonds shall be transferred to the general revenue fund. Upon completion of that transfer, the adult and juvenile correctional facilities bond retirement fund shall be abolished.

Sec. 5120.105. (A) The department of administrative services shall

provide for the construction of a halfway house facility in conformity with Chapter 153. of the Revised Code, except that construction services may be provided by the department of rehabilitation and correction.

(B) The director of rehabilitation and correction may enter into an agreement with a halfway house organization for the management of a halfway house facility. The halfway house organization that occupies, will occupy, or is responsible for the management of a halfway house facility shall pay the costs of management of and general building services for the halfway house facility as provided in an agreement between the department of rehabilitation and correction and the halfway house organization.

(C) No state funds, including state bond proceeds, shall be spent on the construction of a halfway house facility under sections 5120.102 to 5120.105 of the Revised Code, unless the general assembly has specifically authorized the spending of money on, or has made an appropriation to the department of rehabilitation and correction for, the construction of the halfway house facility or rental payments relating to the financing of the construction of that facility. An authorization to spend money or an appropriation for planning a halfway house facility does not constitute an authorization to spend money on, or an appropriation for, the construction of that facility. Capital funds for the construction of halfway house facilities under sections 5120.102 to 5120.105 of the Revised Code shall be paid from the adult correctional building fund created ~~by the general assembly in the custody of the state treasurer~~ in division (F) of section 154.24 of the Revised Code.

Sec. 5120.135. (A) As used in this section, "laboratory services" includes the performance of medical laboratory analysis; professional laboratory and pathologist consultation; the procurement, storage, and distribution of laboratory supplies; and the performance of phlebotomy services.

(B) The department of rehabilitation and correction ~~shall~~ may provide laboratory services to the departments of mental health, developmental disabilities, youth services, and rehabilitation and correction. The department of rehabilitation and correction may also provide laboratory services to other state, county, or municipal agencies and to private persons that request laboratory services if the department of rehabilitation and correction determines that the provision of laboratory services is in the public interest and considers it advisable to provide such services. The department of rehabilitation and correction may also provide laboratory services to agencies operated by the United States government and to public and private entities funded in whole or in part by the state if the director of

rehabilitation and correction designates them as eligible to receive such services.

The department of rehabilitation and correction shall provide laboratory services from a laboratory that complies with the standards for certification set by the United States department of health and human services under the "Clinical Laboratory Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. In addition, the laboratory shall maintain accreditation or certification with an appropriate accrediting or certifying organization as considered necessary by the recipients of its laboratory services and as authorized by the director of rehabilitation and correction.

(C) The cost of administering this section shall be determined by the department of rehabilitation and correction and shall be paid by entities that receive laboratory services to the department for deposit in the state treasury to the credit of the laboratory services fund, which is hereby created. The fund shall be used to pay the costs the department incurs in administering this section.

(D) ~~If the department of rehabilitation and correction does not provide laboratory services under this section in a satisfactory manner to the department of developmental disabilities, youth services, or mental health, the director of developmental disabilities, youth services, or mental health shall attempt to resolve the matter of the unsatisfactory provision of services with the director of rehabilitation and correction. If, after this attempt, the provision of laboratory services continues to be unsatisfactory, the director of developmental disabilities, youth services, or mental health shall notify the director of rehabilitation and correction regarding the continued unsatisfactory provision of laboratory services. If, within thirty days after the director receives this notice, the department of rehabilitation and correction does not provide the specified laboratory services in a satisfactory manner, the director of developmental disabilities, youth services, or mental health shall notify the director of rehabilitation and correction of the notifying director's intent to cease obtaining laboratory services from the department of rehabilitation and correction. Following the end of a cancellation period of sixty days that begins on the date of the notice, the department that sent the notice may obtain laboratory services from a provider other than the department of rehabilitation and correction, if the department that sent the notice certifies to the department of administrative services that the requirements of this division have been met.~~

~~(E)~~ Whenever a state agency fails to make a payment for laboratory services provided to it by the department of rehabilitation and correction under this section within thirty-one days after the date the payment was due,

the office of budget and management may transfer moneys from that state agency to the department of rehabilitation and correction for deposit to the credit of the laboratory services fund. The amount transferred shall not exceed the amount of the overdue payments. Prior to making a transfer under this division, the office shall apply any credits the state agency has accumulated in payment for laboratory services provided under this section.

Sec. 5120.17. (A) As used in this section:

(1) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(2) "Mentally ill person subject to hospitalization" means a mentally ill person to whom any of the following applies because of the person's mental illness:

(a) The person represents a substantial risk of physical harm to the person as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm.

(b) The person represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness.

(c) The person represents a substantial and immediate risk of serious physical impairment or injury to the person as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the correctional institution in which the inmate is currently housed.

(d) The person would benefit from treatment in a hospital for the person's mental illness and is in need of treatment in a hospital as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(3) "Psychiatric hospital" means all or part of a facility that is operated and managed by the department of ~~rehabilitation and correction, is designated as a psychiatric hospital~~ mental health to provide psychiatric hospitalization services in accordance with the requirements of this section pursuant to an agreement between the directors of rehabilitation and correction and mental health or, is licensed by the department of mental health pursuant to section 5119.20 of the Revised Code~~,~~ as a psychiatric hospital and is ~~in substantial compliance with the standards set by the joint commission on accreditation of healthcare organizations~~ accredited by a

healthcare accrediting organization approved by the department of mental health and the psychiatric hospital is any of the following:

(a) Operated and managed by the department of rehabilitation and correction within a facility that is operated by the department of rehabilitation and correction;

(b) Operated and managed by a contractor for the department of rehabilitation and correction within a facility that is operated by the department of rehabilitation and correction;

(c) Operated and managed in the community by an entity that has contracted with the department of rehabilitation and correction to provide psychiatric hospitalization services in accordance with the requirements of this section.

(4) "Inmate patient" means an inmate who is admitted to a psychiatric hospital.

(5) "Admitted" to a psychiatric hospital means being accepted for and staying at least one night at the psychiatric hospital.

(6) "Treatment plan" means a written statement of reasonable objectives and goals for an inmate patient that is based on the needs of the inmate patient and that is established by the treatment team, with the active participation of the inmate patient and with documentation of that participation. "Treatment plan" includes all of the following:

(a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals;

(b) The services to be provided to the inmate patient during the inmate patient's hospitalization;

(c) The services to be provided to the inmate patient after discharge from the hospital, including, but not limited to, housing and mental health services provided at the state correctional institution to which the inmate patient returns after discharge or community mental health services.

(7) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.

(8) "Emergency transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate presents an immediate danger to self or others and requires hospital-level care.

(9) "Uncontested transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate has the mental capacity to, and has waived, the hearing required by division (B) of this section.

(10)(a) "Independent decision-maker" means a person who is employed or retained by the department of rehabilitation and correction and is appointed by the chief or chief clinical officer of mental health services as a

hospitalization hearing officer to conduct due process hearings.

(b) An independent decision-maker who presides over any hearing or issues any order pursuant to this section shall be a psychiatrist, psychologist, or attorney, shall not be specifically associated with the institution in which the inmate who is the subject of the hearing or order resides at the time of the hearing or order, and previously shall not have had any treatment relationship with nor have represented in any legal proceeding the inmate who is the subject of the order.

(B)(1) Except as provided in division (C) of this section, if the warden of a state correctional institution or the warden's designee believes that an inmate should be transferred from the institution to a psychiatric hospital, the department shall hold a hearing to determine whether the inmate is a mentally ill person subject to hospitalization. The department shall conduct the hearing at the state correctional institution in which the inmate is confined, and the department shall provide qualified independent assistance to the inmate for the hearing. An independent decision-maker provided by the department shall preside at the hearing and determine whether the inmate is a mentally ill person subject to hospitalization.

(2) Except as provided in division (C) of this section, prior to the hearing held pursuant to division (B)(1) of this section, the warden or the warden's designee shall give written notice to the inmate that the department is considering transferring the inmate to a psychiatric hospital, that it will hold a hearing on the proposed transfer at which the inmate may be present, that at the hearing the inmate has the rights described in division (B)(3) of this section, and that the department will provide qualified independent assistance to the inmate with respect to the hearing. The department shall not hold the hearing until the inmate has received written notice of the proposed transfer and has had sufficient time to consult with the person appointed by the department to provide assistance to the inmate and to prepare for a presentation at the hearing.

(3) At the hearing held pursuant to division (B)(1) of this section, the department shall disclose to the inmate the evidence that it relies upon for the transfer and shall give the inmate an opportunity to be heard. Unless the independent decision-maker finds good cause for not permitting it, the inmate may present documentary evidence and the testimony of witnesses at the hearing and may confront and cross-examine witnesses called by the department.

(4) If the independent decision-maker does not find clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the department shall not transfer the inmate to a psychiatric

hospital but shall continue to confine the inmate in the same state correctional institution or in another state correctional institution that the department considers appropriate. If the independent decision-maker finds clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the decision-maker shall order that the inmate be transported to a psychiatric hospital for observation and treatment for a period of not longer than thirty days. After the hearing, the independent decision-maker shall submit to the department a written decision that states one of the findings described in division (B)(4) of this section, the evidence that the decision-maker relied on in reaching that conclusion, and, if the decision is that the inmate should be transferred, the reasons for the transfer.

(C)(1) The department may transfer an inmate to a psychiatric hospital under an emergency transfer order if the chief clinical officer of mental health services of the department or that officer's designee and either a psychiatrist employed or retained by the department or, in the absence of a psychiatrist, a psychologist employed or retained by the department determines that the inmate is mentally ill, presents an immediate danger to self or others, and requires hospital-level care.

(2) The department may transfer an inmate to a psychiatric hospital under an uncontested transfer order if both of the following apply:

(a) A psychiatrist employed or retained by the department determines all of the following apply:

(i) The inmate has a mental illness or is a mentally ill person subject to hospitalization.

(ii) The inmate requires hospital care to address the mental illness.

(iii) The inmate has the mental capacity to make a reasoned choice regarding the inmate's transfer to a hospital.

(b) The inmate agrees to a transfer to a hospital.

(3) The written notice and the hearing required under divisions (B)(1) and (2) of this section are not required for an emergency transfer or uncontested transfer under division (C)(1) or (2) of this section.

(4) After an emergency transfer under division (C)(1) of this section, the department shall hold a hearing for continued hospitalization within five working days after admission of the transferred inmate to the psychiatric hospital. The department shall hold subsequent hearings pursuant to division (F) of this section at the same intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section.

(5) After an uncontested transfer under division (C)(2) of this section, the inmate may withdraw consent to the transfer in writing at any time. Upon the inmate's withdrawal of consent, the hospital shall discharge the

inmate, or, within five working days, the department shall hold a hearing for continued hospitalization. The department shall hold subsequent hearings pursuant to division (F) of this section at the same time intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section.

(D)(1) If an independent decision-maker, pursuant to division (B)(4) of this section, orders an inmate transported to a psychiatric hospital or if an inmate is transferred pursuant to division (C)(1) or (2) of this section, the staff of the psychiatric hospital shall examine the inmate patient when admitted to the psychiatric hospital as soon as practicable after the inmate patient arrives at the hospital and no later than twenty-four hours after the time of arrival. The attending physician responsible for the inmate patient's care shall give the inmate patient all information necessary to enable the patient to give a fully informed, intelligent, and knowing consent to the treatment the inmate patient will receive in the hospital. The attending physician shall tell the inmate patient the expected physical and medical consequences of any proposed treatment and shall give the inmate patient the opportunity to consult with another psychiatrist at the hospital and with the inmate advisor.

(2) No inmate patient who is transported or transferred pursuant to division (B)(4) or (C)(1) or (2) of this section to a psychiatric hospital ~~pursuant to division (B)(4) or (C)(1) or (2) of this section and who is in the physical custody of~~ within a facility that is operated by the department of rehabilitation and correction shall be subjected to any of the following procedures:

(a) Convulsive therapy;

(b) Major aversive interventions;

(c) Any unusually hazardous treatment procedures;

(d) Psychosurgery.

(E) The ~~warden of the psychiatric hospital or the warden's designee~~ department of rehabilitation and correction shall ensure that an inmate patient hospitalized pursuant to this section receives or has all of the following:

(1) Receives sufficient professional care within twenty days of admission to ensure that an evaluation of the inmate patient's current status, differential diagnosis, probable prognosis, and description of the current treatment plan have been formulated and are stated on the inmate patient's official chart;

(2) Has a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals of treatment;

(3) Receives treatment consistent with the treatment plan;

(4) Receives periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed thirty days;

(5) Is provided with adequate medical treatment for physical disease or injury;

(6) Receives humane care and treatment, including, without being limited to, the following:

(a) Access to the facilities and personnel required by the treatment plan;

(b) A humane psychological and physical environment;

(c) The right to obtain current information concerning the treatment program, the expected outcomes of treatment, and the expectations for the inmate patient's participation in the treatment program in terms that the inmate patient reasonably can understand;

(d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital;

(e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation;

(f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department.

(F) The department shall hold a hearing for the continued hospitalization of an inmate patient who is transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section prior to the expiration of the initial thirty-day period of hospitalization. The department shall hold any subsequent hearings, if necessary, not later than ninety days after the first thirty-day hearing and then not later than each one hundred and eighty days after the immediately prior hearing. An independent decision-maker shall conduct the hearings at the psychiatric hospital in which the inmate patient is confined. The inmate patient shall be afforded all of the rights set forth in this section for the hearing prior to transfer to the psychiatric hospital. The department may not waive a hearing for continued commitment. A hearing for continued commitment is mandatory for an inmate patient transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section unless the inmate patient has the capacity to make a reasoned choice to execute a waiver and waives the hearing in writing. An inmate patient who is transferred to a psychiatric hospital pursuant to an uncontested transfer under division (C)(2) of this section and who has scheduled hearings after withdrawal of consent for hospitalization may waive any of the scheduled hearings if the inmate has the capacity to make a reasoned choice and

executes a written waiver of the hearing.

If upon completion of the hearing the independent decision-maker does not find by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order the inmate patient's discharge from the psychiatric hospital. If the independent decision-maker finds by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order that the inmate patient remain at the psychiatric hospital for continued hospitalization until the next required hearing.

If at any time prior to the next required hearing for continued hospitalization, the medical director of the hospital or the attending physician determines that the treatment needs of the inmate patient could be met equally well in an available and appropriate less restrictive state correctional institution or unit, the medical director or attending physician may discharge the inmate to that facility.

(G) An inmate patient is entitled to the credits toward the reduction of the inmate patient's stated prison term pursuant to Chapters 2967. and 5120. of the Revised Code under the same terms and conditions as if the inmate patient were in any other institution of the department of rehabilitation and correction.

(H) The adult parole authority may place an inmate patient on parole or under post-release control directly from a psychiatric hospital.

(I) If an inmate patient who is a mentally ill person subject to hospitalization is to be released from a psychiatric hospital because of the expiration of the inmate patient's stated prison term, the ~~warden of the psychiatric hospital~~ director of rehabilitation and correction or the director's designee, at least fourteen days before the expiration date, may file an affidavit under section 5122.11 or 5123.71 of the Revised Code with the probate court in the county where the psychiatric hospital is located or the probate court in the county where the inmate will reside, alleging that the inmate patient is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, whichever is applicable. The proceedings in the probate court shall be conducted pursuant to Chapter 5122. or 5123. of the Revised Code except as modified by this division.

Upon the request of the inmate patient, the probate court shall grant the inmate patient an initial hearing under section 5122.141 of the Revised Code or a probable cause hearing under section 5123.75 of the Revised Code before the expiration of the stated prison term. After holding a full hearing,

the probate court shall make a disposition authorized by section 5122.15 or 5123.76 of the Revised Code before the date of the expiration of the stated prison term. No inmate patient shall be held in the custody of the department of rehabilitation and correction past the date of the expiration of the inmate patient's stated prison term.

(J) The department of rehabilitation and correction shall set standards for treatment provided to inmate patients~~, consistent where applicable with the standards set by the joint commission on accreditation of healthcare organizations~~.

(K) A certificate, application, record, or report that is made in compliance with this section and that directly or indirectly identifies an inmate or former inmate whose hospitalization has been sought under this section is confidential. No person shall disclose the contents of any certificate, application, record, or report of that nature or any other psychiatric or medical record or report regarding a mentally ill inmate unless one of the following applies:

(1) The person identified, or the person's legal guardian, if any, consents to disclosure, and the chief clinical officer or designee of mental health services of the department of rehabilitation and correction determines that disclosure is in the best interests of the person.

(2) Disclosure is required by a court order signed by a judge.

(3) An inmate patient seeks access to the inmate patient's own psychiatric and medical records, unless access is specifically restricted in the treatment plan for clear treatment reasons.

(4) Hospitals and other institutions and facilities within the department of rehabilitation and correction may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, but the information that may be released about an inmate patient is limited to medication history, physical health status and history, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(5) An inmate patient's family member who is involved in planning, providing, and monitoring services to the inmate patient may receive medication information, a summary of the inmate patient's diagnosis and prognosis, and a list of the services and personnel available to assist the inmate patient and family if the attending physician determines that disclosure would be in the best interest of the inmate patient. No disclosure shall be made under this division unless the inmate patient is notified of the possible disclosure, receives the information to be disclosed, and does not object to the disclosure.

(6) The department of rehabilitation and correction may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with county sheriffs' offices, hospitals, institutions, and facilities of the department of mental health and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department of mental health has a current agreement for patient care or services to ensure continuity of care. Disclosure under this division is limited to records regarding a mentally ill inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any. No office, department, agency, or board shall disclose the records and other information unless one of the following applies:

(a) The mentally ill inmate is notified of the possible disclosure and consents to the disclosure.

(b) The mentally ill inmate is notified of the possible disclosure, an attempt to gain the consent of the inmate is made, and the office, department, agency, or board documents the attempt to gain consent, the inmate's objections, if any, and the reasons for disclosure in spite of the inmate's objections.

(7) Information may be disclosed to staff members designated by the director of rehabilitation and correction for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards.

The name of an inmate patient shall not be retained with the information obtained during the evaluations.

(L) The director of rehabilitation and correction may adopt rules setting forth guidelines for the procedures required under divisions (B), (C)(1), and (C)(2) of this section.

Sec. 5120.22. (A) The division of business administration shall examine the conditions of all buildings, grounds, and other property connected with the institutions under the control of the department of rehabilitation and correction, the methods of bookkeeping and storekeeping, and all matters relating to the management of such property. The division shall study and become familiar with the advantages and disadvantages of each as to location, freight rates, and efficiency of farm and equipment, for the purpose of aiding in the determination of the local and general requirements both for maintenance and improvements.

(B) The division, with respect to the various types of state-owned housing under jurisdiction of the department, shall adopt, in accordance with section 111.15 of the Revised Code, rules governing maintenance of the

housing and its usage by department personnel. The rules shall include a procedure for determining charges for rent and utilities, which the division shall assess against and collect from department personnel using the housing. All money collected for rent and utilities pursuant to the rules shall be deposited into the property receipts fund, which is hereby created in the state treasury. Money in the fund shall be used for any expenses necessary to provide housing of department employees, including but not limited to expenses for the acquisition, construction, operation, maintenance, repair, reconstruction, or demolition of land and buildings.

(C) The division may enter into a lease or agreement with a state agency, political subdivision of the state, or private entity to use facilities or other property under the jurisdiction of the department that is not being utilized by the department. All money collected for leasing and services performed in accordance with the lease or agreement shall be deposited into the property receipts fund created under division (B) of this section. Money in the fund shall be used for any expenses resulting from the lease or agreement, including, but not limited to, expenses for services performed, construction, maintenance, repair, reconstruction, or demolition of the facilities or other property.

Sec. 5120.28. (A) The department of rehabilitation and correction, subject to the approval of the office of budget and management, shall fix the prices at which all labor and services performed, all agricultural products produced, and all articles manufactured in correctional and penal institutions shall be furnished to the state, the political subdivisions of the state, and the public institutions of the state and the political subdivisions, and to private persons. The prices shall be uniform to all and not higher than the usual market price for like labor, products, services, and articles.

(B) Any money received by the department of rehabilitation and correction for labor and services performed ~~and agricultural products produced~~ shall be deposited into the institutional services ~~and agricultural~~ fund created pursuant to division (A) of section 5120.29 of the Revised Code and shall be used and accounted for as provided in that section and division (B) of section 5145.03 of the Revised Code.

(C) Any money received by the department of rehabilitation and correction for articles manufactured and agricultural products produced in penal and correctional institutions shall be deposited into the Ohio penal industries manufacturing fund created pursuant to division (B) of section 5120.29 of the Revised Code and shall be used and accounted for as provided in that section and division (B) of section 5145.03 of the Revised Code.

Sec. 5120.29. (A) There is hereby created, in the state treasury, the institutional services ~~and agricultural~~ fund, which shall be used for the:

(1) Purchase of material, supplies, and equipment and the erection and extension of buildings used in ~~service industries and agriculture~~ services provided between institutions of the department of rehabilitation and correction;

(2) ~~Purchase of lands and buildings necessary to carry on or extend the service industries and agriculture, upon the approval of the governor;~~

~~(3)~~ Payment of compensation to employees necessary to carry on ~~the service industries and agriculture~~ institutional services;

~~(4)~~(3) Payment of prisoners confined in state correctional institutions a portion of their earnings in accordance with rules adopted pursuant to section 5145.03 of the Revised Code.

(B) There is hereby created, in the state treasury, the Ohio penal industries manufacturing fund, which shall be used for the:

(1) Purchase of material, supplies, and equipment and the erection and extension of buildings used in manufacturing industries and agriculture;

(2) Purchase of lands and buildings necessary to carry on or extend the manufacturing industries and agriculture upon the approval of the governor;

(3) Payment of compensation to employees necessary to carry on the manufacturing industries and agriculture;

(4) Payment of prisoners confined in state correctional institutions a portion of their earnings in accordance with rules adopted pursuant to section 5145.03 of the Revised Code.

(C) The department of rehabilitation and correction shall, in accordance with rules adopted pursuant to section 5145.03 of the Revised Code and subject to any pledge made as provided in division (D) of this section, place to the credit of each prisoner ~~his~~ the prisoner's earnings and pay the earnings so credited to the prisoner or ~~his~~ the prisoner's family.

(D) Receipts credited to the funds created in divisions (A) and (B) of this section constitute available receipts as defined in section 152.09 of the Revised Code, and may be pledged to the payment of bond service charges on obligations issued by the Ohio building authority pursuant to Chapter 152. of the Revised Code to construct, reconstruct, or otherwise improve capital facilities useful to the department. The authority may, with the consent of the department, provide in the bond proceedings for a pledge of all or such portion of receipts credited to the funds as the authority determines. The authority may provide in the bond proceedings for the transfer of receipts credited to the funds to the appropriate bond service fund or bond service reserve fund as required to pay the bond service charges

when due, and any such provision for the transfer of receipts shall be controlling notwithstanding any other provision of law pertaining to such receipts.

All receipts received by the treasurer of state on account of the department and required by the applicable bond proceedings to be deposited, transferred, or credited to the bond service fund or bond service reserve fund established by such bond proceedings shall be transferred by the treasurer of state to such fund, whether or not such fund is in the custody of the treasurer of state, without necessity for further appropriation, upon receipt of notice from the Ohio building authority as prescribed in the bond proceedings. The authority may covenant in the bond proceedings that so long as any obligations are outstanding to which receipts credited to the fund are pledged, the state and the department shall neither reduce the prices charged pursuant to section 5120.28 of the Revised Code nor the level of manpower collectively devoted to the production of goods and services for which prices are set pursuant to section 5120.28 of the Revised Code, which covenant shall be controlling notwithstanding any other provision of law; provided, that no covenant shall require the general assembly to appropriate money derived from the levying of excises or taxes to purchase such goods and services or to pay rent or bond service charges.

Sec. 5122.01. As used in this chapter and Chapter 5119. of the Revised Code:

(A) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(B) "Mentally ill person subject to hospitalization by court order" means a mentally ill person who, because of the person's illness:

(1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

(2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

(3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; or

(4) Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter, who is under observation or receiving treatment in such place.

(2) "Patient" does not include a person admitted to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to patient, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(D) "Licensed physician" means a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of the person's official duties.

(E) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American medical association, the committee on post-graduate education of the American osteopathic association, or the American osteopathic board of neurology and psychiatry, or who on July 1, 1989, has been recognized as a psychiatrist by the Ohio state medical association or the Ohio osteopathic association on the basis of formal training and five or more years of medical practice limited to psychiatry.

(F) "Hospital" means a hospital or inpatient unit licensed by the department of mental health under section 5119.20 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.

(G) "Public hospital" means a facility that is tax-supported and under the jurisdiction of the department of mental health.

(H) "Community mental health agency" means ~~any~~ an agency~~, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the~~ that provides community mental health services ~~listed in~~ that are certified by the director of mental health under section ~~340.09~~ 5119.611 of the Revised Code.

(I) "Licensed clinical psychologist" means a person who holds a current

valid psychologist license issued under section 4732.12 or 4732.15 of the Revised Code, and in addition, meets either of the following criteria:

(1) Meets the educational requirements set forth in division (B) of section 4732.10 of the Revised Code and has a minimum of two years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, at least one year of which shall be a predoctoral internship, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under the supervision of a psychologist who is licensed or who holds a diploma issued by the American board of professional psychology, or whose qualifications are substantially similar to those required for licensure by the state board of psychology when the supervision has occurred prior to enactment of laws governing the practice of psychology;

(2) Meets the educational requirements set forth in division (B) of section 4732.15 of the Revised Code and has a minimum of four years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under supervision, as set forth in division (I)(1) of this section.

(J) "Health officer" means any public health physician; public health nurse; or other person authorized by or designated by a city health district; a general health district; or a board of alcohol, drug addiction, and mental health services to perform the duties of a health officer under this chapter.

(K) "Chief clinical officer" means the medical director of a hospital, or a community mental health agency, or a board of alcohol, drug addiction, and mental health services, or, if there is no medical director, the licensed physician responsible for the treatment a hospital or community mental health agency provides. The chief clinical officer may delegate to the attending physician responsible for a patient's care the duties imposed on the chief clinical officer by this chapter. Within a community mental health agency, the chief clinical officer shall be designated by the governing body of the agency and shall be a licensed physician or licensed clinical psychologist who supervises diagnostic and treatment services. A licensed physician or licensed clinical psychologist designated by the chief clinical officer may perform the duties and accept the responsibilities of the chief clinical officer in the chief clinical officer's absence.

(L) "Working day" or "court day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday.

(M) "Indigent" means unable without deprivation of satisfaction of basic needs to provide for the payment of an attorney and other necessary expenses of legal representation, including expert testimony.

(N) "Respondent" means the person whose detention, commitment, hospitalization, continued hospitalization or commitment, or discharge is being sought in any proceeding under this chapter.

(O) "Legal rights service" means the service established under section 5123.60 of the Revised Code.

(P) "Independent expert evaluation" means an evaluation conducted by a licensed clinical psychologist, psychiatrist, or licensed physician who has been selected by the respondent or the respondent's counsel and who consents to conducting the evaluation.

(Q) "Court" means the probate division of the court of common pleas.

(R) "Expunge" means:

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;

(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;

(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;

(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.

(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:

(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed.

When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(T) "Admission" to a hospital or other place means that a patient is accepted for and stays at least one night at the hospital or other place.

(U) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(V) "Treatment plan" means a written statement of reasonable objectives and goals for an individual established by the treatment team, with specific criteria to evaluate progress towards achieving those objectives. The active participation of the patient in establishing the objectives and goals shall be documented. The treatment plan shall be based on patient needs and include services to be provided to the patient while the patient is hospitalized and after the patient is discharged. The treatment plan shall address services to be provided upon discharge, including but not limited to housing, financial, and vocational services.

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

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

Sec. 5122.15. (A) Full hearings shall be conducted in a manner consistent with this chapter and with due process of law. The hearings shall be conducted by a judge of the probate court or a referee designated by a judge of the probate court and may be conducted in or out of the county in which the respondent is held. Any referee designated under this division shall be an attorney.

(1) With the consent of the respondent, the following shall be made available to counsel for the respondent:

(a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor;

(b) All relevant documents, information, and evidence in the custody or control of the hospital in which the respondent currently is held, or in which the respondent has been held pursuant to this chapter;

(c) All relevant documents, information, and evidence in the custody or control of any hospital, facility, or person not included in division (A)(1)(a) or (b) of this section.

(2) The respondent has the right to attend the hearing and to be represented by counsel of the respondent's choice. The right to attend the hearing may be waived only by the respondent or counsel for the respondent after consultation with the respondent.

(3) If the respondent is not represented by counsel, is absent from the

hearing, and has not validly waived the right to counsel, the court shall appoint counsel immediately to represent the respondent at the hearing, reserving the right to tax costs of appointed counsel to the respondent, unless it is shown that the respondent is indigent. If the court appoints counsel, or if the court determines that the evidence relevant to the respondent's absence does not justify the absence, the court shall continue the case.

(4) The respondent shall be informed that the respondent may retain counsel and have independent expert evaluation. If the respondent is unable to obtain an attorney, the respondent shall be represented by court-appointed counsel. If the respondent is indigent, court-appointed counsel and independent expert evaluation shall be provided as an expense under section 5122.43 of the Revised Code.

(5) The hearing shall be closed to the public, unless counsel for the respondent, with the permission of the respondent, requests that the hearing be open to the public.

(6) If the hearing is closed to the public, the court, for good cause shown, may admit persons who have a legitimate interest in the proceedings. If the respondent, the respondent's counsel, the designee of the director or of the chief clinical officer objects to the admission of any person, the court shall hear the objection and any opposing argument and shall rule upon the admission of the person to the hearing.

(7) The affiant under section 5122.11 of the Revised Code shall be subject to subpoena by either party.

(8) The court shall examine the sufficiency of all documents filed and shall inform the respondent, if present, and the respondent's counsel of the nature and content of the documents and the reason for which the respondent is being detained, or for which the respondent's placement is being sought.

(9) The court shall receive only reliable, competent, and material evidence.

(10) Unless proceedings are initiated pursuant to section 5120.17 or 5139.08 of the Revised Code or proceedings are initiated regarding a resident of the service district of a board of alcohol, drug addiction, and mental health services that elects under division ~~(B)(3)(b)~~ (C)(2) of section 5119.62 of the Revised Code not to accept the amount allocated to it under ~~division (B)(1) of~~ that section, an attorney that the board designates shall present the case demonstrating that the respondent is a mentally ill person subject to hospitalization by court order. The attorney shall offer evidence of the diagnosis, prognosis, record of treatment, if any, and less restrictive

treatment plans, if any. In proceedings pursuant to section 5120.17 or 5139.08 of the Revised Code and in proceedings in which the respondent is a resident of a service district of a board that elects under division ~~(B)(3)(b)~~(C)(2) of section 5119.62 of the Revised Code not to accept the amount allocated to it under ~~division (B)(1) of~~ that section, the attorney general shall designate an attorney who shall present the case demonstrating that the respondent is a mentally ill person subject to hospitalization by court order. The attorney shall offer evidence of the diagnosis, prognosis, record of treatment, if any, and less restrictive treatment plans, if any.

(11) The respondent or the respondent's counsel has the right to subpoena witnesses and documents and to examine and cross-examine witnesses.

(12) The respondent has the right, but shall not be compelled, to testify, and shall be so advised by the court.

(13) On motion of the respondent or the respondent's counsel for good cause shown, or on the court's own motion, the court may order a continuance of the hearing.

(14) If the respondent is represented by counsel and the respondent's counsel requests a transcript and record, or if the respondent is not represented by counsel, the court shall make and maintain a full transcript and record of the proceeding. If the respondent is indigent and the transcript and record is made, a copy shall be provided to the respondent upon request and be treated as an expense under section 5122.43 of the Revised Code.

(15) To the extent not inconsistent with this chapter, the Rules of Civil Procedure are applicable.

(B) Unless, upon completion of the hearing the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, it shall order the respondent's discharge immediately.

(C) If, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, the court shall order the respondent for a period not to exceed ninety days to any of the following:

(1) A hospital operated by the department of mental health if the respondent is committed pursuant to section 5139.08 of the Revised Code;

(2) A nonpublic hospital;

(3) The veterans' administration or other agency of the United States government;

(4) A board of alcohol, drug addiction, and mental health services or agency the board designates;

(5) Receive private psychiatric or psychological care and treatment;

(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent.

(D) Any order made pursuant to division (C)(2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent.

(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the diagnosis, prognosis, preferences of the respondent and the projected treatment plan for the respondent and shall order the implementation of the least restrictive alternative available and consistent with treatment goals. If the court determines that the least restrictive alternative available that is consistent with treatment goals is inpatient hospitalization, the court's order shall so state.

(F) During such ninety-day period the hospital; facility; board of alcohol, drug addiction, and mental health services; agency the board designates; or person shall examine and treat the individual. If, at any time prior to the expiration of the ninety-day period, it is determined by the hospital, facility, board, agency, or person that the respondent's treatment needs could be equally well met in an available and appropriate less restrictive environment, both of the following apply:

(1) The respondent shall be released from the care of the hospital, agency, facility, or person immediately and shall be referred to the court together with a report of the findings and recommendations of the hospital, agency, facility, or person; and

(2) The hospital, agency, facility, or person shall notify the respondent's counsel or the attorney designated by a board of alcohol, drug addiction, and mental health services or, if the respondent was committed to a board or an agency designated by the board, it shall place the respondent in the least restrictive environment available consistent with treatment goals and notify the court and the respondent's counsel of the placement.

The court shall dismiss the case or order placement in the least restrictive environment.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person who has been committed under this section, or for whom proceedings for hospitalization have been commenced pursuant to section 5122.11 of the Revised Code, may apply at any time for voluntary admission to the hospital, facility, agency that the board designates, or person to which the person was committed. Upon admission as a voluntary patient the chief clinical officer of the hospital, agency, or other facility, or

the person immediately shall notify the court, the patient's counsel, and the attorney designated by the board, if the attorney has entered the proceedings, in writing of that fact, and, upon receipt of the notice, the court shall dismiss the case.

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily commit the person pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

(H) If, at the end of the first ninety-day period or any subsequent period of continued commitment, there has been no disposition of the case, either by discharge or voluntary admission, the hospital, facility, board, agency, or person shall discharge the patient immediately, unless at least ten days before the expiration of the period the attorney the board designates or the prosecutor files with the court an application for continued commitment. The application of the attorney or the prosecutor shall include a written report containing the diagnosis, prognosis, past treatment, a list of alternative treatment settings and plans, and identification of the treatment setting that is the least restrictive consistent with treatment needs. The attorney the board designates or the prosecutor shall file the written report at least three days prior to the full hearing. A copy of the application and written report shall be provided to the respondent's counsel immediately.

The court shall hold a full hearing on applications for continued commitment at the expiration of the first ninety-day period and at least every two years after the expiration of the first ninety-day period.

Hearings following any application for continued commitment are mandatory and may not be waived.

Upon request of a person who is involuntarily committed under this section, or the person's counsel, that is made more than one hundred eighty days after the person's last full hearing, mandatory or requested, the court shall hold a full hearing on the person's continued commitment. Upon the application of a person involuntarily committed under this section, supported by an affidavit of a psychiatrist or licensed clinical psychologist, alleging that the person no longer is a mentally ill person subject to hospitalization by court order, the court for good cause shown may hold a full hearing on the person's continued commitment prior to the expiration of one hundred eighty days after the person's last full hearing. Section 5122.12 of the Revised Code applies to all hearings on continued commitment.

If the court, after a hearing for continued commitment finds by clear and

convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, the court may order continued commitment at places specified in division (C) of this section.

(I) Unless the admission is pursuant to section 5120.17 or 5139.08 of the Revised Code, the chief clinical officer of the hospital or agency admitting a respondent pursuant to a judicial proceeding, within ten working days of the admission, shall make a report of the admission to the board of alcohol, drug addiction, and mental health services serving the respondent's county of residence.

(J) A referee appointed by the court may make all orders that a judge may make under this section and sections 5122.11 and 5122.141 of the Revised Code, except an order of contempt of court. The orders of a referee take effect immediately. Within fourteen days of the making of an order by a referee, a party may file written objections to the order with the court. The filed objections shall be considered a motion, shall be specific, and shall state their grounds with particularity. Within ten days of the filing of the objections, a judge of the court shall hold a hearing on the objections and may hear and consider any testimony or other evidence relating to the respondent's mental condition. At the conclusion of the hearing, the judge may ratify, rescind, or modify the referee's order.

(K) An order of the court under division (C), (H), or (J) of this section is a final order.

(L) Before a board, or an agency the board designates, may place an unconsenting respondent in an inpatient setting from a less restrictive placement, the board or agency shall do all of the following:

(1) Determine that the respondent is in immediate need of treatment in an inpatient setting because the respondent represents a substantial risk of physical harm to the respondent or others if allowed to remain in a less restrictive setting;

(2) On the day of placement in the inpatient setting or on the next court day, file with the court a motion for transfer to an inpatient setting or communicate to the court by telephone that the required motion has been mailed;

(3) Ensure that every reasonable and appropriate effort is made to take the respondent to the inpatient setting in the least conspicuous manner possible;

(4) Immediately notify the board's designated attorney and the respondent's attorney.

At the respondent's request, the court shall hold a hearing on the motion and make a determination pursuant to division (E) of this section within five

days of the placement.

(M) Before a board, or an agency the board designates, may move a respondent from one residential placement to another, the board or agency shall consult with the respondent about the placement. If the respondent objects to the placement, the proposed placement and the need for it shall be reviewed by a qualified mental health professional who otherwise is not involved in the treatment of the respondent.

Sec. 5122.21. (A) The chief clinical officer shall as frequently as practicable, and at least once every thirty days, examine or cause to be examined every patient, and, whenever the chief clinical officer determines that the conditions justifying involuntary hospitalization or commitment no longer obtain, shall~~, except as provided in division (C) of this section,~~ discharge the patient not under indictment or conviction for crime and immediately make a report of the discharge to the department of mental health. The chief clinical officer may discharge a patient who is under an indictment, a sentence of imprisonment, a community control sanction, or a post-release control sanction or on parole ten days after written notice of intent to discharge the patient has been given by personal service or certified mail, return receipt requested, to the court having criminal jurisdiction over the patient. Except when the patient was found not guilty by reason of insanity and the defendant's commitment is pursuant to section 2945.40 of the Revised Code, the chief clinical officer has final authority to discharge a patient who is under an indictment, a sentence of imprisonment, a community control sanction, or a post-release control sanction or on parole.

(B) After a finding pursuant to section 5122.15 of the Revised Code that a person is a mentally ill person subject to hospitalization by court order, the chief clinical officer of the hospital or agency to which the person is ordered or to which the person is transferred under section 5122.20 of the Revised Code, may~~, except as provided in division (C) of this section,~~ grant a discharge without the consent or authorization of any court.

Upon discharge, the chief clinical officer shall notify the court that caused the judicial hospitalization of the discharge from the hospital.

Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if

the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter or section 5123.60 of the Revised Code;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department, other institutions and facilities within the department, hospitals licensed by the department under section 5119.20 of the Revised Code, and community mental health agencies may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient;

(8) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health agencies may exchange psychiatric

records and certain other information with the board of alcohol, drug addiction, and mental health services and other agencies in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

(13) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), (7), and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5122.341. (A) As used in this section:

(1) "Facility or agency" means, in the context of a person committed to the department of mental health under sections 2945.37 to 2945.402 of the Revised Code, any entity in which the department of mental health places such a person.

(2) "Person committed to the department" means a person committed to the department of mental health under sections 2945.37 to 2945.402 of the Revised Code.

(B) No member of a board of directors, or employee, of a facility or agency in which the department of mental health places a person committed to the department is liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or employee's employment relating to the commitment of, and services provided to, the person committed to the department, unless the action or inaction constitutes willful or wanton misconduct. A board member's or employee's action or inaction does not constitute willful or wanton misconduct if the board member or employee acted in good faith and reasonably under the circumstances and with the knowledge reasonably attributable to the board member or employee.

The immunity from liability conferred by this section is in addition to and not in limitation of any immunity conferred by any other section of the Revised Code or by judicial precedent.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded with the approval of the director to provide

habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a sequence of observations and examinations, of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions if any, by a group of persons with special training and experience in the diagnosis and management of persons with mental retardation or a developmental disability, which group shall include individuals who are professionally qualified in the fields of medicine, psychology, and social work, together with such other specialists as the individual case may require.

(D) "Education" means the process of formal training and instruction to facilitate the intellectual and emotional development of residents.

(E) "Habilitation" means the process by which the staff of the institution assists the resident in acquiring and maintaining those life skills that enable the resident to cope more effectively with the demands of the resident's own person and of the resident's environment and in raising the level of the resident's physical, mental, social, and vocational efficiency. Habilitation includes but is not limited to programs of formal, structured education and training.

(F) "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district.

(G) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code provided under the medicaid waiver components the department of developmental disabilities administers pursuant to section 5111.871 of the Revised Code. However, home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver are to be considered to be home and community-based services for the purposes of this chapter only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.

(H) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony.

(I) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded.

(J) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to

practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

(K) "Managing officer" means a person who is appointed by the director of developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(Q) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of

section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(R) "Developmentally disabled person" means a person with a developmental disability.

(S) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person

has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court, other adult having permanent custody awarded by a court, or guardian of the person of the minor, provided that:

(1) A minor female who marries shall be considered to have the legal settlement of her husband and, in the case of death of her husband or divorce, she shall not thereby lose her legal settlement obtained by the marriage.

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

(U)(1) "Resident" means, subject to division (R)(2) of this section, a person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(V) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(W) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case

in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(Y) "Court" means the probate division of the court of common pleas.

(Z) "Supported living" ~~has~~ and "residential services" have the same ~~meaning~~ meanings as in section 5126.01 of the Revised Code.

Sec. 5123.0412. (A) The department of developmental disabilities shall charge each county board of developmental disabilities an annual fee equal to one and ~~one-half~~ one-quarter per cent of the total value of all medicaid paid claims for home and community-based services provided during the year to an individual eligible for services from the county board. No county board shall pass the cost of a fee charged to the county board under this section on to another provider of these services.

(B) The fees collected under this section shall be deposited into the ODDD administration and oversight fund and the ODJFS administration and oversight fund, both of which are hereby created in the state treasury. The portion of the fees to be deposited into the ODDD administration and oversight fund and the portion of the fees to be deposited into the ODJFS administration and oversight fund shall be the portion specified in an interagency agreement entered into under division (C) of this section. The department of developmental disabilities shall use the money in the ODDD administration and oversight fund and the department of job and family services shall use the money in the ODJFS administration and oversight fund for both of the following purposes:

(1) Medicaid administrative costs, including administrative and oversight costs of medicaid case management services and home and community-based services. The administrative and oversight costs of medicaid case management services and home and community-based services shall include costs for staff, systems, and other resources the departments need and dedicate solely to the following duties associated with the services:

(a) Eligibility determinations;

(b) Training;

(c) Fiscal management;

(d) Claims processing;

(e) Quality assurance oversight;

(f) Other duties the departments identify.

(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.

(C) The departments of developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:

(1) Specify which portion of the fees collected under this section is to be deposited into the ODDD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;

(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund.

(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

Sec. 5123.0413. The department of developmental disabilities, in consultation with the department of job and family services, office of budget and management, and county boards of developmental disabilities, shall adopt rules in accordance with Chapter 119. of the Revised Code to establish both of the following in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails:

(A) A method of paying for home and community-based services;

(B) A method of reducing the number of individuals a county board would otherwise be required by section 5126.0512 of the Revised Code to ensure are enrolled in ~~a medicaid waiver component under which~~ home and community-based services ~~are provided~~.

Sec. 5123.0417. (A) The director of developmental disabilities shall establish one or more programs for individuals under ~~twenty-one~~ twenty-two years of age who have intensive behavioral needs, including such individuals with a primary diagnosis of autism spectrum disorder. The programs may include one or more medicaid waiver components that the director administers pursuant to section 5111.871 of the Revised Code. The programs may do one or more of the following:

(1) Establish models that incorporate elements common to effective intervention programs and evidence-based practices in services for children with intensive behavioral needs;

(2) Design a template for individualized education plans and individual service plans that provide consistent intervention programs and evidence-based practices for the care and treatment of children with intensive behavioral needs;

(3) Disseminate best practice guidelines for use by families of children

with intensive behavioral needs and professionals working with such families;

(4) Develop a transition planning model for effectively mainstreaming school-age children with intensive behavioral needs to their public school district;

(5) Contribute to the field of early and effective identification and intervention programs for children with intensive behavioral needs by providing financial support for scholarly research and publication of clinical findings.

(B) The director of developmental disabilities shall collaborate with the director of job and family services and consult with the executive director of the Ohio center for autism and low incidence and university-based programs that specialize in services for individuals with developmental disabilities when establishing programs under this section.

Sec. 5123.0418. (A) In addition to other authority granted the director of developmental disabilities for use of funds appropriated to the department of developmental disabilities, the director may use such funds for the following purposes:

(1) All of the following to assist persons with mental retardation or a developmental disability remain in the community and avoid institutionalization:

(a) Behavioral and short-term interventions;

(b) Residential services;

(c) Supported living.

(2) Respite care services;

(3) Staff training to help the following personnel serve persons with mental retardation or a developmental disability in the community:

(a) Employees of, and personnel under contract with, county boards of developmental disabilities;

(b) Employees of providers of supported living;

(c) Employees of providers of residential services;

(d) Other personnel the director identifies.

(B) The director may establish priorities for using funds for the purposes specified in division (A) of this section. The director shall use the funds in a manner consistent with the appropriations that authorize the director to use the funds and all other state and federal laws governing the use of the funds.

Sec. 5123.0419. (A) The director of developmental disabilities may establish an interagency workgroup on autism. The purpose of the workgroup shall be to improve the coordination of the state's efforts to address the service needs of individuals with autism spectrum disorders and

the families of those individuals. In fulfilling this purpose, the director may enter into interagency agreements with the government entities represented by the members of the workgroup. The agreements may specify any or all of the following:

(1) The roles and responsibilities of government entities that enter into the agreements;

(2) Procedures regarding the receipt, transfer, and expenditure of funds necessary to achieve the goals of the workgroup;

(3) The projects to be undertaken and activities to be performed by the government entities that enter into the agreements.

(B) Money received from government entities represented by the members of the workgroup shall be deposited into the state treasury to the credit of the interagency workgroup on autism fund, which is hereby created in the state treasury. Money credited to the fund shall be used by the department of developmental disabilities solely to support the activities of the workgroup.

Sec. 5123.051. (A) If the department of developmental disabilities determines pursuant to an audit conducted under section 5123.05 of the Revised Code ~~or a reconciliation conducted under section 5123.18 of the Revised Code~~ that money is owed the state by a provider of a service or program, the department may enter into a payment agreement with the provider. The agreement shall include the following:

(1) A schedule of installment payments whereby the money owed the state is to be paid in full within a period not to exceed one year;

(2) A provision that the provider may pay the entire balance owed at any time during the term of the agreement;

(3) A provision that if any installment is not paid in full within forty-five days after it is due, the entire balance owed is immediately due and payable;

(4) Any other terms and conditions that are agreed to by the department and the provider.

(B) The department may include a provision in a payment agreement that requires the provider to pay interest on the money owed the state. The department, in its discretion, shall determine whether to require the payment of interest and, if it so requires, the rate of interest. Neither the obligation to pay interest nor the rate of interest is subject to negotiation between the department and the provider.

(C) If the provider fails to pay any installment in full within forty-five days after its due date, the department shall certify the entire balance owed to the attorney general for collection under section 131.02 of the Revised

Code. The department may withhold funds from payments made to a provider under section 5123.18 of the Revised Code to satisfy a judgment secured by the attorney general.

~~(D) The purchase of service fund is hereby created. Money credited to the fund shall be used solely for purposes of section 5123.05 of the Revised Code.~~

Sec. 5123.171. As used in this section, "respite care" means appropriate, short-term, temporary care provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.

The department of developmental disabilities shall provide respite care services to persons with mental retardation or a developmental disability for the purpose of promoting self-sufficiency and normalization, preventing or reducing inappropriate institutional care, and furthering the unity of the family by enabling the family to meet the special needs of a mentally retarded or developmentally disabled person.

In order to be eligible for respite care services under this section, the mentally retarded or developmentally disabled person must be in need of habilitation services as defined in section 5126.01 of the Revised Code.

Respite care may be provided in a facility licensed under section 5123.19 of the Revised Code or certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or certified as a respite care home under section 5126.05 of the Revised Code.

The department shall develop a system for locating vacant beds that are available for respite care and for making information on vacant beds available to users of respite care services. Facilities certified as intermediate care facilities for the mentally retarded ~~and facilities holding contracts with the department for the provision of residential services under section 5123.18 of the Revised Code~~ shall report vacant beds to the department but shall not be required to accept respite care clients.

The director of developmental disabilities shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for both of the following:

(A) Certification by county boards of developmental disabilities of respite care homes;

(B) Provision of respite care services authorized by this section. Rules adopted under this division shall establish all of the following:

(1) A formula for distributing funds appropriated for respite care services;

(2) Standards for supervision, training and quality control in the provision of respite care services;

(3) Eligibility criteria for emergency respite care services.

Sec. 5123.18. (A) ~~As used in this section:~~

~~(1) "Contractor" means a person or government agency that enters into a contract with the department of developmental disabilities under this section.~~

~~(2) "Government agency" means a state agency as defined in section 117.01 of the Revised Code or a similar agency of a political subdivision of the state.~~

~~(3) "Residential services" means the services necessary for an individual with mental retardation or a developmental disability to live in the community, including room and board, clothing, transportation, personal care, habilitation, supervision, and any other services the department considers necessary for the individual to live in the community.~~

~~(B)~~(1) The department of developmental disabilities may enter into a contract with a person or government agency to provide residential services to individuals with mental retardation or developmental disabilities in need of residential ~~services. Contracts for residential services shall be of the following types:~~

~~(a) Companion home contracts - contracts under which the contractor is an individual, the individual is the primary caregiver, and the individual owns or leases and resides in the home in which the services are provided.~~

~~(b) Agency-operated companion home contracts - contracts under which the contractor subcontracts, for purposes of coordinating the provision of residential services, with one or more individuals who are primary caregivers and own or lease and reside in the homes in which the services are provided.~~

~~(c) Community home contracts - contracts for residential services under which the contractor owns or operates a home that is used solely to provide residential services.~~

~~(d) Combined agency-operated companion home and community home contracts.~~

~~(2) A companion home contract shall cover not more than one home. An agency-operated companion home contract or a community home contract may cover more than one home.~~

~~(C) Contracts shall be in writing and shall provide for payment to be made to the contractor at the times agreed to by the department and the contractor. Each contract shall specify the period during which it is valid, the amount to be paid for residential services, and the number of individuals~~

~~for whom payment will be made. Contracts may be renewed.~~

~~(D)~~ services. To be eligible to enter into a contract with the department under this section, ~~the~~ a person or government ~~agency~~ entity and the home in which the residential services are provided must meet all applicable standards for licensing or certification by the appropriate government ~~agency~~ entity. ~~In addition, if the residential facility is operated as a nonprofit entity, the members of the board of trustees or board of directors of the facility must not have a financial interest in or receive financial benefit from the facility, other than reimbursement for actual expenses incurred in attending board meetings.~~

~~(E)(1) The department shall determine the payment amount assigned to an initial contract. To the extent that the department determines sufficient funds are available, the payment amount assigned to an initial contract shall be equal to the average amount assigned to contracts for other homes that are of the same type and size and serve individuals with similar needs, except that if an initial contract is the result of a change of contractor or ownership, the payment amount assigned to the contract shall be the lesser of the amount assigned to the previous contract or the contract's total adjusted predicted funding need calculated under division (I) of this section.~~

~~(2) A renewed contract shall be assigned a payment amount in accordance with division (K) of this section.~~

~~(3) When a contractor relocates a home to another site at which residential services are provided to the same individuals, the payment amount assigned to the contract for the new home shall be the payment amount assigned to the contract at the previous location.~~

~~(F)(1) Annually, a contractor shall complete an assessment of each individual to whom the contractor provides residential services to predict the individual's need for routine direct services staff. The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the assessment instrument to be used by contractors to make assessments. Assessments shall be submitted to the department not later than the thirty-first day of January of each year.~~

~~A contractor shall submit a revised assessment for an individual if there is a substantial, long-term change in the nature of the individual's needs. A contractor shall submit revised assessments for all individuals receiving residential services if there is a change in the composition of the home's residents.~~

~~(2) Annually, a contractor shall submit a cost report to the department specifying the costs incurred in providing residential services during the immediately preceding calendar year. Only costs actually incurred by a~~

~~contractor shall be reported on a cost report. Cost reports shall be prepared according to a uniform chart of accounts approved by the department and shall be submitted on forms prescribed by the department.~~

~~(3) The department shall not renew the contract held by a contractor who fails to submit the assessments or cost reports required under this division.~~

~~(4) The department shall adopt rules as necessary regarding the submission of assessments and cost reports under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(G) Prior to renewing a contract entered into under this section, the department shall compute the contract's total predicted funding need and total adjusted predicted funding need. The department shall also compute the contract's unmet funding need if the payment amount assigned to the contract is less than the total adjusted predicted funding need. The results of these calculations shall be used to determine the payment amount assigned to the renewed contract.~~

~~(H)(1) A contract's total predicted funding need is an amount equal to the sum of the predicted funding needs for the following cost categories:~~

~~(a) Routine direct services staff;~~

~~(b) Dietary, program supplies, and specialized staff;~~

~~(c) Facility and general services;~~

~~(d) Administration.~~

~~(2) Based on the assessments submitted by the contractor, the department shall compute the contract's predicted funding need for the routine direct services staff cost category by multiplying the number of direct services staff predicted to be necessary for the home by the sum of the following:~~

~~(a) Entry level wages paid during the immediately preceding cost reporting period to comparable staff employed by the county board of developmental disabilities of the county in which the home is located;~~

~~(b) Fringe benefits and payroll taxes as determined by the department using state civil service statistics from the same period as the cost reporting period.~~

~~(3) The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the method to be used to compute the predicted funding need for the dietary, program supplies, and specialized staff cost category; the facility and general services cost category; and the administration cost category. The rules shall not establish a maximum amount that may be attributed to the dietary, program supplies, and specialized staff cost category. The rules shall establish a process for~~

~~determining the combined maximum amount that may be attributed to the facility and general services cost category and the administration cost category.~~

~~(I)(1) A contract's total adjusted predicted funding need is the contract's total predicted funding need with adjustments made for the following:~~

~~(a) Inflation, as provided under division (I)(2) of this section;~~

~~(b) The predicted cost of complying with new requirements established under federal or state law that were not taken into consideration when the total predicted funding need was computed;~~

~~(c) Changes in needs based on revised assessments submitted by the contractor.~~

~~(2) In adjusting the total predicted funding need for inflation, the department shall use either the consumer price index compound annual inflation rate calculated by the United States department of labor for all items or another index or measurement of inflation designated in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.~~

~~When a contract is being renewed for the first time, and the contract is to begin on the first day of July, the inflation adjustment applied to the contract's total predicted funding need shall be the estimated rate of inflation for the calendar year in which the contract is renewed. If the consumer price index is being used, the department shall base its estimate on the rate of inflation calculated for the three-month period ending the thirty-first day of March of that calendar year. If another index or measurement is being used, the department shall base its estimate on the most recent calculations of the rate of inflation available under the index or measurement. Each year thereafter, the inflation adjustment shall be estimated in the same manner, except that if the estimated rate of inflation for a year is different from the actual rate of inflation for that year, the difference shall be added to or subtracted from the rate of inflation estimated for the next succeeding year.~~

~~If a contract begins at any time other than July first, the inflation adjustment applied to the contract's total predicted funding need shall be determined by a method comparable to that used for contracts beginning July first. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the method to be used.~~

~~(J) A contract's unmet funding need is the difference between the payment amount assigned to the contract and the total adjusted predicted funding need, if the payment amount assigned is less than the total adjusted predicted funding need.~~

~~(K) The payment amount to be assigned to a contract being renewed~~

~~shall be determined by comparing the total adjusted predicted funding need with the payment amount assigned to the current contract.~~

~~(1) If the payment amount assigned to the current contract equals or exceeds the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be the same as that assigned to the current contract, unless a reduction is made pursuant to division (L) of this section.~~

~~(2) If the payment amount assigned to the current contract is less than the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be increased if the department determines that funds are available for such increases. The amount of a contract's increase shall be the same percentage of the available funds that the contract's unmet funding need is of the total of the unmet funding need for all contracts.~~

~~(L) When renewing a contract provided for in division (B) of this section other than a companion home contract, the department may reduce the payment amount assigned to a renewed contract if the sum of the contractor's allowable reported costs and the maximum efficiency incentive is less than ninety-one and one-half per cent of the amount received pursuant to this section during the immediately preceding contract year.~~

~~The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a formula to be used in computing the maximum efficiency incentive, which shall be at least four per cent of the weighted average payment amount to be made to all contractors during the contract year. The maximum efficiency incentive shall be computed annually.~~

~~(M) The department may increase the payment amount assigned to a contract based on the contract's unmet funding need at times other than when the contract is renewed. The department may develop policies for determining priorities in making such increases.~~

~~(N)(1) In addition to the contracts provided for in division (B) of this section, the department may enter into the following contracts:~~

~~(a) A contract to pay the cost of beginning operation of a new home that is to be funded under a companion home contract, agency-operated companion home contract, community home contract, or combined agency-operated companion home and community home contract.~~

~~(b) A contract to pay the cost associated with increasing the number of individuals served by a home funded under a companion home contract, agency-operated companion home contract, community home contract, or combined agency-operated companion home and community home contract.~~

~~(2) The department shall adopt rules as necessary regarding contracts entered into under this division. The rules shall be adopted in accordance~~

~~with Chapter 119. of the Revised Code.~~

~~(O) Except for companion home contracts, the department shall conduct a reconciliation of the amount earned under a contract and the actual costs incurred by the contractor. An amount is considered to have been earned for delivering a service at the time the service is delivered. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting reconciliations.~~

~~A reconciliation shall be based on the annual cost report submitted by the contractor. If a reconciliation reveals that a contractor owes money to the state, the amount owed shall be collected in accordance with section 5123.051 of the Revised Code.~~

~~When conducting reconciliations, the department shall review all reported costs that may be affected by transactions required to be reported under division (B)(3) of section 5123.172 of the Revised Code. If the department determines that such transactions have increased the cost reported by a contractor, the department may disallow or adjust the cost allowable for payment. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for disallowances or adjustments.~~

~~(P) The department may audit the contracts it enters into under this section. Audits may be conducted by the department or an entity with which the department contracts to perform the audits. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting audits.~~

~~An audit may include the examination of a contractor's financial books and records, the costs incurred by a contractor in providing residential services, and any other relevant information specified by the department. An audit shall not be commenced more than four years after the expiration of the contract to be audited, except in cases where the department has reasonable cause to believe that a contractor has committed fraud.~~

~~If an audit reveals that a contractor owes money to the state, the amount owed, subject to an adjudication hearing under this division, shall be collected in accordance with section 5123.051 of the Revised Code. If an audit reveals that a reconciliation conducted under this section resulted in the contractor erroneously paying money to the state, the department shall refund the money to the contractor, or, in lieu of making a refund, the department may offset the erroneous payment against any money determined as a result of the audit to be owed by the contractor to the state. The department is not required to pay interest on any money refunded under this division.~~

~~In conducting audits or making determinations of amounts owed by a contractor and amounts to be refunded or offset, the department shall not be bound by the results of reconciliations conducted under this section, except with regard to cases involving claims that have been certified pursuant to section 5123.051 of the Revised Code to the attorney general for collection for which a full and final settlement has been reached or a final judgment has been made from which all rights of appeal have expired or been exhausted.~~

~~Not later than ninety days after an audit's completion, the department shall provide the contractor a copy of a report of the audit. The report shall state the findings of the audit, including the amount of any money the contractor is determined to owe the state.~~

~~(Q) The department shall adopt rules specifying the amount that will be allowed under a reconciliation or audit for the cost incurred by a contractor for compensation of owners, administrators, and other personnel. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(R) Each contractor shall, for at least seven years, maintain fiscal records related to payments received pursuant to this section.~~

~~(S) The department may enter into shared funding agreements with other government agencies to fund contracts entered into under this section. The amount of each agency's share of the cost shall be determined through negotiations with the department. The department's share shall not exceed the amount it would have paid without entering into the shared funding agreement, nor shall it be reduced by any amounts contributed by the other parties to the agreement.~~

~~(T) Except as provided in section 5123.194 of the Revised Code, an individual who receives residential services pursuant to divisions (A) through (U) of this section and the individual's liable relatives or guardians shall pay support charges in accordance with Chapter 5121. of the Revised Code.~~

~~(U) The department may make reimbursements or payments for any of the following pursuant to rules adopted under this division:~~

~~(1) Unanticipated, nonrecurring costs associated with the health or habilitation of a person who resides in a home funded under a contract provided for in division (B) of this section;~~

~~(2) The cost of staff development training for contractors if the director of developmental disabilities has given prior approval for the training;~~

~~(3) Fixed costs that the department, pursuant to the rules, determines relate to the continued operation of a home funded under a contract provided for in division (B) of this section when a short-term vacancy occurs and the~~

~~contractor has diligently attempted to fill the vacancy.~~

~~The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for use in determining which costs it may make payment or reimbursements for under this division.~~

~~(V) In addition to the rules required or authorized to be adopted under this section, the department may adopt any other rules necessary to implement divisions (A) through (U) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(W) The department may delegate to county boards of developmental disabilities its authority under this section to negotiate and enter into contracts or subcontracts for residential services. In the event that it elects to delegate its authority, the department shall adopt rules in accordance with Chapter 119. of the Revised Code for the boards' administration of the contracts or subcontracts. In administering the contracts or subcontracts, the boards shall be subject to all applicable provisions of Chapter 5126. of the Revised Code and shall not be subject to the provisions of divisions (A) to (V) of this section.~~

~~Subject to the department's rules, a board may require the following to contribute to the cost of the residential services an individual receives pursuant to this division: the individual or the individual's estate, the individual's spouse, the individual's guardian, and, if the individual is under age eighteen, either or both of the individual's parents. Chapter 5121. of the Revised Code shall not apply to individuals or entities that are subject to making contributions under this division. In calculating contributions to be made under this division, a board, subject to the department's rules, may allow an amount to be kept for meeting the personal needs of the individual who receives residential services.~~

Sec. 5123.19. (A) As used in this section and in sections 5123.191, ~~5123.193,~~ 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(b) "Intermediate care facility for the mentally retarded" means a

residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(4) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(5) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, ~~3722.04~~ 5119.73, 5103.03, or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.

(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the

rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules

adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. The county board shall send a copy of the letter to each of the following:

(a) Each resident who receives services from the licensee;

(b) The guardian of each resident who receives services from the licensee if the resident has a guardian;

(c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a

substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, including intermediate care facilities for the mentally retarded. The rules for intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the

period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.193 or 5123.197 of the Revised Code.

(K) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the

director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(L) A county board of developmental disabilities, the legal rights service, and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director

mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(P) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(R) Divisions (O) and (P) of this section are not applicable to municipal

corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing

that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.191. (A) The court of common pleas or a judge thereof in the judge's county, or the probate court, may appoint a receiver to take possession of and operate a residential facility licensed by the department of developmental disabilities, in causes pending in such courts respectively, when conditions existing at the facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents. Conditions at the facility that may present such risk of harm include, but are not limited to, instances when any of the following occur:

(1) The residential facility is in violation of state or federal law or regulations.

(2) The facility has had its license revoked or procedures for revocation have been initiated, or the facility is closing or intends to cease operations.

(3) Arrangements for relocating residents need to be made.

(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility.

(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility and the department of developmental disabilities of the filing. The court shall order the department to notify the legal rights service, facility owner, facility operator, county board of developmental disabilities, facility residents, and residents' parents and guardians of the filing of the petition.

The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of developmental disabilities and appropriate persons of this action.

(C) A residential facility for which a receiver has been named is deemed to be in compliance with section 5123.19 and Chapter 3721. of the Revised Code for the duration of the receivership.

(D) When the operating revenue of a residential facility in receivership is insufficient to meet its operating expenses, including the cost of bringing

the facility into compliance with state or federal laws or regulations, the court may order the state to provide necessary funding, except as provided in division (K) of this section. The state shall provide such funding, subject to the approval of the controlling board. The court may also order the appropriate authorities to expedite all inspections necessary for the issuance of licenses or the certification of a facility, and order a facility to be closed if it determines that reasonable efforts cannot bring the facility into substantial compliance with the law.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver it has appointed and shall require regular and detailed reports. The receivership shall be reviewed at least every sixty days.

(F) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility.

(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm.

Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of developmental disabilities.

(G) The department of developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a resident's guardian or relative, a county board of developmental disabilities, or the legal rights service, petition the court to appoint a receiver to take possession of and operate a residential facility. When the department has been requested to file a petition by any of the parties listed above, it shall, within forty-eight hours of such request, either file such a petition or notify the requesting party of its decision not to file. If the department refuses to file, the requesting party may file a petition with the court requesting the appointment of a receiver to take possession of and

operate a residential facility.

Petitions filed pursuant to this division shall include the following:

(1) A description of the specific conditions existing at the facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the facility as a pattern or practice;

(5) The name and address of the person holding the license for the facility and the address of the department of developmental disabilities.

The court may award to an operator appropriate costs and expenses, including reasonable attorney's fees, if it determines that a petitioner has initiated a proceeding in bad faith or merely for the purpose of harassing or embarrassing the operator.

(H) Except for the department of developmental disabilities or a county board of developmental disabilities, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of developmental disabilities or the director's designee shall maintain a list of the names of such persons. The director shall, in accordance with Chapter 119. of the Revised Code, establish standards for evaluating persons desiring to be included on such a list.

(I) Before a receiver enters upon the duties of that person, the receiver must be sworn to perform the duties of receiver faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(J) Under the control of the appointing court, a receiver may bring and defend actions in the receiver's own name as receiver and take and keep possession of property.

The court shall authorize the receiver to do the following:

(1) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession

and continues to use, subject to the following conditions:

(a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership;

(b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership~~;~~

~~(c) If the court determines that the cost of the lease, mortgage, or secured transaction was increased by a transaction required to be reported under division (B)(3) of section 5123.172 of the Revised Code, only to the extent determined by the court to be the fair market value for use of the property during the period of the receivership~~.

(3) If transfer of residents is necessary, provide for the orderly transfer of residents by doing the following:

(a) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;

(b) Providing for the transportation of residents' belongings and records;

(c) Helping to locate alternative placements and develop discharge plans;

(d) Preparing residents for the trauma of discharge;

(e) Permitting residents or guardians to participate in transfer or discharge planning except when an emergency exists and immediate transfer is necessary.

(4) Make periodic reports on the status of the residential program to the appropriate state agency, county board of developmental disabilities, parents, guardians, and residents;

(5) Compromise demands or claims;

(6) Generally do such acts respecting the residential facility as the court authorizes.

(K) Neither the receiver nor the department of developmental disabilities is liable for debts incurred by the owner or operator of a residential facility for which a receiver has been appointed.

(L) The department of developmental disabilities may contract for the operation of a residential facility in receivership. The department shall establish the conditions of a contract. ~~A condition may be the same as, similar to, or different from a condition established by section 5123.18 of the Revised Code and the rules adopted under that section for a contract entered into under that section.~~ Notwithstanding any other provision of law, contracts that are necessary to carry out the powers and duties of the receiver need not be competitively bid.

(M) The department of developmental disabilities, the department of job and family services, and the department of health shall provide technical

assistance to any receiver appointed pursuant to this section.

Sec. 5123.194. In the case of an individual who resides in a residential facility and is preparing to move into an independent living arrangement and the individual's liable relative, the department of developmental disabilities may waive the support collection requirements of sections 5121.04~~,~~ and 5123.122~~, and 5123.18~~ of the Revised Code for the purpose of allowing income or resources to be used to acquire items necessary for independent living. The department shall adopt rules in accordance with section 111.15 of the Revised Code to implement this section, including rules that establish the method the department shall use to determine when an individual is preparing to move into an independent living arrangement.

Sec. 5123.352. There is hereby created in the state treasury the community developmental disabilities trust fund. The director of developmental disabilities, not later than sixty days after the end of each fiscal year, shall certify to the director of budget and management the amount of all the unexpended, unencumbered balances of general revenue fund appropriations made to the department of developmental disabilities for the fiscal year, excluding appropriations for rental payments to the Ohio public facilities commission, and the amount of any other funds held by the department in excess of amounts necessary to meet the department's operating costs and obligations pursuant to this chapter and Chapter 5126. of the Revised Code. On receipt of the certification, the director of budget and management shall transfer cash to the trust fund in an amount up to, but not exceeding, the total of the amounts certified by the director of developmental disabilities, except in cases in which the transfer will involve more than twenty million dollars. In such cases, the director of budget and management shall notify the controlling board and must receive the board's approval of the transfer prior to making the transfer.

All moneys in the trust fund shall be ~~distributed~~ used for purposes specified in ~~accordance with~~ section ~~5126.19~~ 5123.0418 of the Revised Code.

Sec. 5123.42. (A) Beginning nine months after March 31, 2003, MR/DD personnel who are not specifically authorized by other provisions of the Revised Code to administer prescribed medications, perform health-related activities, or perform tube feedings may do so pursuant to this section as part of the specialized services the MR/DD personnel provide to individuals with mental retardation and developmental disabilities in the following categories:

(1) Recipients of early intervention, preschool, and school-age services offered or provided pursuant to this chapter or Chapter 5126. of the Revised

Code;

(2) Recipients of adult services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(5) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with mental retardation and developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(6) Recipients of services not included in divisions (A)(1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(7) Residents of a residential facility with five or fewer resident beds;

(8) Residents of a residential facility with at least six but not more than sixteen resident beds;

(9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if all of the following are the case:

(a) The field trip is sponsored by the facility for purposes of complying with federal medicaid statutes and regulations, state medicaid statutes and rules, or other federal or state statutes, regulations, or rules that require the facility to provide habilitation, community integration, or normalization services to its residents.

(b) Not more than ~~five~~ ten field trip participants are residents who have health needs requiring the administration of prescribed medications, excluding participants who self-administer prescribed medications or receive assistance with self-administration of prescribed medications.

(c) The facility staffs the field trip with MR/DD personnel in such a manner that one person will administer prescribed medications, perform health-related activities, or perform tube feedings for not more than ~~two~~ four participants if one or ~~both~~ more of those participants have health needs requiring the person to administer prescribed medications through a gastrostomy or jejunostomy tube.

(d) According to the instructions of a health care professional acting within the scope of the professional's practice, the health needs of the

participants who require administration of prescribed medications by MR/DD personnel are such that the participants must receive the medications during the field trip to avoid jeopardizing their health and safety.

(B)(1) In the case of recipients of early intervention, preschool, and school-age services, as specified in division (A)(1) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(2) In the case of recipients of adult services, as specified in division (A)(2) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(3) In the case of recipients of family support services, as specified in division (A)(3) of this section, all of the following apply:

(a) Without nursing delegation, MR/DD personnel may perform health-related activities.

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are

stable and labeled.

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(4) In the case of recipients of services from certified supported living providers, as specified in division (A)(4) of this section, all of the following apply:

(a) Without nursing delegation, MR/DD personnel may perform health-related activities.

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(5) In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply:

(a) Without nursing delegation, MR/DD personnel may perform health-related activities.

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(6) In the case of recipients of services not included in divisions (A)(1) to (5) of this section, as specified in division (A)(6) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(7) In the case of residents of a residential facility with five or fewer beds, as specified in division (A)(7) of this section, all of the following apply:

(a) Without nursing delegation, MR/DD personnel may perform health-related activities.

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(8) In the case of residents of a residential facility with at least six but not more than sixteen resident beds, as specified in division (A)(8) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(9) In the case of residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, all of the following apply during the field trip, subject to the limitations specified in division (A)(9) of this section:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(C) The authority of MR/DD personnel to administer prescribed medications, perform health-related activities, and perform tube feedings pursuant to this section is subject to all of the following:

(1) To administer prescribed medications, perform health-related activities, or perform tube feedings for individuals in the categories specified under divisions (A)(1) to (8) of this section, MR/DD personnel shall obtain the certificate or certificates required by the department of developmental disabilities and issued under section 5123.45 of the Revised Code. MR/DD personnel shall administer prescribed medication, perform health-related activities, and perform tube feedings only as authorized by the certificate or certificates held.

(2) To administer prescribed medications, perform health-related activities, or perform tube feedings for individuals in the category specified under division (A)(9) of this section, MR/DD personnel shall successfully complete the training course or courses developed under section 5123.43 of the Revised Code for the MR/DD personnel. MR/DD personnel shall administer prescribed medication, perform health-related activities, and perform tube feedings only as authorized by the training completed.

(3) If nursing delegation is required under division (B) of this section, MR/DD personnel shall not act without nursing delegation or in a manner that is inconsistent with the delegation.

(4) The employer of MR/DD personnel shall ensure that MR/DD personnel have been trained specifically with respect to each individual for whom they administer prescribed medications, perform health-related activities, or perform tube feedings. MR/DD personnel shall not administer prescribed medications, perform health-related activities, or perform tube feedings for any individual for whom they have not been specifically trained.

(5) If the employer of MR/DD personnel believes that MR/DD personnel have not or will not safely administer prescribed medications, perform health-related activities, or perform tube feedings, the employer shall prohibit the action from continuing or commencing. MR/DD personnel

shall not engage in the action or actions subject to an employer's prohibition.

(D) In accordance with section 5123.46 of the Revised Code, the department of developmental disabilities shall adopt rules governing its implementation of this section. The rules shall include the following:

(1) Requirements for documentation of the administration of prescribed medications, performance of health-related activities, and performance of tube feedings by MR/DD personnel pursuant to the authority granted under this section;

(2) Procedures for reporting errors that occur in the administration of prescribed medications, performance of health-related activities, and performance of tube feedings by MR/DD personnel pursuant to the authority granted under this section;

(3) Other standards and procedures the department considers necessary for implementation of this section.

Sec. 5123.45. (A) The department of developmental disabilities shall establish a program under which the department issues certificates to the following:

(1) MR/DD personnel, for purposes of meeting the requirement of division (C)(1) of section 5123.42 of the Revised Code to obtain a certificate or certificates to administer prescribed medications, perform health-related activities, and perform tube feedings;

(2) Registered nurses, for purposes of meeting the requirement of division (B)(1) of section 5123.441 of the Revised Code to obtain a certificate or certificates to provide the MR/DD personnel training courses developed under section 5123.43 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, to receive a certificate issued under this section, MR/DD personnel and registered nurses shall successfully complete the applicable training course or courses and meet all other applicable requirements established in rules adopted pursuant to this section. The department shall issue the appropriate certificate or certificates to MR/DD personnel and registered nurses who meet the requirements for the certificate or certificates.

(2) The department shall include provisions in the program for issuing certificates to ~~the following:~~

~~(a)~~ MR/DD personnel and registered nurses who~~, on March 31, 2003, are authorized to provide care to individuals with mental retardation and developmental disabilities pursuant to section 5123.193 or sections 5126.351 to 5126.354 of the Revised Code~~ were required to be included in the certificate program pursuant to division (B)(2) of this section as that division existed immediately before the effective date of this amendment. ~~A~~

~~person~~ MR/DD personnel who ~~receives~~ receive a certificate under division (B)(2)~~(a)~~ of this section shall not administer insulin until ~~the person has~~ they have been trained by a registered nurse who has received a certificate under this section that allows the registered nurse to provide training courses to MR/DD personnel in the administration of insulin~~.~~

~~(b) Registered nurses who, on March 31, 2003, are authorized to train MR/DD personnel to provide care to individuals with mental retardation and developmental disabilities pursuant to section 5123.193 or sections 5126.351 to 5126.354 of the Revised Code~~. A registered nurse who receives a certificate under division (B)(2)~~(b)~~ of this section shall not provide training courses to MR/DD personnel in the administration of insulin unless the registered nurse completes a course developed under section 5123.44 of the Revised Code that enables the registered nurse to receive a certificate to provide training courses to MR/DD personnel in the administration of insulin.

(C) Certificates issued to MR/DD personnel are valid for one year and may be renewed. Certificates issued to registered nurses are valid for two years and may be renewed.

To be eligible for renewal, MR/DD personnel and registered nurses shall meet the applicable continued competency requirements and continuing education requirements specified in rules adopted under division (D) of this section. In the case of registered nurses, continuing nursing education completed in compliance with the license renewal requirements established under Chapter 4723. of the Revised Code may be counted toward meeting the continuing education requirements established in the rules adopted under division (D) of this section.

(D) In accordance with section 5123.46 of the Revised Code, the department shall adopt rules that establish all of the following:

(1) Requirements that MR/DD personnel and registered nurses must meet to be eligible to take a training course;

(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background;

(3) Procedures to be followed in applying for a certificate and issuing a certificate;

(4) Standards and procedures for renewing a certificate, including requirements for continuing education and, in the case of MR/DD personnel who administer prescribed medications, standards that require successful demonstration of proficiency in administering prescribed medications;

(5) Standards and procedures for suspending or revoking a certificate;

(6) Standards and procedures for suspending a certificate without a

hearing pending the outcome of an investigation;

(7) Any other standards or procedures the department considers necessary to administer the certification program.

Sec. 5123.60. (A) A legal rights service is hereby created and established to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented by the service pursuant to division (L) of this section; to receive and act upon complaints concerning institutional and hospital practices and conditions of institutions for mentally retarded or developmentally disabled persons and hospitals for the mentally ill; and to assure that all persons detained, hospitalized, discharged, or institutionalized, and all persons whose detention, hospitalization, discharge, or institutionalization is sought or has been sought under this chapter or Chapter 5122. of the Revised Code are fully informed of their rights and adequately represented by counsel in proceedings under this chapter or Chapter 5122. of the Revised Code and in any proceedings to secure the rights of those persons. Notwithstanding the definitions of "mentally retarded person" and "developmentally disabled person" in section 5123.01 of the Revised Code, the legal rights service shall determine who is a mentally retarded or developmentally disabled person for purposes of this section and sections 5123.601 to 5123.604 of the Revised Code.

(B)(1) In regard to those persons detained, hospitalized, or institutionalized under Chapter 5122. of the Revised Code, the legal rights service shall undertake formal representation only of those persons who are involuntarily detained, hospitalized, or institutionalized pursuant to sections 5122.10 to 5122.15 of the Revised Code, and those voluntarily detained, hospitalized, or institutionalized who are minors, who have been adjudicated incompetent, who have been detained, hospitalized, or institutionalized in a public hospital, or who have requested representation by the legal rights service.

(2) If a person referred to in division (A) of this section voluntarily requests in writing that the legal rights service terminate participation in the person's case, such involvement shall cease.

(3) Persons described in divisions (A) and (B)(1) of this section who are represented by the legal rights service are clients of the legal rights service.

(C) Any person voluntarily hospitalized or institutionalized in a public hospital under division (A) of section 5122.02 of the Revised Code, after being fully informed of the person's rights under division (A) of this section, may, by written request, waive assistance by the legal rights service if the waiver is knowingly and intelligently made, without duress or coercion.

The waiver may be rescinded at any time by the voluntary patient or resident, or by the voluntary patient's or resident's legal guardian.

(D)(1) The legal rights service commission is hereby created for the purposes of appointing an administrator of the legal rights service, advising the administrator, assisting the administrator in developing a budget, advising the administrator in establishing and annually reviewing a strategic plan, creating a procedure for filing and determination of grievances against the legal rights service, and establishing general policy guidelines, including guidelines for the commencement of litigation, for the legal rights service. The commission may adopt rules to carry these purposes into effect and may receive and act upon appeals of personnel decisions by the administrator.

(2) The commission shall consist of seven members. One member, who shall serve as chairperson, shall be appointed by the chief justice of the supreme court, three members shall be appointed by the speaker of the house of representatives, and three members shall be appointed by the president of the senate. At least two members shall have experience in the field of developmental disabilities, and at least two members shall have experience in the field of mental health. No member shall be a provider or related to a provider of services to mentally retarded, developmentally disabled, or mentally ill persons.

(3) Terms of office of the members of the commission shall be for three years, each term ending on the same day of the month of the year as did the term which it succeeds. Each member shall serve subsequent to the expiration of the member's term until a successor is appointed and qualifies, or until sixty days has elapsed, whichever occurs first. No member shall serve more than two consecutive terms.

All vacancies in the membership of the commission shall be filled in the manner prescribed for regular appointments to the commission and shall be limited to the unexpired terms.

(4) The commission shall meet at least four times each year. Members shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

(5) The administrator of the legal rights service shall serve at the pleasure of the commission.

The administrator shall be an attorney admitted to practice law in this state. The salary of the administrator shall be established in accordance with section 124.14 of the Revised Code.

(E) The legal rights service shall be completely independent of the department of mental health and the department of developmental disabilities and, notwithstanding section 109.02 of the Revised Code, shall

also be independent of the office of the attorney general. The administrator of the legal rights service, staff, and attorneys designated by the administrator to represent persons detained, hospitalized, or institutionalized under this chapter or Chapter 5122. of the Revised Code shall have ready access to the following:

(1) During normal business hours and at other reasonable times, all records, except records of community residential facilities and records of contract agencies of county boards of developmental disabilities and boards of alcohol, drug addiction, and mental health services, relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the legal rights service, including those who may be represented pursuant to division (L) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; boards of alcohol, drug addiction, and mental health services; county boards of developmental disabilities; and any other entity providing services to persons who may be represented by the service pursuant to division (L) of this section;

(2) Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the service pursuant to division (L) of this section, any other entity that provides services to those persons;

(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the service pursuant to division (L) of this section.

(5) Records of a community residential facility, a contract agency of a board of alcohol, drug addiction, and mental health services, or a contract agency of a county board of developmental disabilities with one of the following consents:

(a) The consent of the person, including when the person is a minor or has been adjudicated incompetent;

(b) The consent of the person's guardian of the person, if any, or the parent if the person is a minor;

(c) No consent, if the person is unable to consent for any reason, and the

guardian of the person, if any, or the parent of the minor, has refused to consent or has not responded to a request for consent and either of the following has occurred:

(i) A complaint regarding the person has been received by the legal rights service;

(ii) The legal rights service has determined that there is probable cause to believe that such person has been subjected to abuse or neglect.

(F) The administrator of the legal rights service shall do the following:

(1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;

(2) Adopt and promulgate rules that are not in conflict with rules adopted by the commission and prescribe duties for the efficient conduct of the business and general administration of the legal rights service;

(3) Appoint and discharge employees, and hire experts, consultants, advisors, or other professionally qualified persons as the administrator considers necessary to carry out the duties of the legal rights service;

(4) Apply for and accept grants of funds, and accept charitable gifts and bequests;

(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator.

(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service;

(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of representatives, the director of mental health, and the director of developmental disabilities, and make the report available to the public;

(8) Upon request of the commission or of the chairperson of the commission, report to the commission on specific litigation issues or activities.

(G)(1) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section.

(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to

division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section.

(3) The administrator may not pursue a class action lawsuit under division (G)(2) of this section when attempts at administrative resolution of a complaint prove unsatisfactory under that division unless both of the following have first occurred:

(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit;

(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained.

(4) If compensation for the work of attorneys employed by the legal rights service or another agency or political subdivision of the state is awarded to the service in a class action lawsuit pursued by the service, the compensation shall be limited to the actual hourly rate of pay for that legal work.

(5) All records received or maintained by the legal rights service in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the legal rights service or, subject to any privilege, a guardian of the person or parent of the minor. Subject to division (G)~~(5)~~(7) of this section, relationships between personnel and the agents of the legal rights service and its clients shall be fiduciary relationships, and all communications shall be privileged as if between attorney and client.

~~(5)~~(6) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.

(H) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission, may compel by subpoena the appearance and sworn testimony of any person the administrator reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. On the refusal of any person to produce or

authenticate any requested documents, the legal rights service may apply to the Franklin county court of common pleas to compel the production or authentication of requested documents. If the court finds that failure to produce or authenticate any requested documents was improper, the court may hold the person in contempt as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

(I) The legal rights service may conduct public hearings.

(J) The legal rights service may request from any governmental agency any cooperation, assistance, services, or data that will enable it to perform its duties.

(K) In any malpractice action filed against the administrator of the legal rights service, a member of the staff of the legal rights service, or an attorney designated by the administrator to perform legal services under division (E) of this section, the state shall, when the administrator, member, or attorney has acted in good faith and in the scope of employment, indemnify the administrator, member, or attorney for any judgment awarded or amount negotiated in settlement, and for any court costs or legal fees incurred in defense of the claim.

This division does not limit or waive, and shall not be construed to limit or waive, any defense that is available to the legal rights service, its administrator or employees, persons under a personal services contract with it, or persons designated under division (E) of this section, including, but not limited to, any defense available under section 9.86 of the Revised Code.

(L) In addition to providing services to mentally ill, mentally retarded, or developmentally disabled persons, when a grant authorizing the provision of services to other individuals is accepted pursuant to division (F)(4) of this section, the legal rights service and its ombudsperson section may provide advocacy or ombudsperson services to those other individuals and exercise any other authority granted by this section or sections 5123.601 to 5123.604 of the Revised Code on behalf of those individuals. Determinations of whether an individual is eligible for services under this division shall be made by the legal rights service.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Adult day care;

(c) Prevocational services;

(d) Sheltered employment;

(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;

(f) Community employment services and supported employment services.

(B)(1) "Adult day habilitation services" means adult services that do the following:

(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;

(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.

(2) "Adult day habilitation services" includes all of the following:

(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;

(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;

(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills,

exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation services;

(g) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Appointing authority" means the following:

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;

(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge.

(D) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is

characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code;

(2) It is manifested before age twenty-two;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one developmental delay or an established risk;

(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;

(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(F) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age.

(G)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

(H) "Family support services" means the services provided under a family support services program operated under section 5126.11 of the Revised Code.

(I) "Habilitation" means the process by which the staff of the facility or agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training.

(J) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the medicaid waiver components the department of developmental disabilities administers pursuant to section 5111.871 of the Revised Code. However, home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver are to be considered to be home and community-based services for the purposes of this chapter only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.

(K) "Immediate family" means parents, grandparents, brothers, sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law.

(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(N) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

(O) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as

described in section 5126.14 of the Revised Code.

(P) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

(Q) "Senior probate judge" means the current probate judge of a county who has served as probate judge of that county longer than any of the other current probate judges of that county. If a county has only one probate judge, "senior probate judge" means that probate judge.

(R) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.

(S)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following:

(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received.

(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living.

(T) "Supportive home services" means a range of services to families of individuals with mental retardation or other developmental disabilities to develop and maintain increased acceptance and understanding of such persons, increased ability of family members to teach the person, better coordination between school and home, skills in performing specific therapeutic and management techniques, and ability to cope with specific situations.

(U)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other

developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;

(b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.029. (A) Each county board of developmental disabilities shall hold an organizational meeting no later than the thirty-first day of January of each year and shall elect its officers, which shall include a president, vice-president, and recording secretary. After its annual organizational meeting, the board shall meet in such manner and at such times as prescribed by rules adopted by the board, but the board shall meet at least ~~ten~~ the following number of times annually in regularly scheduled sessions in accordance with section 121.22 of the Revised Code, not including in-service training sessions:

(1) Unless division (A)(2) of this section applies to the board, ten;

(2) If the board shares a superintendent or other administrative staff with one or more other boards of developmental disabilities, eight. ~~A~~

(B) A majority of the board constitutes a quorum. The board shall adopt rules for the conduct of its business and a record shall be kept of board proceedings, which shall be open for public inspection.

Sec. 5126.04. (A) Each county board of developmental disabilities shall plan and set priorities based on available resources for the provision of facilities, programs, and other services to meet the needs of county residents who are individuals with mental retardation and other developmental disabilities, former residents of the county residing in state institutions or, before the effective date of this amendment, placed under purchase of service agreements under section 5123.18 of the Revised Code, and children subject to a determination made pursuant to section 121.38 of the Revised Code.

Each county board shall assess the facility and service needs of the individuals with mental retardation and other developmental disabilities who are residents of the county or former residents of the county residing in state institutions or, before the effective date of this amendment, placed under purchase of service agreements under section 5123.18 of the Revised Code.

Each county board shall require individual habilitation or service plans for individuals with mental retardation and other developmental disabilities who are being served or who have been determined eligible for services and are awaiting the provision of services. Each board shall ensure that methods of having their service needs evaluated are available.

(B)(1) If a foster child is in need of assessment for eligible services or is receiving services from a county board of developmental disabilities and that child is placed in a different county, the agency that placed the child, immediately upon placement, shall inform the county board in the new county all of the following:

(a) That a foster child has been placed in that county;

(b) The name and other identifying information of the foster child;

(c) The name of the foster child's previous county of residence;

(d) That the foster child was in need of assessment for eligible services or was receiving services from the county board of developmental disabilities in the previous county.

(2) Upon receiving the notice described in division (B)(1) of this section or otherwise learning that the child was in need of assessment for eligible services or was receiving services from a county board of developmental disabilities in the previous county, the county board in the new county shall communicate with the county board of the previous county to determine how services for the foster child shall be provided in accordance with each board's plan and priorities as described in division (A) of this section.

If the two county boards are unable to reach an agreement within ten days of the child's placement, the county board in the new county shall send notice to the Ohio department of developmental disabilities of the failure to agree. The department shall decide how services shall be provided for the foster child within ten days of receiving notice that the county boards could not reach an agreement. The department may decide that one, or both, of the county boards shall provide services. The services shall be provided in accordance with the board's plan and priorities as described in division (A) of this section.

(C) The department of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, the rules shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.

(D) The responsibility or authority of a county board to provide services under this chapter does not affect the responsibility of any other entity of state or local government to provide services to individuals with mental retardation and developmental disabilities.

(E) On or before the first day of February prior to a school year, a county board of developmental disabilities may elect not to participate during that school year in the provision of or contracting for educational services for children ages six through twenty-one years of age, provided that on or before that date the board gives notice of this election to the superintendent of public instruction, each school district in the county, and the educational service center serving the county. If a board makes this election, it shall not have any responsibility for or authority to provide educational services that school year for children ages six through twenty-one years of age. If a board does not make an election for a school year in accordance with this division, the board shall be deemed to have elected to participate during that school year in the provision of or contracting for educational services for children ages six through twenty-one years of age.

(F) If a county board of developmental disabilities elects to provide educational services during a school year to individuals six through twenty-one years of age who have multiple disabilities, the board may provide these services to individuals who are appropriately identified and determined eligible pursuant to Chapter 3323. of the Revised Code, and in accordance with applicable rules of the state board of education. The county

board may also provide related services to individuals six through twenty-one years of age who have one or more disabling conditions, in accordance with section 3317.20 and Chapter 3323. of the Revised Code and applicable rules of the state board of education.

Sec. 5126.042. (A) As used in this section~~:~~

~~(1) "Emergency~~, emergency status" means ~~any situation~~ a status that ~~creates for~~ an individual with mental retardation or developmental disabilities ~~a~~ has when the individual is at risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency status" may include a status resulting from one or more of the following situations:

~~(a)~~(1) Loss of present residence for any reason, including legal action;

~~(b)~~(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;

~~(c)~~(3) Abuse, neglect, or exploitation of the individual;

~~(d)~~(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

~~(e)~~(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

~~(2) "Service substitution list" means a service substitution list established by a county board of developmental disabilities before September 1, 2008, pursuant to division (B) of this section as this section existed on the day immediately before September 1, 2008.~~

(B) If a county board of developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request non-medicaid programs ~~and~~ or services ~~and may be offered the programs and services~~, it shall establish one or more waiting lists for the non-medicaid programs or services in accordance with its plan developed under section 5126.04 of the Revised Code. The board may establish priorities for making placements on its waiting lists ~~according to an individual's emergency status and shall establish priorities in accordance with divisions (D) and (E) of~~ established under this ~~section~~ division. Any such priorities shall be consistent with the board's plan and applicable law.

~~The individuals who may be placed on a waiting list include individuals with a need for services on an emergency basis and individuals who have requested services for which resources are not available.~~

~~An individual placed on a county board's service substitution list before September 1, 2008, for the purpose of obtaining home and~~

~~community-based services shall be deemed to have been placed on the county board's waiting list for home and community-based services on the date the individual made a request to the county board that the individual receive home and community-based services instead of the services the individual received at the time the request for home and community-based services was made to the county board.~~

(C) ~~A~~ If a county board ~~shall establish a separate waiting list for each of the following categories of services, and may establish separate waiting lists within the waiting lists:~~

~~(1) Early childhood services;~~

~~(2) Educational programs for preschool and school age children;~~

~~(3) Adult services;~~

~~(4) Service and support administration;~~

~~(5) Residential services and supported living;~~

~~(6) Transportation services;~~

~~(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans~~;

~~(8) Family support services provided under section 5126.11 of the Revised Code~~ determines that available resources are insufficient to meet the needs of all individuals who request home and community-based services, it shall establish a waiting list for the services. An individual's date of placement on the waiting list shall be the date a request is made to the board for the individual to receive the home and community-based services. The board shall provide for an individual who has an emergency status to receive priority status on the waiting list. The board shall also provide for an individual to whom any of the following apply to receive priority status on the waiting list in accordance with rules adopted under division (E) of this section:

(1) The individual is receiving supported living, family support services, or adult services for which no federal financial participation is received under the medicaid program;

(2) The individual's primary caregiver is at least sixty years of age;

(3) The individual has intensive needs as determined in accordance with rules adopted under division (E) of this section.

(D) ~~Except as provided in division (G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:~~

~~(1) For the purpose of obtaining additional federal medicaid funds for~~

~~home and community-based services and medicaid case management services, do both of the following:~~

~~(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:~~

~~(i) Is twenty-two years of age or older;~~

~~(ii) Receives supported living or family support services.~~

~~(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:~~

~~(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;~~

~~(ii) Receives adult services from the county board.~~

~~(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:~~

~~(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;~~

~~(b) Is less than twenty-two years of age and has at least one of the following service needs that are unusual in scope or intensity:~~

~~(i) Severe behavior problems for which a behavior support plan is needed;~~

~~(ii) An emotional disorder for which anti-psychotic medication is needed;~~

~~(iii) A medical condition that leaves the individual dependent on life-support medical technology;~~

~~(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed;~~

~~(v) A condition the county board determines to be comparable in severity to any condition described in divisions (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization.~~

~~(c) Is twenty-two years of age or older, does not receive residential services or supported living, and is determined by the county board to have intensive needs for home and community-based services on an in-home or out-of-home basis.~~

~~(E) Except as provided in division (G) of this section and for a number of years and beginning on a date specified in rules adopted under division (K) of this section, a county board shall give an individual who is eligible for home and community-based services, resides in a nursing facility, and chooses to move to another setting with the help of home and community-based services, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria.~~

~~(F)~~ If two or more individuals on a waiting list established under division (C) of this section for home and community-based services have priority for the services pursuant to division ~~(D)~~(C)(1) ~~or,~~ (2), or ~~(E)~~(3) of this section, a county board ~~may~~ shall use criteria specified in rules adopted under division ~~(K)(2)~~(E) of this section in determining the order in which the individuals with priority will be offered the ~~services. Otherwise, the county board shall offer the home and community-based services to such individuals in the order they are placed on the waiting list.~~

~~(G) No individual may receive priority for services pursuant to division (D) or (E) of this section over an individual placed on a waiting list established under division (C) of this section on an emergency status~~ services. An individual who has priority for home and community-based services because the individual has an emergency status has priority for the services over all other individuals on the waiting list who do not have emergency status.

~~(H) Prior to establishing any waiting list under this section, a county board shall develop and implement a policy for waiting lists that complies with this section and rules adopted under division (K) of this section.~~

~~Prior to placing an individual on a waiting list, the county board shall assess the service needs of the individual in accordance with all applicable state and federal laws. The county board shall place the individual on the appropriate waiting list and may place the individual on more than one waiting list. The county board shall notify the individual of the individual's placement and position on each waiting list on which the individual is placed.~~

~~At least annually, the county board shall reassess the service needs of each individual on a waiting list. If it determines that an individual no longer needs a program or service, the county board shall remove the individual~~

~~from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists.~~

~~When a program or service for which there is a waiting list becomes available, the county board shall reassess the service needs of the individual next scheduled on the waiting list to receive that program or service. If the reassessment demonstrates that the individual continues to need the program or service, the board shall offer the program or service to the individual. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists. The county board shall notify the individual of the individual's placement and position on the waiting list on which the individual is placed.~~

~~(I) A child subject to a determination made pursuant to section 121.38 of the Revised Code who requires the home and community-based services provided through a medicaid component that the department of developmental disabilities administers under section 5111.871 of the Revised Code shall receive services through that medicaid component. For all other services, a child subject to a determination made pursuant to section 121.38 of the Revised Code shall be treated as an emergency by the county boards and shall not be subject to a waiting list.~~

~~(J) Not later than the fifteenth day of March of each even-numbered year, each county board shall prepare and submit to the director of developmental disabilities its recommendations for the funding of services for individuals with mental retardation and developmental disabilities and its proposals for reducing the waiting lists for services.~~

~~(K)~~(1)(E) The department of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing waiting lists established under division (C) of this section. The rules shall include procedures to be followed to ensure that the due process rights of individuals placed on waiting lists are not violated. As

~~(2) As~~ part of the rules adopted under this division, the department shall adopt rules establishing criteria a county board ~~may~~ shall use under division ~~(F)~~(D) of this section in determining the order in which individuals with priority for home and community-based services pursuant to division (C)(1),

(2), or (3) of this section will be offered the services. ~~The rules shall also specify conditions under which a county board, when there is no individual with priority for home and community-based services pursuant to division (D)(1) or (2) or (E) of this section available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority for the services.~~

~~(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:~~

~~(a) The number of years, which shall not exceed five, that the priority category will be in effect;~~

~~(b) The date that the priority category is to go into effect.~~

~~(L)~~(F) The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.

Sec. 5126.05. (A) Subject to the rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to this chapter, and subject to the rules established by the state board of education pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to Chapter 3323. of the Revised Code, the county board of developmental disabilities shall:

(1) Administer and operate facilities, programs, and services as provided by this chapter and Chapter 3323. of the Revised Code and establish policies for their administration and operation;

(2) Coordinate, monitor, and evaluate existing services and facilities available to individuals with mental retardation and developmental disabilities;

(3) Provide early childhood services, supportive home services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code;

(4) Provide or contract for special education services pursuant to Chapters ~~3306.,~~ 3317. and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;

(5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members and employees at professional meetings and approve expenditures for attendance, and exercise such powers and duties as are prescribed by the director;

(6) Submit annual reports of its work and expenditures, pursuant to sections 3323.09 and 5126.12 of the Revised Code, to the director, the superintendent of public instruction, and the board of county commissioners at the close of the fiscal year and at such other times as may reasonably be requested;

(7) Authorize all positions of employment, establish compensation, including but not limited to salary schedules and fringe benefits for all board employees, approve contracts of employment for management employees that are for a term of more than one year, employ legal counsel under section 309.10 of the Revised Code, and contract for employee benefits;

(8) Provide service and support administration in accordance with section 5126.15 of the Revised Code;

(9) Certify respite care homes pursuant to rules adopted under section 5123.171 of the Revised Code by the director of developmental disabilities.

(B) To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, they shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.

(C) Any county board may enter into contracts with other such boards and with public or private, nonprofit, or profit-making agencies or organizations of the same or another county, to provide the facilities, programs, and services authorized or required, upon such terms as may be agreeable, and in accordance with this chapter and Chapter 3323. of the Revised Code and rules adopted thereunder and in accordance with sections 307.86 and 5126.071 of the Revised Code.

(D) A county board may combine transportation for children and adults enrolled in programs and services offered under ~~section 5126.12~~ Chapter 5126. of the Revised Code with transportation for children enrolled in classes funded under section 3317.20 or units approved under section 3317.05 of the Revised Code.

(E) A county board may purchase all necessary insurance policies, may purchase equipment and supplies through the department of administrative services or from other sources, and may enter into agreements with public agencies or nonprofit organizations for cooperative purchasing

arrangements.

(F) A county board may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established and hold, apply, and dispose of the moneys, lands, and property according to the terms of the gift, grant, devise, or bequest. All money received by gift, grant, bequest, or disposition of lands or property received by gift, grant, devise, or bequest shall be deposited in the county treasury to the credit of such board and shall be available for use by the board for purposes determined or stated by the donor or grantor, but may not be used for personal expenses of the board members. Any interest or earnings accruing from such gift, grant, devise, or bequest shall be treated in the same manner and subject to the same provisions as such gift, grant, devise, or bequest.

(G) The board of county commissioners shall levy taxes and make appropriations sufficient to enable the county board of developmental disabilities to perform its functions and duties, and may utilize any available local, state, and federal funds for such purpose.

Sec. 5126.054. (A) Each county board of developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following three components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an intermediate care facility for the mentally retarded, may seek home and community-based services, and are given priority on a waiting list established for the services pursuant to ~~division (D) of~~ section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department of developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.

(2) A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the waiting list priority given to them under ~~divisions (D)(1) and (2) of~~ section 5126.042 of the Revised Code and the types of home and community-based services the individuals are to receive;

(3) A component that provides for the implementation of medicaid case management services and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component:

(a) If the department of developmental disabilities or department of job and family services requires, an agreement to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals who have priority on a waiting list established under ~~division (C) of~~ section 5126.042 ~~who are given priority status under division (D)(1) of that section~~ of the Revised Code;

(c) Any agreement or commitment regarding the county board's funding of home and community-based services that the county board has with the department at the time the county board develops the component;

(d) Assurances adequate to the department that the county board will comply with all of the following requirements:

(i) To provide the types of home and community-based services specified in the preliminary implementation component required by division (A)(2) of this section to at least the number of individuals specified in that component;

(ii) To use any additional funds the county board receives for the services to improve the county board's resource capabilities for supporting such services available in the county at the time the component is developed and to expand the services to accommodate the unmet need for those services in the county;

(iii) To employ or contract with a business manager or enter into an agreement with another county board of developmental disabilities that employs or contracts with a business manager to have the business manager serve both county boards. No superintendent of a county board may serve as the county board's business manager.

(iv) To employ or contract with a medicaid services manager or enter into an agreement with another county board of developmental disabilities that employs or contracts with a medicaid services manager to have the medicaid services manager serve both county boards. No superintendent of a county board may serve as the county board's medicaid services manager.

(e) Programmatic and financial accountability measures and projected outcomes expected from the implementation of the plan;

(f) Any other applicable information or conditions that the department requires as a condition of approving the component under section 5123.046 of the Revised Code.

(B) A county board whose plan developed under division (A) of this section is approved by the department under section 5123.046 of the Revised Code shall update and renew the plan in accordance with a schedule the department shall develop.

Sec. 5126.0510. (A) Except as otherwise provided in an agreement entered into under section 5123.048 of the Revised Code and subject to divisions (B), (C), and (D) of this section, a county board of developmental disabilities shall pay the nonfederal share of medicaid expenditures for the following home and community-based services provided to an individual with mental retardation or other developmental disability who the county board determines under section 5126.041 of the Revised Code is eligible for county board services:

(1) Home and community-based services provided by the county board to such an individual;

(2) Home and community-based services provided by a provider other than the county board to such an individual who is enrolled as of June 30, 2007, in the medicaid waiver component under which the services are provided;

(3) Home and community-based services provided by a provider other than the county board to such an individual who, pursuant to a request the county board makes, enrolls in the medicaid waiver component under which the services are provided after June 30, 2007;

(4) Home and community-based services provided by a provider other than the county board to such an individual for whom there is in effect an agreement entered into under division (E) of this section between the county board and director of developmental disabilities.

(B) In the case of medicaid expenditures for home and community-based services for which division (A)(2) of this section requires a county board to pay the nonfederal share, the following shall apply to such services provided during fiscal year 2008 under the individual options medicaid waiver component:

(1) The county board shall pay no less than the total amount the county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;

(2) The county board shall pay no more than the sum of the following:

(a) The total amount the county board paid as the nonfederal share for

home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;

(b) An amount equal to one per cent of the total amount the department of developmental disabilities and county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component to individuals the county board determined under section 5126.041 of the Revised Code are eligible for county board services.

(C) A county board is not required to pay the nonfederal share of home and community-based services provided after June 30, 2008, that the county board is otherwise required by division (A)(2) of this section to pay if the department of developmental disabilities fails to comply with division (A) of section 5123.0416 of the Revised Code.

(D) A county board is not required to pay the nonfederal share of home and community-based services that the county board is otherwise required by division (A)(3) of this section to pay if both of the following apply:

(1) The services are provided to an individual who enrolls in the medicaid waiver component under which the services are provided as the result of an order issued following a state hearing, administrative appeal, or appeal to a court of common pleas made under section 5101.35 of the Revised Code;

(2) There are more individuals who are eligible for services from the county board enrolled in ~~the medicaid waiver component~~ home and community-based services than is required by section 5126.0512 of the Revised Code.

(E) A county board may enter into an agreement with the director of developmental disabilities under which the county board agrees to pay the nonfederal share of medicaid expenditures for one or more home and community-based services that the county board is not otherwise required by division (A)(1), (2), or (3) of this section to pay and that are provided to an individual the county board determines under section 5126.041 of the Revised Code is eligible for county board services. The agreement shall specify which home and community-based services the agreement covers. The county board shall pay the nonfederal share of medicaid expenditures for the home and community-based services that the agreement covers as long as the agreement is in effect.

Sec. 5126.0511. (A) A county board of developmental disabilities may use the following funds to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay:

(1) To the extent consistent with the levy that generated the taxes, the following taxes:

(a) Taxes levied pursuant to division (L) of section 5705.19 of the Revised Code and section 5705.222 of the Revised Code;

(b) Taxes levied under section 5705.191 of the Revised Code that the board of county commissioners allocates to the county board.

(2) Funds that the department of developmental disabilities distributes to the county board under ~~sections 5126.11 and~~ section 5126.18 of the Revised Code and for purposes of the family support services program established under section 5126.11 of the Revised Code;

(3) Earned federal revenue funds the county board receives for medicaid services the county board provides pursuant to the county board's valid medicaid provider agreement;

(4) Funds that the department of developmental disabilities distributes to the county board as subsidy payments;

(5) In the case of medicaid expenditures for home and community-based services, funds allocated to or otherwise made available for the county board under section 5123.0416 of the Revised Code to pay the nonfederal share of such medicaid expenditures.

(B) Each year, each county board shall adopt a resolution specifying the amount of funds it will use in the next year to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay. The amount specified shall be adequate to assure that the services for which the medicaid expenditures are made will be available in the county in a manner that conforms to all applicable state and federal laws. A county board shall state in its resolution that the payment of the nonfederal share represents an ongoing financial commitment of the county board. A county board shall adopt the resolution in time for the county auditor to make the determination required by division (C) of this section.

(C) Each year, a county auditor shall determine whether the amount of funds a county board specifies in the resolution it adopts under division (B) of this section will be available in the following year for the county board to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay. The county auditor shall make the determination not later than the last day of the year before the year in which the funds are to be used.

Sec. 5126.0512. (A) ~~As used in this section, "medicaid waiver component" means a medicaid waiver component as defined in section 5111.85 of the Revised Code under which home and community-based~~

~~services are provided.~~

~~(B) Effective July 1, 2007, and except~~ Except as provided in rules adopted under section 5123.0413 of the Revised Code, each county board of developmental disabilities shall ensure~~, for each medicaid waiver component,~~ that the number of individuals eligible under section 5126.041 of the Revised Code for services from the county board who are enrolled in ~~a medicaid waiver component~~ home and community-based services is no less than the sum of the following:

(1) The number of individuals eligible for services from the county board who are enrolled in ~~the medicaid waiver component~~ home and community-based services on June 30, 2007;

(2) The number of ~~medicaid waiver component~~ home and community-based services slots the county board requested before July 1, 2007, that were assigned to the county board before that date but in which no individual was enrolled before that date.

~~(C)~~(B) An individual enrolled in ~~a medicaid waiver component~~ home and community-based services after March 1, 2007, due to an emergency reserve capacity waiver assignment shall not be counted in determining the number of individuals a county board must ensure under division ~~(B)~~(A) of this section are enrolled in ~~a medicaid waiver component~~ home and community-based services.

~~(D)~~(C) An individual who is enrolled in ~~a medicaid waiver component~~ home and community-based services to comply with the terms of the consent order filed March 5, 2007, in *Martin v. Strickland*, Case No. 89-CV-00362, in the United States district court for the southern district of Ohio, eastern division, shall be excluded in determining whether a county board has complied with division ~~(B)~~(A) of this section.

~~(E)~~(D) A county board shall make as many requests for individuals to be enrolled in ~~a medicaid waiver component~~ home and community-based services as necessary for the county board to comply with division ~~(B)~~(A) of this section.

Sec. 5126.08. (A) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code for all programs and services offered by a county board of developmental disabilities. Such rules shall include, but are not limited to, the following:

(1) Determination of what constitutes a program or service;

(2) Standards to be followed by a board in administering, providing, arranging, or operating programs and services;

(3) Standards for determining the nature and degree of mental retardation, including mild mental retardation, or developmental disability;

(4) Standards for determining eligibility for programs and services under ~~sections 5126.042 and~~ section 5126.15 of the Revised Code;

(5) Procedures for obtaining consent for the arrangement of services under section 5126.31 of the Revised Code and for obtaining signatures on individual service plans under that section;

(6) Specification of the service and support administration to be provided by a county board and standards for resolving grievances in connection with service and support administration~~;~~

~~(7) Standards for the provision of environmental modifications, including standards that require adherence to all applicable state and local building codes;~~

~~(8) Standards for the provision of specialized medical, adaptive, and assistive equipment, supplies, and supports~~.

(B) The director shall be the final authority in determining the nature and degree of mental retardation or developmental disability.

Sec. 5126.11. (A) As used in this section, "respite care" means appropriate, short-term, temporary care that is provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.

(B) Subject to rules adopted by the director of developmental disabilities, and subject to the availability of money from state and federal sources, the county board of developmental disabilities shall establish a family support services program. Under such a program, the board shall make payments to an individual with mental retardation or other developmental disability or the family of an individual with mental retardation or other developmental disability who desires to remain in and be supported in the family home. Payments shall be made for all or part of costs incurred or estimated to be incurred for services that would promote self-sufficiency and normalization, prevent or reduce inappropriate institutional care, and further the unity of the family by enabling the family to meet the special needs of the individual and to live as much like other families as possible. Payments may be made in the form of reimbursement for expenditures or in the form of vouchers to be used to purchase services.

(C) Payment shall not be made under this section to an individual or the individual's family if the individual is living in a residential facility that is providing residential services under contract with the department of developmental disabilities or a county board.

(D) Payments may be made for the following services:

(1) Respite care, in or out of the home;

(2) Counseling, supervision, training, and education of the individual,

the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;

(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;

(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;

(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.

(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the individual or family shall apply to the county board for a determination of eligibility and approval of the service. The service need not be provided in the county served by the county board. After being determined eligible and receiving approval for the service, the individual or family may incur expenses for the service or use the vouchers received from the county board for the purchase of the service.

If the county board refuses to approve a service, an appeal may be made in accordance with rules adopted by the department under this section.

(G) To be reimbursed for expenses incurred for approved services, the individual or family shall submit to the county board a statement of the expenses incurred accompanied by any evidence required by the board. To redeem vouchers used to purchase approved services, the entity that provided the service shall submit to the county board evidence that the service was provided and a statement of the charges. The county board shall make reimbursements and redeem vouchers no later than forty-five days after it receives the statements and evidence required by this division.

(H) A county board shall consider the following objectives in carrying out a family support services program:

(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of developmental disabilities;

(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;

(3) Providing services to eligible children and adults currently residing in the community;

(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.

(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following:

(1) A payment schedule adjusted for income;

(2) ~~A formula for distributing to county boards the money appropriated for family support services;~~

~~(3)~~ Standards for supervision, training, and quality control in the provision of respite care services;

~~(4)~~(3) Eligibility standards and procedures for providing temporary emergency respite care;

~~(5)~~(4) Procedures for hearing and deciding appeals made under division (F) of this section~~;~~

~~(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section~~.

Rules adopted under ~~divisions~~ division (I)(1) ~~and (2)~~ of this section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)~~(3)~~(2) to ~~(6)~~(4) of this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care.

(K) ~~The department of developmental disabilities shall distribute to county boards money appropriated for family support services in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of December, the~~

~~thirty-first day of March, and the thirtieth day of June. A county board shall use no more than seven per cent of the funds for administrative costs. Each county board shall submit reports to the department on payments made under this section. The reports shall be submitted at those times and in the manner specified in rules adopted under this section.~~

~~(L)~~ The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments.

Sec. 5126.12. ~~(A) As used in this section:~~

~~(1) "Approved school age class" means a class operated by a county board of developmental disabilities and funded by the department of education under section 3317.20 of the Revised Code.~~

~~(2) "Approved preschool unit" means a class or unit operated by a county board of developmental disabilities and approved under division (B) of section 3317.05 of the Revised Code.~~

~~(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status.~~

~~(4) "Eligible for active treatment" means that an individual with mental retardation or other developmental disability resides in an intermediate care facility for the mentally retarded certified under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended; resides in a state institution operated by the department of developmental disabilities; or is enrolled in home and community-based services.~~

~~(5) "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services.~~

~~(B) Each~~ On or before the last day of each April, each county board of developmental disabilities shall certify to the director of developmental disabilities ~~all of the following:~~

~~(1) On or before the fifteenth day of October, the average daily membership for the first full week of programs and services during October receiving:~~

~~(a) Early childhood services provided pursuant to section 5126.05 of the Revised Code for children who are less than three years of age on the~~

~~thirtieth day of September of the academic year;~~

~~(b) Special education for children with disabilities in approved school age classes;~~

~~(c) Adult services for persons sixteen years of age and older operated pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code. Separate counts shall be made for the following:~~

~~(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment;~~

~~(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment;~~

~~(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment;~~

~~(iv) Persons participating in community employment services. To be counted as participating in community employment services, a person must have spent an average of no less than ten hours per week in that employment during the preceding six months.~~

~~(d) Other programs in the county for individuals with mental retardation and developmental disabilities that have been approved for payment of subsidy by the department of developmental disabilities.~~

~~The membership in each such program and service in the county shall be reported on forms prescribed by the department of developmental disabilities.~~

~~The department of developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership therefrom, except that certification of average daily membership in approved school age classes shall be in accordance with rules adopted by the state board of education. The average daily membership figure shall be determined by dividing the amount representing the sum of the number of enrollees in each program or service in the week for which the certification is made by the number of days the program or service was offered in that week. No enrollee may be counted in average daily membership for more than one program or service.~~

~~(2) By the fifteenth day of December, the number of children enrolled in approved preschool units on the first day of December;~~

~~(3) On or before the thirtieth day of April, an itemized report of~~ all <u>of the county board's</u> income and operating expenditures for the immediately preceding calendar year~~,~~<u>. The certification shall be provided in an itemized report prepared and submitted</u> in ~~the~~ <u>a</u> format specified by the department of developmental disabilities~~;~~

~~(4) That each required certification and report is~~ in ~~accordance with~~

rules ~~established by the department of developmental disabilities and the state board of education for the operation and subsidization of the programs and services~~.

Sec. 5126.18. (A) As used in this section:

(1) "Taxable value" means the taxable value of a county certified under division (B) of this section.

(2) "Per-mill yield" means the quotient obtained by dividing the taxable value of a county by one thousand.

(3) "Population" of a county means that shown by the federal census for a census year or, for a noncensus year, the population as estimated by the department of development.

(4) "Six-year moving average" means the average of the per-mill yields of a county for the most recent six years.

(5) "Yield per person" means the quotient obtained by dividing the six-year moving average of a county by the population of that county.

(6) "Tax equity payments" means payments to county boards of developmental disabilities under this section or a prior version of this section from money appropriated by the general assembly to the department of developmental disabilities for that purpose.

(7) "Eligible county" means a county determined under division (C) of this section to be eligible for tax equity payments for the two-year period for which that determination is made.

(8) "Threshold county" means the county with the lowest yield per person that is determined not to be eligible to receive tax equity payments.

(B) At the request of the director of developmental disabilities, the tax commissioner shall certify to the director the taxable value of property on each county's most recent tax list of real and public utility property. The director may request any other tax information necessary for the purposes of this section.

(C) Beginning in 2011, on or before the thirty-first day of May of that year and of every second year thereafter, the director of developmental disabilities shall determine whether a county is eligible to receive tax equity payments for the ensuing two fiscal years as follows:

(1) The director shall determine the six-year moving average, population, and yield per person of each county in the state, based on the most recent information available.

(2) The director shall calculate a tax equity funding threshold by adding the population of the county with the lowest yield per person and the populations of individual counties in order from lowest yield per person to highest yield per person until the addition of the population of another

county would increase the aggregate sum to over thirty per cent of the total state population. A county is eligible to receive tax equity payments for the two-year period if its population is included in the calculation of the threshold and the addition of its population does not increase such sum to over thirty per cent of the total state population.

(D)(1) Except as provided in divisions (D)(2) and (3) of this section, beginning in fiscal year 2012 and for each fiscal year thereafter, the director shall make tax equity payments to each eligible county equal to the population of the county multiplied by the difference between the yield per person of the threshold county and the yield per person of the eligible county. For purposes of this division, the population and yield per person of a county equal the population and yield per person most recently determined for that county under division (C)(1) of this section. The payments shall be made in quarterly installments of equal amounts not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June of each fiscal year.

(2) In fiscal year 2012, if the amount determined under division (D)(1) of this section for an eligible county is at least twenty thousand dollars greater than or twenty thousand dollars less than the amount of tax equity payments the county received in fiscal year 2011, the county's tax equity payments for fiscal years 2012 through 2014 shall equal the following:

(a) For fiscal year 2012, one-fourth of the amount calculated for the eligible county under division (D)(1) of this section plus three-fourths of the amount of tax equity payments the county received in fiscal year 2011;

(b) For fiscal year 2013, one-half of the amount calculated for the eligible county under division (D)(1) of this section plus one-half of the amount of tax equity payments the county received in fiscal year 2011;

(c) For fiscal year 2014, three-fourths of the amount calculated for the eligible county under division (D)(1) of this section plus one-fourth of the amount of tax equity payments the county received in fiscal year 2011.

(3) In any fiscal year, if the total amount of tax equity payments for all eligible counties as determined under divisions (D)(1) and (2) of this section is greater than the amount appropriated to the department of developmental disabilities for the purpose of making such payments in that fiscal year, the director shall reduce the payments to each eligible county board in equal proportion. If the total amount of tax equity payments as determined under that division is less than the amount appropriated to the department for that purpose, the director shall determine how to allocate the excess money after consultation with the Ohio association of county boards serving people with developmental disabilities.

(4) Tax equity payments shall be paid only to an eligible county board of developmental disabilities and not to a regional council established under section 5126.13 of the Revised Code or any other entity.

(E)(1) Except as provided in division (E)(2) of this section, a county board of developmental disabilities shall use tax equity payments solely to pay the nonfederal share of medicaid expenditures it is required to pay under sections 5126.059 and 5126.0510 of the Revised Code. Tax equity payments shall not be used to pay any salary or other compensation to county board personnel.

(2) Upon the written request of a county board, the director of developmental disabilities may authorize a county board to use tax equity payments for infrastructure improvements necessary to support medicaid waiver administration.

(3) The director may audit any county board receiving tax equity payments to ensure appropriate use of the payments in accordance with this section. If the director determines that a county board is using payments inappropriately, the director shall notify the county board in writing of the determination. Within thirty days after receiving the director's notification, the county board shall submit a written plan of correction to the director. The director may accept or reject the plan. If the director rejects the plan, the director may require the county board to repay all or a portion of the amount of tax equity payments used inappropriately. The director shall distribute any tax equity payments returned under this division to other eligible county boards in accordance with a plan developed by the director after consultation with the Ohio association of county boards serving people with developmental disabilities.

Sec. 5126.24. (A) As used in this section:

(1) "License" means an educator license issued by the state board of education under section 3319.22 of the Revised Code or a certificate issued by the department of developmental disabilities.

(2) "Teacher" means a person employed by a county board of developmental disabilities in a position that requires a license.

(3) "Nonteaching employee" means a person employed by a county board of developmental disabilities in a position that does not require a license.

(4) "Years of service" includes all service described in division (A) of section 3317.13 of the Revised Code.

(B) Subject to rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code, each county board of developmental disabilities shall annually adopt separate salary schedules

for teachers and nonteaching employees.

(C) The teachers' salary schedule shall provide for increments based on training and years of service. The board may establish its own service requirements provided no teacher receives less than the salary the teacher would be paid under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of such section is given to each teacher.

Each teacher who has completed training that would qualify the teacher for a higher salary bracket pursuant to this section shall file by the fifteenth day of September with the fiscal officer of the board, satisfactory evidence of the completion of such additional training. The fiscal officer shall then immediately place the teacher, pursuant to this section, in the proper salary bracket in accordance with training and years of service. No teacher shall be paid less than the salary to which the teacher would be entitled under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education.

The superintendent of each county board, on or before the fifteenth day of October of each year, shall certify to the state board of education the name of each teacher employed, on an annual salary, in each special education program operated pursuant to section 3323.09 of the Revised Code during the first full school week of October. The superintendent further shall certify, for each teacher, the number of years of training completed at a recognized college, the degrees earned from a college recognized by the state board, the type of license held, the number of months employed by the board, the annual salary, and other information that the state board may request.

(D) The nonteaching employees' salary schedule established by the board shall be based on training, experience, and qualifications with initial salaries no less than salaries in effect on July 1, 1985. Each board shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching employees shall be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all nonteaching employees working for a particular board shall be uniform for like positions except as compensation would be affected by salary increments based upon length of service.

On the fifteenth day of October of each year the nonteaching employees'

salary schedule and list of job classifications and salaries in effect on that date shall be filed by each board with the superintendent of public instruction. If such salary schedule and classification plan is not filed, the superintendent of public instruction shall order the board to file such schedule and list forthwith. If this condition is not corrected within ten days after receipt of the order from the superintendent, no money shall be distributed to the ~~district~~ board under Chapter ~~3306. or~~ 3317. of the Revised Code until the superintendent has satisfactory evidence of the board's full compliance with such order.

Sec. 5126.41. The county board of developmental disabilities shall identify residents of the county for whom supported living is to be provided. Identification of the residents shall be made in accordance with the priorities set under section 5126.04 of the Revised Code and the waiting ~~list policies developed~~ lists established under section 5126.042 of the Revised Code. The board shall assist the residents in identifying their individual service needs.

To arrange supported living for an individual, the board shall assist the individual in developing an individual service plan. In developing the plan, the individual shall choose a residence that is appropriate according to local standards; the individuals, if any, with whom the individual will live in the residence; the services the individual needs to live in the individual's residence of choice; and the providers from which the services will be received. The choices available to an individual shall be based on available resources.

The board shall obtain the consent of the individual or the individual's guardian and the signature of the individual or guardian on the individual service plan. The county board shall ensure that the individual receives from the provider the services contracted for under section 5126.45 of the Revised Code.

An individual service plan for supported living shall be effective for a period of time agreed to by the county board and the individual. In determinating that period, the county board and the individual shall consider the nature of the services to be provided and the manner in which they are customarily provided.

Sec. 5126.42. (A) A county board of developmental disabilities shall establish an advisory council composed of board members or employees of the board, providers, individuals receiving supported living, and advocates for individuals receiving supported living to provide on-going communication among all persons concerned with supported living.

(B) The board shall develop procedures for the resolution of grievances between the board and providers or between the board and an entity with

which it has a shared funding agreement.

(C) The board shall develop and implement a provider selection system. Each system shall enable an individual to choose to continue receiving supported living from the same providers, to select additional providers, or to choose alternative providers. Annually, the board shall review its provider selection system to determine whether it has been implemented in a manner that allows individuals fair and equitable access to providers.

In developing a provider selection system, the county board shall create a pool of providers for individuals to use in choosing their providers of supported living. The pool shall be created by placing in the pool all providers on record with the board or by placing in the pool all providers approved by the board through soliciting requests for proposals for supported living contracts. In either case, only providers that are certified by the director of developmental disabilities may be placed in the pool.

If the board places all providers on record in the pool, the board shall review the pool at least annually to determine whether each provider has continued interest in being a provider and has maintained its certification by the department. At any time, an interested and certified provider may make a request to the board that it be added to the pool, and the board shall add the provider to the pool not later than seven days after receiving the request.

If the board solicits requests for proposals for inclusion of providers in the pool, the board shall develop standards for selecting the providers to be included. Requests for proposals shall be solicited at least annually. When requests are solicited, the board shall cause legal notices to be published ~~at least~~ once each week for two consecutive weeks in a newspaper ~~with~~ of general circulation within the county or as provided in section 7.16 of the Revised Code. The board's formal request for proposals shall include a description of any applicable contract terms, the standards that are used to select providers for inclusion in the pool, and the process the board uses to resolve disputes arising from the selection process. The board shall accept requests from any entity interested in being a provider of supported living for individuals served by the board. Requests shall be approved or denied according to the standards developed by the board. Providers that previously have been placed in the pool are not required to resubmit a request for proposal to be included in the pool, unless the board's standards have been changed.

In assisting an individual in choosing a provider, the county board shall provide the individual with uniform and consistent information pertaining to each provider in the pool. An individual may choose to receive supported living from a provider that is not included in the pool, if the provider is

certified by the director of developmental disabilities.

Sec. 5139.11. The department of youth services shall do all of the following:

(A) Through a program of education, promotion, and organization, form groups of local citizens and assist these groups in conducting activities aimed at the prevention and control of juvenile delinquency, making use of local people and resources for the following purposes:

(1) Combatting local conditions known to contribute to juvenile delinquency;

(2) Developing recreational and other programs for youth work;

(3) Providing adult sponsors for delinquent children cases;

(4) Dealing with other related problems of the locality.

(B) Advise local, state, and federal officials, public and private agencies, and lay groups on the needs for and possible methods of the reduction and prevention of juvenile delinquency and the treatment of delinquent children;

(C) Consult with the schools and courts of this state on the development of programs for the reduction and prevention of delinquency and the treatment of delinquents;

(D) Cooperate with other agencies whose services deal with the care and treatment of delinquent children to the end that delinquent children who are state wards may be assisted whenever possible to a successful adjustment outside of institutional care;

(E) Cooperate with other agencies in surveying, developing, and utilizing the recreational resources of a community as a means of combatting the problem of juvenile delinquency and effectuating rehabilitation;

(F) Hold district and state conferences from time to time in order to acquaint the public with current problems of juvenile delinquency and develop a sense of civic responsibility toward the prevention of juvenile delinquency;

(G) Assemble and distribute information relating to juvenile delinquency and report on studies relating to community conditions that affect the problem of juvenile delinquency;

(H) Assist any community within the state by conducting a comprehensive survey of the community's available public and private resources, and recommend methods of establishing a community program for combatting juvenile delinquency and crime, but no survey of that type shall be conducted unless local individuals and groups request it through their local authorities, and no request of that type shall be interpreted as

binding the community to following the recommendations made as a result of the request;

(I) Evaluate the rehabilitation of children committed to the department and prepare and submit periodic reports to the committing court for the following purposes:

(1) Evaluating the effectiveness of institutional treatment;

(2) Making recommendations for judicial release under section 2152.22 of the Revised Code if appropriate and recommending conditions for judicial release;

(3) Reviewing the placement of children and recommending alternative placements where appropriate.

(J) Coordinate dates for hearings to be conducted under section 2152.22 of the Revised Code and assist in the transfer and release of children from institutionalization to the custody of the committing court;

(K)(1) Coordinate and assist juvenile justice systems by doing the following:

(a) Performing juvenile justice system planning in the state, including any planning that is required by any federal law;

(b) Collecting, analyzing, and correlating information and data concerning the juvenile justice system in the state;

(c) Cooperating with and providing technical assistance to state departments, administrative planning districts, metropolitan county criminal justice services agencies, criminal justice coordinating councils, and agencies, offices, and departments of the juvenile justice system in the state, and other appropriate organizations and persons;

(d) Encouraging and assisting agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the department;

(e) Administering within the state any juvenile justice acts and programs that the governor requires the department to administer;

(f) Implementing the state comprehensive plans;

(g) Visiting and inspecting jails, detention facilities, correctional facilities, facilities that may hold juveniles involuntarily, or any other facility that may temporarily house juveniles on a voluntary or involuntary basis for the purpose of compliance pursuant to the "Juvenile Justice and Delinquency Prevention Act of 1974," 88 Stat. 1109, as amended;

(h) Auditing grant activities of agencies, offices, organizations, and persons that are financed in whole or in part by funds granted through the department;

~~(h)~~(i) Monitoring or evaluating the performance of juvenile justice

system projects and programs in the state that are financed in whole or in part by funds granted through the department;

~~(i)~~(j) Applying for, allocating, disbursing, and accounting for grants that are made available pursuant to federal juvenile justice acts, or made available from other federal, state, or private sources, to improve the criminal and juvenile justice systems in the state. All money from federal juvenile justice act grants shall, if the terms under which the money is received require that the money be deposited into an interest bearing fund or account, be deposited in the state treasury to the credit of the federal juvenile justice program purposes fund, which is hereby created. All investment earnings shall be credited to the fund.

~~(j)~~(k) Contracting with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out the duties of the department;

~~(k)~~(l) Overseeing the activities of metropolitan county criminal justice services agencies, administrative planning districts, and juvenile justice coordinating councils in the state;

~~(l)~~(m) Advising the general assembly and governor on legislation and other significant matters that pertain to the improvement and reform of the juvenile justice system in the state;

~~(m)~~(n) Preparing and recommending legislation to the general assembly and governor for the improvement of the juvenile justice system in the state;

~~(n)~~(o) Assisting, advising, and making any reports that are required by the governor, attorney general, or general assembly;

~~(o)~~(p) Adopting rules pursuant to Chapter 119. of the Revised Code.

(2) Division (K)(1) of this section does not limit the discretion or authority of the attorney general with respect to crime victim assistance and criminal and juvenile justice programs.

(3) Nothing in division (K)(1) of this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency.

(4) The governor may appoint any advisory committees to assist the department that the governor considers appropriate or that are required under any state or federal law.

Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program that shall be operated in accordance with the formula developed pursuant to section 5139.41 of the Revised Code, subject to the conditions specified in this section.

(B)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of section 5139.41 of

the Revised Code in accordance with the applicable provisions of division (B)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction projects; upon an order of the juvenile court and subject to appropriation by the board of county commissioners, shall be disbursed to the juvenile court for use in accordance with the applicable provisions of division (B)(2) of this section; shall not revert to the county general fund at the end of any fiscal year; and shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year. The maximum balance carry-over at the end of each respective fiscal year in the felony delinquent care and custody fund in any county from funds allocated to the county pursuant to sections 5139.34 and 5139.41 of the Revised Code in the previous fiscal year shall not exceed an amount to be calculated as provided in the formula set forth in this division, unless that county has applied for and been granted an exemption by the director of youth services. Beginning June 30, 2008, the maximum balance carry-over at the end of each respective fiscal year shall be determined by the following formula: for fiscal year 2008, the maximum balance carry-over shall be one hundred per cent of the allocation for fiscal year 2007, to be applied in determining the fiscal year 2009 allocation; for fiscal year 2009, it shall be fifty per cent of the allocation for fiscal year 2008, to be applied in determining the fiscal year 2010 allocation; for fiscal year 2010, it shall be twenty-five per cent of the allocation for fiscal year 2009, to be applied in determining the fiscal year 2011 allocation; and for each fiscal year subsequent to fiscal year 2010, it shall be twenty-five per cent of the allocation for the immediately preceding fiscal year, to be applied in determining the allocation for the next immediate fiscal year. The department shall withhold from future payments to a county an amount equal to any moneys in the felony delinquent care and custody fund of the county that exceed the total maximum balance carry-over that applies for

that county for the fiscal year in which the payments are being made and shall reallocate the withheld amount. The department shall adopt rules for the withholding and reallocation of moneys disbursed under sections 5139.34 and 5139.41 of the Revised Code and for the criteria and process for a county to obtain an exemption from the withholding requirement. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(2)(a) A county and the juvenile court that serves the county shall use the moneys in its felony delinquent care and custody fund in accordance with rules that the department of youth services adopts pursuant to division (D) of section 5139.04 of the Revised Code and as follows:

(i) The moneys in the fund that represent state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code shall be used to aid in the support of prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children or delinquent children or for children who are at risk of becoming unruly children or delinquent children. The county shall not use for capital improvements more than fifteen per cent of the moneys in the fund that represent the applicable annual grant of those state subsidy funds.

(ii) The moneys in the fund that were disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to division (B)(1) of this section in the fund shall be used to provide programs and services for the training, treatment, or rehabilitation of felony delinquents that are alternatives to their commitment to the department, including, but not limited to, community residential programs, day treatment centers, services within the home, and electronic monitoring, and shall be used in connection with training, treatment, rehabilitation, early intervention, or other programs or services for any delinquent child, unruly child, or juvenile traffic offender who is under the jurisdiction of the juvenile court.

The fund also may be used for prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children, delinquent children, or juvenile traffic offenders or for children who are at risk of becoming unruly children, delinquent children, or juvenile traffic offenders. Consistent with division

(B)(1) of this section, a county and the juvenile court of a county shall not use any of those moneys for capital construction projects.

(iii) Moneys in the fund shall not be used to support programs or services that do not comply with federal juvenile justice and delinquency prevention core requirements or to support programs or services that research has shown to be ineffective. Moneys in the fund shall be prioritized to research-supported, outcome-based programs and services.

(iv) The county and the juvenile court that serves the county may use moneys in the fund to provide out-of-home placement of children only in detention centers, community rehabilitation centers, or community corrections facilities approved by the department pursuant to standards adopted by the department, licensed by an authorized state agency, or accredited by the American correctional association or another national organization recognized by the department.

(b) Each juvenile court shall comply with division (B)(3)(d) of this section as implemented by the department. If a juvenile court fails to comply with division (B)(3)(d) of this section, the department shall not be required to make any disbursements in accordance with division (C) or (D) of section 5139.41 or division (C)(2) of section 5139.34 of the Revised Code.

(3) In accordance with rules adopted by the department pursuant to division (D) of section 5139.04 of the Revised Code, each juvenile court and the county served by that juvenile court shall do all of the following that apply:

(a) The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division (B)(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division

(B)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year. If the juvenile court fails to file the report required by division (B)(3)(b) of this section by the thirty-first day of August of any year, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(c) of this section. If the juvenile court fails to prepare and submit those monthly statistical reports within one hundred eighty days of the date the department establishes for their submission, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation, and the state subsidy funds and the remainder of the applicable allocation shall revert to the department. If a juvenile court states in a monthly statistical report that the juvenile court adjudicated within a state fiscal year five hundred or more children to be delinquent children for committing acts that would be felonies if committed by adults and if the department determines that the data in the report may be inaccurate, the juvenile court shall have an independent auditor or other

qualified entity certify the accuracy of the data on a date determined by the department.

(d) If the department requires the juvenile court and the county to participate in a fiscal monitoring program or another monitoring program that is conducted by the department to ensure compliance by the juvenile court and the county with division (B) of this section, the juvenile court and the county shall participate in the program and fully comply with any guidelines for the performance of audits adopted by the department pursuant to that program and all requests made by the department pursuant to that program for information necessary to reconcile fiscal accounting. If an audit that is performed pursuant to a fiscal monitoring program or another monitoring program described in this division determines that the juvenile court or the county used moneys in the county's felony delinquent care and custody fund for expenses that are not authorized under division (B) of this section, within forty-five days after the department notifies the county of the unauthorized expenditures, the county either shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund or shall file a written appeal with the department. If an appeal is timely filed, the director of the department shall render a decision on the appeal and shall notify the appellant county or its juvenile court of that decision within forty-five days after the date that the appeal is filed. If the director denies an appeal, the county's fiscal agent shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund within thirty days after receiving the director's notification of the appeal decision.

(C) The determination of which county a reduction of the care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths who do not qualify as public safety beds. The determination of which county a reduction of the care and custody allocation will be charged against shall be made as follows until each youth is released:

(1) In the event of a commitment, the reduction shall be charged against the committing county.

(2) In the event of a recommitment, the reduction shall be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to the department of youth services pursuant to the order of recommitment, whichever is later. Reductions of the allocation shall be charged against the county that recommitted the youth after the minimum expiration date of the original commitment.

(3) In the event of a revocation of a release on parole, the reduction shall be charged against the county that revokes the youth's parole.

(D) A juvenile court is not precluded by its allocation amount for the care and custody of felony delinquents from committing a felony delinquent to the department of youth services for care and custody in an institution or a community corrections facility when the juvenile court determines that the commitment is appropriate.

Sec. 5310.35. The board of county commissioners shall conduct the public hearing required by section 5310.33 of the Revised Code in accordance with this section.

(A)(1) The board shall prepare a notice of the hearing that includes each of the following:

(a) A statement that the board is considering abolishing land registration in the county, that abolition would require the deregistration of all registered land in the county, and that after abolition all land in the county would have to be dealt with as nonregistered land;

(b) A statement that the board seeks evidence with regard to the matters listed in section 5310.34 of the Revised Code;

(c) The date, time, and place of the hearing, which shall be not earlier than two nor later than three months after the resolution to consider the merits of abolishing land registration was adopted by the board;

(d) A statement that any person affected by the proposed abolition of land registration may appear at the hearing and present evidence as provided in division (B) of this section.

(2) The board shall serve the notice by both of the following means:

(a) Ordinary mail, evidenced by a certificate of mailing, addressed to each person from whom a receipt or signature card, giving residence and post-office address, has been taken by the county recorder under section 5309.30 or 5309.50 of the Revised Code, and to each person who has filed an affidavit with the county recorder under section 5309.72 of the Revised Code. The county recorder, within one month after the adoption of a resolution to consider the merits of abolishing land registration in the county, shall provide the board with the names and respective addresses of the persons who are entitled to notice under this division.

If a notice is returned with an endorsement showing failure of delivery, the board is under no further obligation to directly serve the notice upon the addressee. The board shall preserve the returned notice in the records pertaining to its consideration of the merits of abolishing land registration in the county.

(b) Publication twice a week for two consecutive weeks in a newspaper

of general circulation in the county or as provided in section 7.16 of the Revised Code. Publication of the notice shall be completed at least one month prior to the date set for the hearing.

(B) At the date, time, and place specified in the notice, the board shall conduct a hearing, which may be adjourned from day to day until complete, at which any person affected by the proposed abolition of land registration may appear in person, by ~~his~~ attorney, or both, and present evidence, orally or in writing, with regard to the costs and benefits of maintaining land registration in the county. Any person who presents evidence may also present evidence refuting any evidence offered in opposition to ~~his~~ the person's evidence.

The board shall cause a stenographic record to be made of the hearing. The president of the board, or a member ~~he~~ the president designates, shall preside at the hearing.

Sec. 5501.44. (A) ~~The~~ Notwithstanding section 5735.27 of the Revised Code, the director of transportation, when ~~he deems~~ the director determines it in the interest of the welfare and safety of the citizens of Ohio, may enter into agreements with other states or subdivisions thereof or the United States relative to the cooperation in the repair, maintenance, or construction of a ~~toll free~~ bridge crossing a stream that forms a boundary line of this state, and may expend state highway funds for said purpose.

(1) No such agreement shall be made that obligates this state to expend more than the cost of the construction of such portion of said bridge as is located within the state, and not more than fifty per cent of the cost of maintenance of any such bridge, and no such agreement shall be made that obligates the state in excess of three hundred thousand dollars in any one year for maintenance.

(2) Notwithstanding division (A)(1) of this section, the director may expend funds for the design, construction, inspection, maintenance, repair, and replacement of bridge and bridge approaches for the bridge that were transferred from the Ohio bridge commission to the control of the state of Ohio, department of transportation, as provided in Section 4 of Amended Substitute House Bill No. 98 of the 114th general assembly. Following the replacement of that bridge, the director may expend funds for the design, construction, inspection, maintenance, repair, and replacement of bridge and bridge approaches.

(3) Any such agreements shall be approved by the governor and attorney general of the state before they become effective.

(4) Each agreement entered into shall designate responsibility for inspection, provide for annual inspection, and require that a report of each

inspection be filed with the department of transportation. The director, with regard to all existing bridges or other bridges on a stream that forms a boundary line of this state, shall take all reasonable measures to obtain and to secure the filing of a copy of each inspection report for each bridge with the department of transportation.

(5) The department, upon hearing that a ~~toll free~~ bridge across the Ohio river is scheduled to be closed by a contiguous state, shall make all reasonable efforts to notify the Ohio residents likely to be adversely affected by that closing. The department also shall cooperate and communicate with contiguous states in trying to resolve bridge closing problems.

(B)(1) The director, when ~~he~~ the director considers it in the interest of the welfare and safety of the citizens of Ohio, may enter into agreements with other states, subdivisions thereof, metropolitan planning organizations, or the United States, relative to the design, construction, operation, maintenance, and repair of a regional traffic management system, and may expend state and federal highway funds for such purposes, notwithstanding any other provision of the Revised Code.

(2) No such agreement shall be made that obligates this state to expend more than the cost of construction of such portion of a regional traffic management system as is located within the state, and not more than a proportional amount, based upon the system presence in this state, for costs of design, operation, maintenance, and repair.

(3) Any such agreements shall be approved by the governor and attorney general of the state before they become effective.

(4) As used in division (B) of this section, "regional traffic management system" means an integrated, high-technology system to provide remote control center surveillance and monitoring of the regional freeways and main arterial routes in order to reduce and eliminate major backups and delays to motorists in the area.

Sec. 5501.73. (A) After selecting a solicited or unsolicited proposal for a public-private initiative, the department of transportation shall enter into a public-private agreement for a transportation facility with the selected private entity or any configuration of private entities. An affected jurisdiction may be a party to a public-private agreement entered into by the department and a selected private entity or combination of private entities.

(B) A public-private agreement under this section shall provide for all of the following:

(1) Planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing, or operation of a transportation facility;

(2) Term of the public-private agreement~~, subject to division (D) of this section~~;

(3) Type of property interest, if any, the private entity will have in the transportation facility;

(4) A specific plan to ensure proper maintenance of the transportation facility throughout the term of the agreement and a return of the facility to the department, if applicable, in good condition and repair;

(5) Whether user fees will be collected on the transportation facility and the basis by which such user fees shall be determined and modified;

(6) Compliance with applicable federal, state, and local laws;

(7) Grounds for termination of the public-private agreement by the department or operator;

(8) Disposition of the facility upon completion of the agreement;

(9) Procedures for amendment of the agreement.

(C) A public-private agreement under this section may provide for any of the following:

(1) Review and approval by the department of the operator's plans for the development and operation of the transportation facility;

(2) Inspection by the department of construction of or improvements to the transportation facility;

(3) Maintenance by the operator of a policy of liability insurance or self-insurance;

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;

(5) Filing by the operator, on a periodic basis, of traffic reports in a form acceptable to the department;

(6) Financing obligations of the operator and the department;

(7) Apportionment of expenses between the operator and the department;

(8) Rights and duties of the operator, the department, and other state and local governmental entities with respect to use of the transportation facility;

(9) Rights and remedies available in the event of default or delay;

(10) Terms and conditions of indemnification of the operator by the department;

(11) Assignment, subcontracting, or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;

(12) Sale or lease to the operator of private property related to the transportation facility;

(13) Traffic enforcement and other policing issues, including any

reimbursement by the private entity for such services.

(D) ~~Any public-private agreement entered into under this section may be for a period not to exceed the then current two-year period for which appropriations have been made by the general assembly to the department; provided, that any agreement may be renewed for succeeding two-year periods when the general assembly enacts sufficient appropriations to the department for each successive biennium. Any such agreement may include, without limitation, any agreement by the department with respect to any costs of transportation facilities to be included prior to acquisition and construction of such transportation facilities. Any such agreement shall not constitute a debt or pledge of the faith and credit of the state, or of any political subdivision of the state, and the operator shall have no right to have taxes or excises levied by the general assembly, or the taxing authority of any political subdivision of the state, for payments under the agreement. Any such agreement shall contain a statement to that effect.~~

~~(E)~~ No public-private agreement entered into under this section shall be construed to transfer to a private entity the director's authority to appropriate property under Chapters 163., 5501., and 5519. of the Revised Code.

Sec. 5502.52. (A) There is hereby created the statewide emergency alert program to aid in the identification and location of children who are under eighteen years of age, who are abducted, and whose abduction, as determined by a law enforcement agency, poses a credible threat of immediate danger of serious bodily harm or death to a child. The program shall be a coordinated effort among the governor's office, the department of public safety, the attorney general, law enforcement agencies, the state's public and commercial television and radio broadcasters, and others as deemed necessary by the governor.

(B) The statewide emergency alert program shall not be implemented unless all of the following activation criteria are met:

(1) The local investigating law enforcement agency confirms that an abduction has occurred.

(2) An abducted child is under eighteen years of age.

(3) The abduction poses a credible threat of immediate danger of serious bodily harm or death to a child.

(4) A law enforcement agency determines that the child is not a runaway and has not been abducted as a result of a child custody dispute, unless the dispute poses a credible threat of immediate danger of serious bodily harm or death to the child.

(5) There is sufficient descriptive information about the child, the abductor, and the circumstances surrounding the abduction to indicate that

activation of the alert will help locate the child.

(C) Nothing in division (B) of this section prevents the activation of a local or regional emergency alert program that may impose different criteria for the activation of a local or regional plan.

(D) Any radio broadcast station, television broadcast station, or cable television system participating in the statewide emergency alert program or in any local or regional emergency alert program, and any director, officer, employee, or agent of any such station or system, shall not be liable to any person for damages for any loss allegedly caused by or resulting from the station's or system's broadcast or cablecast of, or failure to broadcast or cablecast, any information pursuant to the statewide emergency alert program or the local or regional emergency alert program.

(E) No person shall knowingly make a false report that a child has been abducted and that leads to the implementation of the statewide emergency alert program created under this section or that leads to the implementation of a local or regional emergency alert program. Whoever violates this division is guilty of a felony of the fourth degree.

(F) As used in this section:

(1) "Abducted child" means a child for whom there is credible evidence to believe that the child has been abducted in violation of section 2905.01, 2905.02, 2905.03, or 2905.05 of the Revised Code.

(2) "Cable television system" means a cable system, as defined in section 2913.04 of the Revised Code.

(3) "Law enforcement agency" includes, but is not limited to, a county sheriff's office, the office of a village marshal, a police department of a municipal corporation, a police force of a regional transit authority, a police force of a metropolitan housing authority, the state highway patrol, a state university law enforcement agency, the office of a township police constable, and the police department of a township or joint ~~township~~ police district.

Sec. 5502.522. (A) There is hereby created the statewide emergency alert program to aid in the identification and location of any individual who has a mental impairment or is sixty-five years of age or older, who is or is believed to be a temporary or permanent resident of this state, is at a location that cannot be determined by an individual familiar with the missing individual, and is incapable of returning to the missing individual's residence without assistance, and whose disappearance, as determined by a law enforcement agency, poses a credible threat of immediate danger of serious bodily harm or death to the missing individual. The program shall be a coordinated effort among the governor's office, the department of public

safety, the attorney general, law enforcement agencies, the state's public and commercial television and radio broadcasters, and others as determined necessary by the governor. No name shall be given to the program created under this division that conflicts with any alert code standards that are required by federal law and that govern the naming of emergency alert programs.

(B) The statewide emergency alert program shall not be implemented unless all of the following activation criteria are met:

(1) The local investigating law enforcement agency confirms that the individual is missing.

(2) The individual is sixty-five years of age or older or has a mental impairment.

(3) The disappearance of the individual poses a credible threat of immediate danger of serious bodily harm or death to the individual.

(4) There is sufficient descriptive information about the individual and the circumstances surrounding the individual's disappearance to indicate that activation of the alert will help locate the individual.

(C) Nothing in division (B) of this section prevents the activation of a local or regional emergency alert program that may impose different criteria for the activation of a local or regional plan.

(D) Any radio broadcast station, television broadcast station, or cable system participating in the statewide emergency alert program or in any local or regional emergency alert program, and any director, officer, employee, or agent of any station or system participating in either type of alert program, shall not be liable to any person for damages for any loss allegedly caused by or resulting from the station's or system's broadcast or cablecast of, or failure to broadcast or cablecast, any information pursuant to the statewide emergency alert program or the local or regional emergency alert program.

(E) A local investigating law enforcement agency shall not be required to notify the statewide emergency alert program that the law enforcement agency has received information that meets the activation criteria set forth in division (B) of this section during the first twenty-four hours after the law enforcement agency receives the information.

(F) Nothing in this section shall be construed to authorize the use of the federal emergency alert system unless otherwise authorized by federal law.

(G) As used in this section:

(1) "Cable system" has the same meaning as in section 2913.04 of the Revised Code.

(2) "Law enforcement agency" includes, but is not limited to, a county

sheriff's office, the office of a village marshal, a police department of a municipal corporation, a police force of a regional transit authority, a police force of a metropolitan housing authority, the state highway patrol, a state university law enforcement agency, the office of a township police constable, and the police department of a township or joint ~~township~~ police district.

(3) "Mental impairment" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or ability to live independently or provide self-care as certified by a licensed physician, psychiatrist, or psychologist.

Sec. 5502.61. As used in sections 5502.61 to 5502.66 of the Revised Code:

(A) "Federal criminal justice acts" means any federal law that authorizes financial assistance and other forms of assistance to be given by the federal government to the states to be used for the improvement of the criminal and juvenile justice systems of the states.

(B)(1) "Criminal justice system" includes all of the functions of the following:

(a) The state highway patrol, county sheriff offices, municipal and township police departments, and all other law enforcement agencies;

(b) The courts of appeals, courts of common pleas, municipal courts, county courts, and mayor's courts, when dealing with criminal cases;

(c) The prosecuting attorneys, city directors of law, village solicitors, and other prosecuting authorities when prosecuting or otherwise handling criminal cases, and the county and joint county public defenders and other public defender agencies or offices;

(d) The department of rehabilitation and correction, probation departments, county and municipal jails and workhouses, and any other department, agency, or facility that is concerned with the rehabilitation or correction of criminal offenders;

(e) Any public or private agency whose purposes include the prevention of crime or the diversion, adjudication, detention, or rehabilitation of criminal offenders;

(f) Any public or private agency, the purposes of which include assistance to crime victims or witnesses.

(2) The inclusion of any public or private agency, the purposes of which include assistance to crime victims or witnesses, as part of the criminal justice system pursuant to division (B)(1) of this section does not limit, and shall not be construed as limiting, the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice

programs.

(C) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children.

(D) "Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, any of the functions of the criminal and juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to criminal and juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. These functions may include, but are not limited to, any of the following:

(1) Crime and delinquency prevention;

(2) Identification, detection, apprehension, and detention of persons charged with criminal offenses or delinquent acts;

(3) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;

(4) Adjudication or diversion of persons charged with criminal offenses or delinquent acts;

(5) Custodial treatment of criminal offenders, delinquent children, or both;

(6) Institutional and noninstitutional rehabilitation of criminal offenders, delinquent children, or both.

(E) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section 5502.64 of the Revised Code.

(F) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section 5502.66 of the Revised Code.

(G) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section 5502.66 of the Revised Code.

(H) "Local elected official" means any person who is a member of a board of county commissioners or township trustees or of a city or village council, judge of the court of common pleas, a municipal court, or a county court, sheriff, county coroner, prosecuting attorney, city director of law, village solicitor, or mayor.

(I) "Juvenile justice coordinating council" means a juvenile justice services agency that is established pursuant to division (D) of section

5502.66 of the Revised Code.

(J) "Mcgruff house program" means a program in which individuals or families volunteer to have their homes or other buildings serve as places of temporary refuge for children and to display the mcgruff house symbol identifying the home or building as that type of place.

(K) "Mcgruff house symbol" means the symbol that is characterized by the image of "mcgruff," the crime dog, and the slogan "take a bite out of crime," and that has been adopted by the national crime prevention council as the symbol of its national citizens' crime prevention campaign.

(L) "Sponsoring agency" means any of the following:

(1) The board of education of any city, local, or exempted village school district;

(2) The governing board of any educational service center;

(3) The governing authority of any chartered nonpublic school;

(4) The police department of any municipal corporation, township, township police district, or joint ~~township~~ police district;

(5) The office of any township constable or county sheriff.

Sec. 5502.68. (A) There is hereby created in the state treasury the drug law enforcement fund. Ninety-seven per cent of three dollars and fifty cents out of each ten-dollar court cost imposed pursuant to section 2949.094 of the Revised Code shall be credited to the fund. Money in the fund shall be used only in accordance with this section to award grants to counties, municipal corporations, townships, township police districts, and joint ~~township~~ police districts to defray the expenses that a drug task force organized in the county, or in the county in which the municipal corporation, township, or district is located, incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity.

The division of criminal justice services shall administer all money deposited into the drug law enforcement fund and, by rule adopted under Chapter 119. of the Revised Code, shall establish procedures for a county, municipal corporation, township, township police district, or joint ~~township~~ police district to apply for money from the fund to defray the expenses that a drug task force organized in the county, or in the county in which the municipal corporation, township, or district is located, incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity, procedures and criteria for determining eligibility of applicants to be provided money from the fund, and procedures and criteria for determining the amount of money to be provided out of the fund to eligible applicants.

(B) The procedures and criteria established under division (A) of this section for applying for money from the fund shall include, but shall not be limited to, a provision requiring a county, municipal corporation, township, township police district, or joint ~~township~~ police district that applies for money from the fund to specify in its application the amount of money desired from the fund, provided that the cumulative amount requested in all applications submitted for any single drug task force may not exceed more than two hundred fifty thousand dollars in any calendar year for that task force.

(C) The procedures and criteria established under division (A) of this section for determining eligibility of applicants to be provided money from the fund and for determining the amount of money to be provided out of the fund to eligible applicants shall include, but not be limited to, all of the following:

(1) Provisions requiring that, in order to be eligible to be provided money from the fund, a drug task force that applies for money from the fund must provide evidence that the drug task force will receive a local funding match of at least twenty-five per cent of the task force's projected operating costs in the period of time covered by the grant;

(2) Provisions requiring that money from the fund be allocated and provided to drug task forces that apply for money from the fund in accordance with the following priorities:

(a) Drug task forces that apply, that are in existence on the date of the application, and that are determined to be eligible applicants, and to which either of the following applies shall be given first priority to be provided money from the fund:

(i) Drug task forces that received funding through the division of criminal justice services in calendar year 2007;

(ii) Drug task forces in a county that has a population that exceeds seven hundred fifty thousand.

(b) If any moneys remain in the fund after all drug task forces that apply, that are in existence on the date of the application, that are determined to be eligible applicants, and that satisfy the criteria set forth in division (C)(2)(a)(i) or (ii) of this section are provided money from the fund as described in division (C)(2)(a) of this section, the following categories of drug task forces that apply and that are determined to be eligible applicants shall be given priority to be provided money from the fund in the order in which they apply for money from the fund:

(i) Drug task forces that are not in existence on the date of the application;

(ii) Drug task forces that are in existence on the date of the application but that do not satisfy the criteria set forth in division (C)(2)(a)(i) or (ii) of this section.

(D) The procedures and criteria established under division (A) of this section for determining the amount of money to be provided out of the fund to eligible applicants shall include, but shall not be limited to, a provision specifying that the cumulative amount provided to any single drug task force may not exceed more than two hundred fifty thousand dollars in any calendar year.

(E) As used in this section, "drug task force" means a drug task force organized in any county by the sheriff of the county, the prosecuting attorney of the county, the chief of police of the organized police department of any municipal corporation or township in the county, and the chief of police of the police force of any township police district or joint ~~township~~ police district in the county to perform functions related to the enforcement of state drug laws and other state laws related to illegal drug activity.

Sec. 5505.04. (A)(1) The general administration and management of the state highway patrol retirement system and the making effective of this chapter are hereby vested in the state highway patrol retirement board. The board may sue and be sued, plead and be impleaded, contract and be contracted with, and do all things necessary to carry out this chapter.

The board shall consist of the following members:

(a) The superintendent of the state highway patrol;

(b) Two retirant members who reside in this state;

(c) Five employee-members;

(d) One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and who shall have the following qualifications:

(i) The member is a resident of this state.

(ii) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(iii) The member has direct experience in the management, analysis, supervision, or investment of assets.

(iv) The member is not currently employed by the state or a political subdivision of the state.

(e) Two investment expert members, who shall be appointed to four-year terms. One investment expert member shall be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:

(i) Each investment expert member shall be a resident of this state.

(ii) Within the three years immediately preceding the appointment, each investment expert member shall not have been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(iii) Each investment expert member shall have direct experience in the management, analysis, supervision, or investment of assets.

(2) The board shall annually elect a chairperson and vice-chairperson from among its members. The vice-chairperson shall act as chairperson in the absence of the chairperson. A majority of the members of the board shall constitute a quorum and any action taken shall be approved by a majority of the members of the board. The board shall meet not less than once each year, upon sufficient notice to the members. All meetings of the board shall be open to the public except executive sessions as set forth in division (G) of section 121.22 of the Revised Code, and any portions of any sessions discussing medical records or the degree of disability of a member excluded from public inspection by this section.

(3) Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed holds office until the end of such term. The member continues in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(B) The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules are given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of

the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

(C)(1) As used in this division, "personal history record" means information maintained by the board on an individual who is a member, former member, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following which shall be excluded: the member's, former member's, retirant's, or beneficiary's personal history record and the amount of a monthly allowance or benefit paid to a retirant, beneficiary, or survivor, except with the written authorization of the individual concerned.

(D) All medical reports and recommendations are privileged except as follows:

(1) Copies of such medical reports or recommendations shall be made available to the individual's personal physician, attorney, or authorized agent upon written release received from such individual or such individual's agent, or when necessary for the proper administration of the fund to the board-assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(E) Notwithstanding the exceptions to public inspection in division (C)(2) of this section, the board may furnish the following information:

(1) If a member, former member, or retirant is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court order issued under Chapters 3119., 3121., and 3123. of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under those chapters.

(3) At the written request of any nonprofit organization or association providing services to retirement system members, retirants, or beneficiaries, the board shall provide to the organization or association a list of the names and addresses of members, former members, retirants, or beneficiaries if the organization or association agrees to use such information solely in

accordance with its stated purpose of providing services to such individuals and not for the benefit of other persons, organizations, or associations. The costs of compiling, copying, and mailing the list shall be paid by such entity.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as those of a person whose name or social security number was submitted by the director. The board and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients of public assistance in compliance with ~~division (A) of~~ section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(7) The system shall provide the notice required by section 5505.263 of the Revised Code to the prosecutor assigned to the case.

(F) A statement that contains information obtained from the system's records that is certified and signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 5505.22. The right of any individual to a pension, or to the return of accumulated contributions, payable as provided under this chapter, and all moneys and investments of the state highway patrol retirement system and income from moneys or investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except <u>income</u> taxes

imposed pursuant to section 5748.02 ~~or,~~ 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 5505.26, 5505.262, and 5505.263 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter.

Sec. 5525.04. No bidder shall be given a certificate of qualification unless the bidder's financial statement and the investigation made by the director of transportation show that the bidder possesses net current assets or working capital sufficient, in the judgment of the director, to render it probable that the bidder can satisfactorily execute the bidder's contracts and meet all contractual obligations. Any applicant desiring a certificate of qualification in an amount of ~~two~~ five million dollars or more shall submit on forms prescribed by the director a financial audit prepared and attested as correct by an independent certified public accountant. Any applicant desiring a certificate of qualification in an amount that is less than ~~two~~ five million dollars shall submit a financial review on forms prescribed by the director. The aggregate amount of work set forth in either type of certificate of qualification shall not exceed ten times the applicant's net current assets or working capital. At the time of bidding, a bidder's qualification is determined by the bidder's qualification amount minus all of the bidder's pending work.

Applicants for qualification shall expressly authorize the director to obtain any information that the director considers pertinent, with respect to the financial worth, assets, and liabilities of the applicant, from banks or other financial institutions, surety companies, dealers in material, equipment, or supplies, or other persons having business transactions with the applicant. Applicants shall expressly authorize all such financial institutions or other persons to furnish any such information requested from them by the director. All information filed with or furnished to the director by applicants or other persons, in connection with the administration of sections 5525.02 to 5525.09 of the Revised Code, shall be kept in confidence by the director and not revealed to any person, except upon proper order of a court. Failure to submit the required information or to expressly grant the director authority to obtain the required information shall result in the denial of a certificate of qualification. The director or the director's subordinates shall have access to the books of account and financial records of all applicants, unless the financial statement furnished by any applicant is prepared and attested as correct by a certified public

accountant.

If an applicant for either type of certificate of qualification is or has been an employer in this state the application shall be accompanied by satisfactory evidence that the applicant has complied with Chapter 4123. of the Revised Code.

The director may require all qualified bidders to file financial statements at such intervals as the director prescribes. Sections 5525.02 to 5525.09 of the Revised Code shall be administered without reference to the residence of applicants, and the rules of the director shall apply equally to residents and nonresidents of this state. Sections 5525.02 to 5525.09 of the Revised Code, do not apply to the purchase of material, equipment, or supplies.

Sec. 5540.01. As used in this chapter:

(A) "Transportation improvement district" or "district" means a transportation improvement district designated pursuant to section 5540.02 of the Revised Code.

(B) "Governmental agency" means a department, division, or other unit of state government; a county, township, or municipal corporation or other political subdivision; a regional transit authority or regional transit commission created pursuant to Chapter 306. of the Revised Code; a port authority created pursuant to Chapter 4582. of the Revised Code; and the United States or any agency thereof.

(C) "Project" means a street, highway, parking facility, freight rail tracks and necessarily related freight rail facilities, or other transportation project constructed or improved under this chapter and includes all bridges, tunnels, overpasses, underpasses, interchanges, approaches, those portions of connecting streets or highways that serve interchanges and are determined by the district to be necessary for the safe merging of traffic between the project and those streets or highways, service facilities, and administration, storage, and other buildings, property, and facilities, that the district considers necessary for the operation of the project, together with all property and rights that must be acquired by the district for the construction, maintenance, or operation of the project.

(D) "Cost," as applied to the construction of a project, includes the cost of construction, including bridges over or under existing highways and railroads, acquisition of all property acquired by the district for such construction, demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, site clearance, improvement, and preparation, diverting streets or highways, interchanges with streets or highways, access roads to private property, including the cost of land or

easements therefor, all machinery, furnishings, and equipment, communications facilities, financing expenses, interest prior to and during construction and for one year after completion of construction, traffic estimates, indemnity and surety bonds and premiums on insurance, and guarantees, engineering, feasibility studies, and legal expenses, plans, specifications, surveys, estimates of cost and revenues, other expenses necessary or incidental to determining the feasibility or practicability of constructing a project, and such other expense as may be necessary or incident to the construction of the project and the financing of such construction. Any obligation or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the construction of a project may be regarded as part of the cost of the project and reimbursed from revenues, taxes, or the proceeds of bonds as authorized by this chapter.

(E) "Owner" includes any person having any title or interest in any property authorized to be acquired by a district under this chapter.

(F) "Revenues" means all moneys received by a district with respect to the lease, sublease, or sale, including installment sale, conditional sale, or sale under a lease-purchase agreement, of a project, all moneys received by a district under an agreement pursuant to Section 515.03 of H.B. 66 of the 126th General Assembly, Section 555.10 of H.B. 67 of the 127th general assembly, or Section 755.20 of H.B. 153 of the 129th general assembly, any gift or grant received with respect to a project, tolls, special assessments levied by the district, proceeds of bonds to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the district, proceeds from any insurance, condemnation, or guaranty pertaining to a project or property mortgaged to secure bonds or pertaining to the financing of a project, and income and profit from the investment of the proceeds of bonds or of any revenues.

(G) "Street or highway" has the same meaning as in section 4511.01 of the Revised Code.

(H) "Financing expenses" means all costs and expenses relating to the authorization, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of bonds including, without limitation, costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement agents, investment bankers, paying agents, registrars, authenticating agents,

remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption premiums, and credit enhancement facilities.

(I) "Bond proceedings" means the resolutions, trust agreements, certifications, notices, sale proceedings, leases, lease-purchase agreements, assignments, credit enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, or any one or more of combination thereof, authorizing, or authorizing or providing for the terms and conditions applicable to, or providing for the security or sale or award or liquidity of, bonds, and includes the provisions set forth or incorporated in those bonds and bond proceedings.

(J) "Bond service charges" means principal, including any mandatory sinking fund or mandatory redemption requirements for retirement of bonds, and interest and any redemption premium payable on bonds, as those payments come due and are payable to the bondholder or to a person making payment under a credit enhancement facility of those bond service charges to a bondholder.

(K) "Bond service fund" means the applicable fund created by the bond proceedings for and pledged to the payment of bond service charges on bonds provided for by those proceedings, including all moneys and investments, and earnings from investments, credited and to be credited to that fund as provided in the bond proceedings.

(L) "Bonds" means bonds, notes, including notes anticipating bonds or other notes, commercial paper, certificates of participation, or other evidences of obligation, including any interest coupons pertaining thereto, issued pursuant to this chapter.

(M) "Net revenues" means revenues lawfully available to pay both current operating expenses of a district and bond service charges in any fiscal year or other specified period, less current operating expenses of the district and any amount necessary to maintain a working capital reserve for that period.

(N) "Pledged revenues" means net revenues, moneys and investments, and earnings on those investments, in the applicable bond service fund and any other special funds, and the proceeds of any bonds issued for the purpose of refunding prior bonds, all as lawfully available and by resolution of the district committed for application as pledged revenues to the payment of bond service charges on particular issues of bonds.

(O) "Special funds" means the applicable bond service fund and any

accounts and subaccounts in that fund, any other funds or accounts permitted by and established under, and identified as a special fund or special account in, the bond proceedings, including any special fund or account established for purposes of rebate or other requirements under federal income tax laws.

(P) "Credit enhancement facilities" means letters of credit, lines of credit, standby, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of bond service charges, for security or additional security in the event of nonpayment or default in respect of bonds, or for making payment of bond service charges and at the option and on demand of bondholders or at the option of the district or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the bonds, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement.

(Q) "Refund" means to fund and retire outstanding bonds, including advance refunding with or without payment or redemption prior to stated maturity.

(R) "Property" includes interests in property.

(S) "Administrative agent," "agent," "commercial paper," "floating rate interest structure," "indexing agent," "interest rate hedge," "interest rate period," "put arrangement," and "remarketing agent" have the same meanings as in section 9.98 of the Revised Code.

(T) "Outstanding" as applied to bonds means outstanding in accordance with the terms of the bonds and the applicable bond proceedings.

(U) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

Sec. 5540.03. (A) A transportation improvement district may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Adopt an official seal;

(3) Sue and be sued in its own name, plead and be impleaded, provided any actions against the district shall be brought in the court of common pleas of the county in which the principal office of the district is located, or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices of every kind shall be served on the district by leaving a copy thereof at its principal office with the

secretary-treasurer;

(4) Purchase, construct, maintain, repair, sell, exchange, police, operate, or lease projects;

(5) Issue either or both of the following for the purpose of providing funds to pay the costs of any project or part thereof:

(a) Transportation improvement district revenue bonds;

(b) Bonds pursuant to Section 13 of Article VIII, Ohio Constitution;

(6) Maintain such funds as it considers necessary;

(7) Direct its agents or employees, when properly identified in writing and after at least five days' written notice, to enter upon lands within its jurisdiction to make surveys and examinations preliminary to the location and construction of projects for the district, without liability of the district or its agents or employees except for actual damage done;

(8) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions and the execution of its powers under this chapter;

(9) Employ or retain or contract for the services of consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, financial advisers, trustees, marketing, remarketing, and administrative agents, attorneys, and other employees, independent contractors, or agents as are necessary in its judgment and fix their compensation, provided all such expenses shall be payable solely from the proceeds of bonds or from revenues;

(10) Receive and accept from the federal or any state or local government, including, but not limited to, any agency, entity, or instrumentality of any of the foregoing, loans and grants for or in aid of the construction, maintenance, or repair of any project, and receive and accept aid or contributions from any source or person of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such loans, grants, and contributions are made. Nothing in division (A)(10) of this section shall be construed as imposing any liability on this state for any loan received by a transportation improvement district from a third party unless this state has entered into an agreement to accept such liability.

(11) Acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(12) Establish and collect tolls or user charges for its projects;

(13) Do all acts necessary and proper to carry out the powers expressly granted in this chapter.

(B) Chapters 123., 124., 125., 153., and 4115., and sections 9.331~~,~~

~~9.332, 9.333,~~ to 9.335 and 307.86 of the Revised Code do not apply to contracts or projects of a transportation improvement district.

Sec. 5540.031. (A) The board of trustees of a transportation improvement district may provide for the construction, reconstruction, improvement, alteration, or repair of any road, highway, public place, building, or other infrastructure and levy special assessments, if the board determines that the public improvement will benefit the area where it will be constructed, reconstructed, improved, altered, or repaired. However, if the improvement is proposed for territory in a political subdivision located outside the district's territory, the legislative authority of that political subdivision shall approve the undertaking of the improvement within the political subdivision.

(B) If any improvements are made under this section, contracts for the improvement may provide that the improvement may be owned by the district or by the person or corporation supplying it to the district under a lease.

(C) If the board of trustees of a district proposes an improvement described in division (A) of this section, the board shall conduct a hearing on the proposed improvement. The board shall indicate by metes and bounds the area in which the public improvement will be made and the area that will benefit from the improvement.

(D) The board of trustees shall fix a day for a hearing on the proposed improvement. The secretary-treasurer of the board shall deliver, to each owner of a parcel of land or a lot that the board identifies as benefiting from the proposed improvement, a notice that sets forth the substance of the proposed improvement and the time and place of the hearing on it. At least fifteen days before the date set for the hearing, a copy of the notice shall be served upon the owner or left at ~~his~~ the owner's usual place of residence, or, if the owner is a corporation, upon an officer or agent of the corporation. On or before the day of the hearing, the person serving notice of the hearing shall make return thereon, under oath, of the time and manner of service, and shall file the notice with the secretary-treasurer of the board.

At least fifteen days before the day set for the hearing on the proposed improvement, the secretary-treasurer shall give notice to each nonresident owner of a lot or parcel of land in the area to be benefited by the improvement, by publication once in a newspaper ~~published and~~ of general circulation in the one or more counties in which this area is located. The publication of the notice shall be verified by affidavit of the printer or other person having knowledge of the publication and shall be filed with the secretary-treasurer of the district on or before the date of the hearing.

(E) At the time and place specified in the notice for a hearing on the proposed improvement, the board of trustees of the district shall meet and hear any and all testimony provided by any of the parties affected by the proposed improvement and by any other persons competent to testify. The board or its representatives shall inspect, by an actual viewing, the area to be benefited by the proposed improvement. The board shall determine the necessity of the proposed improvement and may find that the proposed improvement will result in general as well as special benefits. The board may adjourn from time to time and to such places as it considers necessary.

(F)(1) The board may award contracts or enter into a lease agreement for the construction, reconstruction, improvement, alteration, or repair of any improvement described in division (A) of this section and may issue notes, bonds, revenue anticipatory instruments, or other obligations, as authorized by this chapter, to finance the improvements.

(2) All or a part of the costs and expenses of providing for the construction, reconstruction, improvement, alteration, or repair of any improvement described in division (F)(1) of this section may be paid from a fund into which may be paid special assessments levied under this section against the lots and parcels of land in the area to be benefited by the improvement, if the board finds that the improvement will result in general or special benefits to the benefited area. These special assessments shall be levied not more than one time on the same lot or parcel of land. Such costs and expenses may also be paid from the treasury of the district or from other available sources in amounts the board finds appropriate.

(3) The board shall levy special assessments at an amount not to exceed ten per cent of the assessable value of the lot or parcel of land being assessed. The board shall determine the assessable value of a lot or parcel of land in the following manner: the board shall first determine the fair market value of the lot or parcel being assessed in the calendar year in which the area to be benefited by the public improvement is first designated and then multiply this amount by the average rate of appreciation in value of the lot or parcel since that calendar year. The assessable value of the lot or parcel is the current fair market value of the lot or parcel minus the amount calculated in the manner described in the immediately preceding sentence. The board may adjust the assessable value of a lot or parcel of land to reflect a sale of the lot or parcel that indicates an appreciation in its value that exceeds its average rate of appreciation in value.

(4) Special assessments levied by the board may be paid in full in a lump sum or may be paid and collected in equal semiannual installments, equal in number to twice the number of years for which the lease of the

improvement is made or twice the number of years that the note, bond, instrument, or obligation that the assessments are pledged to pay requires. The assessments shall be paid and collected in the same manner and at the same time as real property taxes are paid and collected, and assessments in the amount of fifty dollars or less shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable. Complaints regarding assessments may be made to the county board of revision in the same manner as complaints relating to the valuation and assessment of real property.

Credits against assessments shall be granted equal to the value of any construction, reconstruction, improvement, alteration, or repair that an owner of a parcel of land or lot makes to an improvement pursuant to an agreement between the owner and the district.

(5) After the levy of a special assessment, the board, at any time during any year in which an installment of the assessment becomes due, may pay out of other available funds of the district, including any state or federal funds available to the district, the full amount of the price of the contract that the special assessments are pledged to pay for that year or any other portion of the remaining obligation. The board shall be the sole determiner of the definition, extent, and allocation of the benefit resulting from an improvement that the board authorizes under this section.

(G)(1) The board shall certify to the appropriate county auditor the boundaries of the area that is benefited by any public improvement the board authorizes under this section and, when the board so requests, the auditor shall apportion the valuation of any lot or parcel of land lying partly within and partly outside the area so benefited.

(2) The board by resolution shall assess against the lots and parcels of land located in the area that is benefited by a public improvement such portion of the costs of completing the public improvement as the board determines, for the period that may be necessary to pay the note, bond, instrument, or obligation issued to pay for the improvement and the proceedings in relation to it, and shall certify these costs to the appropriate county auditor.

(3) Except for assessments that have been paid in full in a lump sum, the county auditor shall annually place upon the tax duplicate, for collection in semiannual installments, the two installments of the assessment for that year, which shall be paid and collected at the same time and in the same manner as real property taxes. The collected assessments shall be paid to the treasury of the district and the board of the district shall use the assessments for any purpose authorized by this chapter.

Sec. 5540.05. The board of trustees of a district may acquire real property in fee simple in the name of the district in connection with, but in excess of that needed for, a project by any method other than appropriation and hold the property for such period of time as the board determines. All right, title, and interest of the district in the property may be sold at public auction or otherwise, as the board considers in the best interests of the district; but in no event shall the property be sold for less than two-thirds of its appraised value. Sale at public auction shall be undertaken only after the board advertises the sale in a newspaper of general circulation in the district for ~~at least~~ two weeks or as provided in section 7.16 of the Revised Code, prior to the date set for the sale.

Sec. 5543.10. (A) The county engineer, upon the order of the board of county commissioners or board of township trustees, shall construct sidewalks, curbs, or gutters of suitable materials, along or connecting the public highways, outside any municipal corporation, upon the petition of a majority of the abutting property owners. The expense of the construction of these improvements may be paid by the county or township, or by the county or township and abutting property owners in such proportion as determined by the board of county commissioners or board of township trustees. The board of county commissioners or board of township trustees may assess part or all of the cost of these improvements against the abutting property owners, in proportion to benefits accruing to their property.

The board of county commissioners or board of township trustees, by unanimous vote, may order the construction, repair, or maintenance of sidewalks, curbs, and gutters along or connecting the public highways, outside a municipal corporation, without a petition for that construction, repair, or maintenance, and may assess none, all, or any part of the cost against abutting property owners, provided that notice is given by publication for three successive weeks in a newspaper of general circulation within the county or as provided in section 7.16 of the Revised Code, stating the intention of the board of county commissioners or board of township trustees to construct, repair, or maintain the specified improvements and fixing a date for a hearing on them. As part of a sidewalk improvement, the board may include the repair or reconstruction of a driveway within the sidewalk easement. As part of a curb improvement, the board may include construction or repair of a driveway apron.

Notice to all abutting property owners shall be given by two publications in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, at least ten days prior to the date fixed in the notice for the making of assessments. The notice shall state

the time and place when abutting property owners will be given an opportunity to be heard with reference to assessments. The board of county commissioners or board of township trustees shall determine whether assessments shall be paid in one or more installments.

(B) The county engineer may trim or remove any and all trees, shrubs, and other vegetation growing in or encroaching onto the right-of-way of the easement of a public sidewalk along or connecting the public highways and maintained by the county, and the board of township trustees may trim or remove any and all trees, shrubs, and other vegetation growing in or encroaching onto the right-of-way of the easement of a public sidewalk along or connecting the public highways and maintained by the township, as is necessary in the engineer's or board's judgment to facilitate the right of the public to improvement and maintenance of, and uninterrupted travel on, public sidewalks in the county or township.

Sec. 5549.21. The board of township trustees may purchase or lease such machinery and tools as are necessary for use in constructing, reconstructing, maintaining, and repairing roads and culverts within the township, and shall provide suitable places for housing and storing machinery and tools owned by the township. It may purchase such material and employ such labor as is necessary for carrying into effect this section, or it may authorize the purchase or employment of such material and labor by one of its number, or by the township highway superintendent, at a price to be fixed by the board. All payments on account of machinery, tools, material, and labor shall be made from the township road fund. Except as otherwise provided in sections 505.08, 505.101, and 5513.01 of the Revised Code, all purchases of materials, machinery, and tools shall, if the amount involved exceeds ~~twenty-five~~ fifty thousand dollars, be made from the lowest responsible bidder after advertisement, as provided in section 5575.01 of the Revised Code.

If, in compliance with section 505.10 of the Revised Code, the board wishes to sell machinery, equipment, or tools owned by the township to the person from whom it is to purchase other machinery, equipment, or tools, the board may offer, if the amount of the purchase alone involved does not exceed ~~twenty-five~~ fifty thousand dollars, to sell such machinery, equipment, or tools and have the amount credited by the vendor against the purchase of the other machinery, equipment, or tools. If the purchase price of the other machinery, equipment, or tools alone exceeds ~~twenty-five~~ fifty thousand dollars, the board may give notice to the competitive bidders of its willingness to accept offers for the purchase of the old machinery, equipment, or tools, and those offers shall be subtracted from the selling

price of the other machinery, equipment, or tools as bid, in determining the lowest responsible bidder. Notice of the willingness of the board to accept offers for the purchase of the old machinery, equipment, or tools shall be made as a part of the advertisement for bids.

Sec. 5552.06. (A) A board of county commissioners or a board of township trustees may adopt access management regulations or any amendments to those regulations after holding at least two public hearings at regular or special sessions of the board. The board shall consider the county engineer's proposed regulations prepared under division (B) of section 5552.04 or 5552.05 of the Revised Code and all comments on those regulations. The board, in its discretion, may, but need not, adopt any or all of those proposed regulations. After the public hearings, the board may decide not to adopt any access management regulations.

The board shall publish notice of the public hearings in a newspaper of general circulation in the county or township, as applicable, once a week for ~~at least~~ two weeks or as provided in section 7.16 of the Revised Code, immediately preceding the hearings. The notice shall include the time, date, and place of each hearing. Copies of any proposed regulations or amendments shall be made available to the public at the board's office and, if the county engineer administers or is proposed to administer a point of access permit, in the engineer's office.

(B) In addition to the notice required by division (A) of this section, not less than thirty days before holding a public hearing, a board of county commissioners shall send a copy of the county engineer's proposed regulations, a copy of the advisory committee's recommendations, and a request for written comments to the board of township trustees of each township in the county, the department of transportation district deputy director for the district in which the county is located, a representative of the metropolitan planning organization, where applicable, and at least the local professional associations representing the following professions:

(1) Homebuilders;

(2) Realtors;

(3) Professional surveyors;

(4) Attorneys;

(5) Professional engineers.

(C) In addition to the notice required by division (A) of this section, a board of township trustees shall send a copy of the county engineer's proposed regulations, a copy of the advisory committee's recommendations, and a request for written comments, not less than thirty days before holding a public hearing, to the department of transportation district deputy director

for the district in which the township is located, a representative of the metropolitan planning organization, where applicable, and at least the local professional associations representing the professions listed in division (B) of this section.

Sec. 5553.05. (A) In the resolution required by section 5553.04 of the Revised Code, the board of county commissioners shall fix a date when it will view the proposed improvement, and also a date for a final hearing thereon.

The board shall give notice of the time and place for both such view and hearing by publication once a week for two consecutive weeks in a newspaper ~~published and having~~ of general circulation in the county where such improvement is located~~, but if there is no such newspaper published in said county, then in a newspaper having general circulation in said county~~ or as provided in section 7.16 of the Revised Code. Such notice, in addition to the date and place of such view and place and time of the final hearing, shall state briefly the character of such improvement.

(B) If the board adopts a resolution to vacate a public road as provided in section 5553.04 of the Revised Code, or if a petition to vacate a public road is filed, the board shall, in addition to the notice of the time and place for hearing prescribed in division (A) of this section, send written notice of the hearing by first class mail at least twenty days before the date of the public hearing to owners of property abutting upon that portion of the road to be vacated, and to the director of natural resources. Such notice shall be mailed to the addresses of such owners appearing on the county auditor's current tax list or the treasurer's mailing list, and such other list or lists that may be specified by the board. The failure of the delivery of such notice does not invalidate any such vacating of the road authorized in the resolution.

Sec. 5553.19. The county engineer shall view and survey the road as provided in section 5553.18 of the Revised Code, and shall make a return of the survey and plat of the road to the board of county commissioners. Upon the filing of the report of the engineer, the board shall give notice of the filing of such report by publication as provided in section 7.16 of the Revised Code or once each week for three consecutive weeks in a newspaper ~~published and having~~ of general circulation in the county in which such road is situated~~, but if there is no such newspaper published in said county, then in a newspaper having general circulation in said county~~. Such notice shall state the date and time of the hearing upon the report of the engineer. If exceptions or objections are made, the board shall hear them, and it may approve or reject said report. If the report of the engineer is

approved, the board shall cause such report to be recorded together with the survey and plat of such road.

Sec. 5553.23. If a person through whose land a public road has been established, which is under the jurisdiction of the board of county commissioners, desires to turn or change or relocate such road or any part thereof through any part of ~~his~~ the person's land, ~~he~~ the person may file a petition with the board of county commissioners setting forth briefly the particular change ~~he desires~~ desired. Upon the receipt of such petition, the board shall give notice by publication once not later than two weeks prior to the date for the hearing on such petition in ~~some~~ a newspaper ~~published and~~ of general circulation in said county, ~~but if there is no such newspaper published in said county, then in a newspaper having general circulation in said county,~~ stating that such petition has been filed and setting forth the change desired in such road and the date and place for the hearing on said petition. If a public road was once established for public convenience through private lands, but has not been improved by public funds and for more than twenty-one years has not been used, the owner of such land may petition the board to vacate the road in accordance with proceedings under sections 5553.04 to 5553.11 of the Revised Code.

A person through whose land a trail right of way has been preserved under section 5553.044 of the Revised Code may file a petition to turn or change the route of the trail right of way in the manner provided in this section, and such petition shall be acted upon in the manner set forth in sections 5553.23 to 5553.31 of the Revised Code. Notice of the hearing in such case shall also be made by first class mail to the director of natural resources. If the board turns or changes the route of the trail right of way, it shall furnish the director with a full and accurate description or map of the change.

Sec. 5553.42. The board of county commissioners shall give notice to the owners of lands through which the proposed road will pass of the filing of the petition provided for in section 5553.41 of the Revised Code and the date and place of the hearing thereon. Such notice shall be served on such owners personally, or by leaving a copy of such notice at the usual place of residence of such owners at least five days before the date of the hearing on said petition. Proof of service of such notice shall be made by affidavit of the person serving such notice. If any of such owners are nonresidents of the county, the board shall give notice to such nonresidents by publication once each week for two consecutive weeks in a newspaper ~~published and having~~ of general circulation ~~within~~ in the county~~, but if there is no such newspaper published in said county, then in a newspaper having general circulation in~~

~~said county~~ or as provided in section 7.16 of the Revised Code. A copy of the newspaper containing such notice shall be mailed by the county auditor to each nonresident whose post-office address is known to such auditor. Such notice shall state the time and place of the hearing on claims for compensation and damages.

Sec. 5555.07. The county engineer shall prepare and file with the board of county commissioners, by the time fixed therefor by the board, copies of the surveys, plans, profiles, cross sections, estimates of costs, and specifications for the improvement and estimated assessments upon lands benefited thereby. Thereupon such board shall file such copies in its office for the inspection and examination of all persons interested. Except in a case involving the improvement of a public road in which no land or property is taken or assessed, the board shall publish in a newspaper ~~published and~~ of general circulation in the county, ~~or if no newspaper is published in the county then in a newspaper having general circulation in the county,~~ for the period of two weeks or as provided in section 7.16 of the Revised Code, notice that a resolution has been adopted providing for said improvement, and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications, together with estimated assessments upon the lands benefited by such improvement for the proportion of the cost thereof to be assessed therefor, are on file in the office of the board for the inspection of persons interested therein. Such notice shall state the time and place for hearing objections to said improvement and to such estimated assessments. In a case involving the improvement of a public road in which no land or property is taken or assessed, the board shall publish the notice required by this section once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code.

At such hearing the board may order said surveys, plans, profiles, cross sections, estimates, and specifications to be changed or modified and shall make such adjustments of the estimated assessments as seem just to it. Thereupon the board may approve such surveys, plans, profiles, cross sections, specifications, and estimates and approve and confirm estimated assessments as made by the engineer or as modified and changed by the board. Such assessments when so approved and confirmed shall be certified to the county auditor of the county and shall thereupon become a lien upon the land charged therewith. The board may declare against said improvement.

Sec. 5555.27. As soon as the county engineer has transmitted to the several boards of county commissioners copies of ~~his~~ the engineer's surveys, plans, profiles, cross sections, estimates, and specifications for the

improvement, the joint board of county commissioners shall, except in cases of reconstruction or repair of roads where no lands or property are taken, fix a time and place for hearing objections to said improvement. The joint board shall thereupon, except in cases of reconstruction or repair of roads where no lands or property are taken, publish in a newspaper ~~published and~~ of general circulation within each interested county, ~~or if there is no such newspaper published in such county then in a newspaper having general circulation in such county,~~ once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, a notice that such improvement is to be made and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications therefor are on file in the office of the board of each interested county for the inspection and examination of all persons interested therein. Such notice shall also state the time and place for hearing objections to said improvement. Proceedings for the appropriation of land needed for such improvement shall be maintained in accordance with sections 163.01 to 163.22~~, inclusive,~~ of the Revised Code.

Sec. 5555.42. A board of county commissioners desiring to construct a county road improvement, and finding that no equitable method of apportioning the compensation, damages, and expenses thereof is provided by section 5555.41 of the Revised Code, or finding that an equitable assessment cannot be made by the use of any of the several assessment areas authorized by said section, may order the county engineer to make a tentative plan for such improvement and an approximate estimate of the cost. Such board may thereupon file an application in the court of common pleas describing the improvement in question, and a copy of the tentative plan and approximate estimate of cost shall be attached to such application. The board shall set forth in such application that the compensation, damages, and expenses of the improvement cannot be equitably apportioned under any of the several plans provided by said section or that such compensation, damages, and expenses cannot be equitably assessed by the use of any one of the several assessment areas authorized by said section, or that both such conditions exist, and it shall set forth a method of apportioning the compensation, damages, and expenses and a definite description of the area against which it desires to assess any part of such compensation, damages, and expenses. The application shall contain a prayer requesting authority from such court to construct the improvement and apportion the compensation, damages, and expenses according to the plan suggested by such board and to assess the designated portion of the cost against the real estate within the area described in the petition.

Notice of the filing and pendency of such application shall be given

once a week for four consecutive weeks by publication in ~~two newspapers published and of general circulation in the county, or if there are no such newspapers then in two newspapers~~ a newspaper of general circulation in such county or as provided in section 7.16 of the Revised Code. Such notice shall describe the route and termini of the improvement and set forth the estimated cost and the proposed method of apportionment and assessment area. After such notice has been given, the court or a judge thereof shall fix a time for a hearing on such application, and, at the time fixed, the court or a judge thereof shall hear such application and all evidence offered by the board or any taxpayer of the county for or against the proposed plan of apportionment and for or against the use of the suggested assessment area. If the court finds that the suggested plan of apportionment and the area against which special assessments are to be made are fair and just, that the cost of the improvement will not be excessive in view of the benefits conferred, and that all the real estate within the suggested assessment area will be benefited by the construction of the improvement upon the plan suggested and by the use of the method of apportionment set forth in said application, such court may authorize the board to proceed upon the suggested plan and to apportion the compensation, damages, and expenses in the manner set forth in the application and to assess against the real estate within the assessment area designated in the application, according to the benefits, that portion of the cost to be specially assessed; otherwise the court shall dismiss the application and the board may not proceed with the improvement. The court may modify the suggested plan of apportionment or the suggested assessment area and grant the prayer of the application subject to such modifications as it determines are just and proper. The board in its application may set up any division of cost which it thinks proper among the county, the owners of lands to be specially assessed, and any municipal corporation within which such projected improvement is situated in whole or in part, but no portion of the cost may be apportioned to a municipal corporation without the consent of such municipal corporation evidenced by an ordinance or resolution of its legislative authority.

When the prayer of any such application is granted by the court or a judge thereof and the plan of apportionment and area of assessment is approved by such court, either as set forth in the application or as modified by the court, the board may proceed with the construction of the improvement and use the method of apportionment and the assessment area authorized by the court. In such event, the board may levy taxes and issue bonds in the manner provided by law with respect to improvements, the compensation, damages, and expenses of which are apportioned and paid as

provided in section 5555.41 of the Revised Code, and all proceedings in connection with such improvement shall be conducted in accordance with sections 5555.01 to 5555.83 of the Revised Code, except as provided in this section. The special assessments shall be made by the board against the real estate within the assessment area authorized by the court, but no assessment against any lot or parcel of real estate shall exceed the actual benefits conferred thereon by the construction of the improvement. This section also applies to improvements of sections of a state highway within counties having a tax duplicate of real and personal property in excess of three hundred million dollars, and with respect to which the board desires to co-operate with the department of transportation.

Sec. 5559.06. Upon the completion of the surveys, plans, profiles, cross sections, estimates, and specifications for an improvement under section 5559.02 of the Revised Code by the county engineer, ~~he~~ the engineer shall transmit to the board of county commissioners copies of such surveys, plans, profiles, cross sections, estimates, and specifications. The board shall then publish, in a newspaper ~~published and~~ of general circulation within the county, ~~and if there is no such newspaper published in the county then in one having general circulation in such county,~~ once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, a notice that such improvement is to be made and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for it are on file in the office of the board for the inspection and examination of all persons interested. Such notice shall also state the time and place for hearing objections to the improvement.

In the event that land or property is to be taken for such improvement, such taking shall be in accordance with sections 163.01 to 163.22~~, inclusive,~~ of the Revised Code.

Sec. 5559.10. As soon as all questions of compensation and damages have been determined in a road improvement case, the county engineer shall make, upon actual view, an estimated assessment upon the real estate to be charged therewith, of the compensation, damages, and costs of an improvement as provided by section 5559.02 of the Revised Code. Such estimated assessment shall be according to the benefit which will result to the real estate. In making such assessment the engineer may take into consideration any previous special assessments made upon the real estate for road improvements. The schedule of such assessments shall be filed in the office of the board of county commissioners for the inspection of the persons interested. Before adopting the assessment, the board shall publish, once each week for two consecutive weeks, in ~~some~~ a newspaper ~~published~~

~~and~~ of general circulation in the county or as provided in section 7.16 of the Revised Code, ~~but if there is no such newspaper then in one having general circulation in the county,~~ notice that such assessment has been made, is on file in the office of the board, and the date when objections will be heard to such assessment. If any owner of property affected thereby desires, ~~he~~ the owner may file ~~his~~ objections to said assessments, in writing, with the board before the time for hearing. If any objections are filed the board shall hear them and act as an equalizing board. It may change such assessments if, in its opinion, any change is necessary to make them just and equitable, and the board shall approve and confirm such assessments as reported by the engineer or modified by it. Such assessments, when so approved and confirmed, shall be a lien on the land chargeable therewith.

Sec. 5559.12. After the board of county commissioners has decided to proceed with an improvement as provided by section 5559.02 of the Revised Code, it shall advertise for bids once, not later than two weeks prior to the date fixed for the letting of the contract, in a newspaper ~~published and~~ of general circulation in the county~~, but if there is no such newspaper then in one having general circulation in such county~~. Such notice shall state that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for such improvement are on file in the office of the board, and the time within which bids will be received. The board shall award the contract to the lowest responsible bidder.

The contract shall be let upon the basis of lump sum bids, unless the board orders that it be let upon the basis of unit price bids, in which event it shall be let upon such basis. The bids received shall be opened at the time stated in the notice. The board may reject all bids.

Sec. 5561.04. The board of county commissioners, desiring to proceed under sections 4957.06 and 5561.01 to 5561.15 of the Revised Code, shall, after receipt of the certificate of necessity and expediency from the director of transportation, as provided in section 5561.03 of the Revised Code, hold a public hearing as to the expediency of constructing such improvement, notice of which shall be given by publication in ~~two newspapers published and~~ a newspaper of general circulation in the county, ~~if such there be, otherwise in two newspapers of general circulation in such county,~~ for two weeks prior to the date set for such hearing or as provided in section 7.16 of the Revised Code, and shall be served upon the railroad or interurban railway companies in the manner for the service of summons in civil actions, not less than twenty days prior to the date of such hearing.

The board, after such hearing and for the purpose of making or causing such an improvement to be made, may, by resolution adopted by unanimous

vote, require the railroad company, in co-operation with the county engineer or any engineer designated by the board, to prepare and submit to the board within six months, unless longer time is mutually agreed upon in writing, plans and specifications for such improvements, specifying the number, character, and location of all piers and supports which are to be permanently placed in any road or highway, specifying the grades to be established for the roads and the height, character, and estimated cost of any viaduct or way above or below any railroad track, and the change of grade required to be made of such tracks including side tracks and switches. But in changing the grade of any railroad, no grade shall be required in excess of that adopted by the railroad company for its construction work on that division or part of the railroad on which the improvement is to be made, without the consent of the railroad company, nor shall the railroad company's tracks be required to be placed below high-water mark.

Such resolution shall be published in the same manner as resolutions of the legislative authority of a municipal corporation declaring the necessity of a contemplated public improvement, and shall be served by the sheriff upon the railroad or interurban railway companies in the manner provided for the service of summons in civil actions. If the proposed public improvement is to be made within a municipal corporation, notice of the passage of the same shall be served upon the municipal corporation by delivering to the clerk of the village or legislative authority of a city a true copy thereof.

If, at the expiration of six months from the passage of such resolution, the railroad company has refused or failed to co-operate in the preparation of such plans and specifications, or if the county engineer or engineer designated by the board and the railroad company fail to agree upon the plans and specification of such improvement, then either the railroad company or the county may submit the matter of determining the method by which the improvement shall be made to the court of common pleas of such county. Either the county or company, after the expiration of six months from the passage of the resolution, may apply to such court by petition, accompanied by the necessary plans prepared by the county or railroad company, covering the grade crossing proposed to be abolished. Such plans must show the grades to be established for such roads or highways, the changes to be made in the location of roads or highways, the height, character, and estimated cost of any viaduct or way above or below the railroad tracks, the number, character, and location of piers, abutments, or supports to be permanently located in the roads or highways, and the change of grade to be made in any railroad tracks, including sidetracks and

switches.

Sec. 5561.08. Notice of the passage of a resolution for a grade crossing improvement shall be served by the sheriff of the county, upon the owner of each piece of property which will be affected by any change of grade, in the manner provided for the service of summons in civil actions. If any of such owners are nonresidents of the county, or if it appears from the return that they cannot be found, the notice shall be published for at least two weeks in ~~an English language~~ a newspaper ~~published~~ of general circulation in ~~such~~ the county or as provided in section 7.16 of the Revised Code. Notice shall be completed at least twenty days before any work is done on such improvement, and the sheriff's return shall be prima-facie evidence of the facts recited therein.

Section 727.18 of the Revised Code shall apply to the notice provided for in this section, and to all claims for damages by reason of such improvement. Such claims shall be filed with the county auditor within the time, and rights thereunder shall pass to vendees, as provided in such section. After the expiration of the time provided for the filing of claims, the board of county commissioners, when claims have been filed within the time limited, shall determine, by resolution, whether such claims are to be judicially inquired into before commencing or after the completion of the proposed improvement. Thereupon, the county prosecutor shall make application for a jury, to the court of common pleas, or probate court of the county, before commencing or after the completion of the improvement, as the board determines, and all proceedings upon such application shall be governed by the laws relating to similar applications provided for in cases of city improvements.

Sec. 5571.011. If a person through whose land a public road has been established which is under the jurisdiction of a board of township trustees, desires to turn or change or relocate such road or any part thereof through any part of ~~his~~ the person's land, ~~he~~ the person may file a petition with such board of township trustees setting forth briefly the particular change ~~he desires~~ desired. Upon receipt of such petition, the board of township trustees shall give notice by publication once, not later than two weeks prior to the date which such board shall fix for a hearing on such petition, in a newspaper ~~published or~~ of general circulation in said township, stating that such petition has been filed and setting forth the change desired in such road and the date and place of such hearing.

Upon receipt of such a petition the board of township trustees shall cause a competent engineer to make a survey of the ground over which the road is proposed to be changed, and to make a report in writing, together

with a plat and survey of the proposed change and ~~his~~ the engineer's opinion as to its advantage or disadvantage. The report of such engineer shall be filed with the board prior to the hearing of such petition.

At the hearing had on the petition the board of township trustees may hear evidence for or against changing the road, and if the board is satisfied that the proposed change will not cause serious injury or disadvantage to the public, it may make a finding of such fact in its journal and authorize the petitioner to change such road in conformity with the prayer of the petition. The board may grant the change as prayed for in the petition, or it may order such change of the route of such road as will, in its judgment, be for the best interest of the public.

Upon receiving satisfactory evidence that the road has been changed as authorized by it, and opened to the legal width and improved as required by it, the board of township trustees shall declare such new road a public highway and cause a record thereof to be made and at the same time vacate so much of the old road as is rendered unnecessary by the new road. The person petitioning for such change shall in all cases pay all costs and expenses in connection with the proceeding, as found and determined by the board, and the expense of making such change, including the cost of relocation of any conduits, cables, wires, towers, poles or other equipment or appliances of any public utility, located on, over or under such road. The petitioner shall, on the filing of the petition for such change, give bond to the satisfaction of the board in such amount as it determines to secure payment of the costs of the proceeding and to cover the expense of making the change asked for by the petition.

Sec. 5573.02. Upon the completion of the surveys, plans, profiles, cross sections, estimates, and specifications for a road improvement by the county engineer, ~~he~~ the engineer shall transmit to the board of township trustees copies of the same. Except in cases of reconstruction or repair of roads, where no land or property is taken, the board shall then cause to be published in a newspaper~~, published in the county and~~ of general circulation within the township, ~~but if no such paper is published in the county then in one having general circulation in such township,~~ once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, a notice that such improvement is to be made and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for it are on file with the board for the inspection and examination of all persons interested.

In the event that land or property is to be taken for such improvement, proceedings shall be had in accordance with sections 163.01 to 163.22~~, inclusive,~~ of the Revised Code.

Sec. 5573.10. As soon as all questions of compensation and damages have been determined for any road improvement, the county engineer shall make, upon actual view, an estimated assessment, upon the real estate to be charged, of such part of the compensation, damages, and costs of such improvement as is to be specially assessed. Such assessment shall be according to the benefits which will result to the real estate. In making such assessment the engineer may take into consideration any previous special assessment made upon such real estate for road improvements.

The schedule for such assessments shall be filed with the board of township trustees for the inspection of the persons interested. Before adopting the estimated assessment, the board shall publish once each week for two consecutive weeks, in ~~some~~ a newspaper ~~published in the county and~~ of general circulation within such township~~, but if there is no such paper published in said county then in one having general circulation in such township~~ or as provided in section 7.16 of the Revised Code, notice that such assessment has been made and is on file with the board, and the date when objections will be heard to such assessment.

If any owner of property affected desires to make objections, ~~he~~ the owner may file ~~his~~ objections to such assessments, in writing, with the board, before the time of such hearing. If any objections are filed the board shall hear them and act as an equalizing board, and may change assessments if, in its opinion, any changes are necessary to make them just and equitable. The board shall approve and confirm assessments as reported by the engineer or modified by the board. Such assessments, when approved and confirmed, shall be a lien on the land chargeable therewith.

Sec. 5575.01. (A) In the maintenance and repair of roads, the board of township trustees may proceed either by contract or force account, but, unless the exemption specified in division (C) of this section applies, if the board wishes to proceed by force account, it first shall cause the county engineer to complete the force account assessment form developed by the auditor of state under section 117.16 of the Revised Code. Except as otherwise provided in sections 505.08 and 505.101 of the Revised Code, when the board proceeds by contract, the contract shall, if the amount involved exceeds forty-five thousand dollars, be let by the board to the lowest responsible bidder after advertisement for bids once, not later than two weeks, prior to the date fixed for the letting of the contract, in a newspaper ~~published in the county and~~ of general circulation within the township ~~or, if no newspaper is published in the county, in a newspaper having general circulation in the township~~. If the amount involved is forty-five thousand dollars or less, a contract may be let without competitive

bidding, or the work may be done by force account. Such a contract shall be performed under the supervision of a member of the board or the township road superintendent.

(B) Before undertaking the construction or reconstruction of a township road, the board shall cause to be made by the county engineer an estimate of the cost of the work, which estimate shall include labor, material, freight, fuel, hauling, use of machinery and equipment, and all other items of cost. If the board finds it in the best interest of the public, it may, in lieu of constructing the road by contract, proceed to construct the road by force account. Except as otherwise provided under sections 505.08 and 505.101 of the Revised Code, where the total ~~estimate~~ estimated cost of the work exceeds fifteen thousand dollars per mile, the board shall invite and receive competitive bids for furnishing all the labor, materials, and equipment and doing the work, as provided in section 5575.02 of the Revised Code, and shall consider and reject them before ordering the work done by force account. When such bids are received, considered, and rejected, and the work is done by force account, the work shall be performed in compliance with the plans and specifications upon which the bids were based.

(C) Force account assessment forms are not required under division (A) of this section for road maintenance or repair projects of less than fifteen thousand dollars, or under division (B) of this section for road construction or reconstruction projects of less than five thousand dollars per mile.

(D) All force account work under this section shall be done under the direction of a member of the board or the township road superintendent.

Sec. 5575.02. After the board of township trustees has decided to proceed with a road improvement, it shall advertise for bids once, not later than two weeks prior to the date fixed for the letting of contracts, in a newspaper ~~published in the county and~~ of general circulation within ~~such~~ the township~~, but if there is no such paper published in the county then in one having general circulation in the township~~. Such notice shall state that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for such improvement are on file with the board, and the time within which bids will be received. The board may let the work as a whole or in convenient sections, as it determines. The contract shall be awarded to the lowest and best bidder who meets the requirements of section 153.54 of the Revised Code, and shall be let upon the basis of lump sum bids, unless the board orders that it be let upon the basis of unit price bids, in which event it shall be let upon such basis.

Sec. 5591.15. All resolutions and notices provided for in sections 5591.03 to 5591.17 of the Revised Code~~,~~ shall be published in a newspaper

~~published in and~~ of general circulation in the county where the improvement provided in such sections is to be made, and such publication shall be complete when published once a week, on the same day of the week, for two consecutive weeks or as provided in section 7.16 of the Revised Code.

Sec. 5593.08. The bridge commission of any county or city may:

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(B) Adopt an official seal, which shall not be the seal of Ohio;

(C) Maintain a principal office and suboffices at such places within the county or city as it designates;

(D) Sue and be sued in its own name, and plead and be impleaded. Any actions against a bridge commission shall be brought in the court of common pleas of the county in which the principal office of the commission is located, or in the court of common pleas of the county in which the cause of action arose, when such county is located within this state. All summonses, exceptions, and notices of every kind shall be served on the commission by leaving a copy thereof at the principal office with the secretary-treasurer or the person in charge.

(E) Construct, acquire by purchase or condemnation, improve, maintain, repair, police, and operate any bridge, and establish rules for the use of any such bridge;

(F) Issue bridge revenue bonds of the county or city, payable solely from revenues, as provided in sections 5593.10 and 5593.16 of the Revised Code, for the purpose of paying any part of the cost of any bridge or bridges;

(G) Fix and revise from time to time and charge and collect tolls for transit over each bridge constructed or acquired by it;

(H) Acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

(I) Acquire, in the name of the county or city, as the case may be, by purchase or otherwise, on such terms and in such manner as it determines proper, or by the exercise of the right of condemnation in the manner provided by sections 163.01 to 163.22 of the Revised Code, any bridge, land, rights, easements, franchises, and other property necessary or convenient for the construction of a bridge or the improvement or efficient operation of any property acquired or constructed under this chapter, or for securing right-of-way leading to any such bridge or its approach facilities;

(J) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter:

(1) When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than ten thousand dollars, the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two consecutive weeks, or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in Franklin county, and in such other publications as the commission determines, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids.

(2) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and meets the requirements of section 153.54 of the Revised Code.

(3) Each bid for a contract except as provided in division (J)(2) of this section shall contain the full name of every person or company interested in it and shall be accompanied by a bond or certified check on a solvent bank, in such amount as the commission determines sufficient, that if the bid is accepted a contract will be entered into and the performance of its proposal secured.

(4) The commission may reject any and all bids.

(5) A bond with good and sufficient surety, approved by the commission, shall be required of every contractor awarded a contract except as provided in division (J)(2) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon the faithful performance of the contract.

(K) Employ consulting engineers, superintendents, managers, engineers, construction and accounting experts, attorneys, and other employees and agents as are necessary in its judgment, and fix their compensation. All such expenses are payable solely from the proceeds of bridge revenue bonds issued under this chapter, or from revenues.

(L) Receive and accept from any federal agency, subject to the approval of the board of county commissioners or the legislative authority of the city, as the case may be, grants for or in aid of the construction, acquisition, improvement, or operation of any bridge, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(M) Provide coverage for its employees under sections 4123.01 to 4123.94 and 4141.01 to 4141.46 of the Revised Code;

(N) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 5701.13. (A) As used in this section:

(1) "Nursing home" means a nursing home or a home for the aging, as those terms are defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(2) "Residential care facility" means a residential care facility, as defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(3) "Adult care facility" means an adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code that is issued a license pursuant to section ~~3722.04~~ 5119.73 of the Revised Code.

(B) As used in Title LVII of the Revised Code, and for the purpose of other sections of the Revised Code that refer specifically to Chapter 5701. or section 5701.13 of the Revised Code, a "home for the aged" means either of the following:

(1) A place of residence for aged and infirm persons that satisfies divisions (B)(1)(a) to (e) of this section:

(a) It is a nursing home, residential care facility, or adult care facility.

(b) It is owned by a corporation, unincorporated association, or trust of a charitable, religious, or fraternal nature, which is organized and operated not for profit, which is not formed for the pecuniary gain or profit of, and whose net earnings or any part of whose net earnings is not distributable to, its members, trustees, officers, or other private persons, and which is exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1.

(c) It is open to the public without regard to race, color, or national origin.

(d) It does not pay, directly or indirectly, compensation for services rendered, interest on debts incurred, or purchase price for land, building, equipment, supplies, or other goods or chattels, which compensation, interest, or purchase price is unreasonably high.

(e) It provides services for the life of each resident without regard to the resident's ability to continue payment for the full cost of the services.

(2) A place of residence that satisfies divisions (B)(1)(b), (d), and (e) of this section; that satisfies the definition of "nursing home~~,~~" or "residential care facility~~,~~" ~~or "adult care facility"~~ under section 3721.01 of the Revised Code or ~~3722.01~~ the definition of "adult care facility" under section 5119.70 of the Revised Code regardless of whether it is licensed as such a home or facility; and that is provided at no charge to individuals on account of their

service without compensation to a charitable, religious, fraternal, or educational institution, which individuals are aged or infirm and are members of the corporation, association, or trust that owns the place of residence. For the purposes of division (B)(2) of this section, "compensation" does not include furnishing room and board, clothing, health care, or other necessities, or stipends or other de minimis payments to defray the cost thereof.

Exemption from taxation shall be accorded, on proper application, only to those homes or parts of homes which meet the standards and provide the services specified in this section.

Nothing in this section shall be construed as preventing a home from requiring a resident with financial need to apply for any applicable financial assistance or requiring a home to retain a resident who willfully refuses to pay for services for which the resident has contracted even though the resident has sufficient resources to do so.

(C)(1) If a corporation, unincorporated association, or trust described in division (B)(1)(b) of this section is granted a certificate of need pursuant to section 3702.52 of the Revised Code to construct, add to, or otherwise modify a nursing home, or is given approval pursuant to section 3791.04 of the Revised Code to construct, add to, or otherwise modify a residential care facility or adult care facility and if the corporation, association, or trust submits an affidavit to the tax commissioner stating that, commencing on the date of licensure and continuing thereafter, the home or facility will be operated in accordance with the requirements of divisions (B)(1)(a) to (e) of this section, the corporation, association, or trust shall be considered to be operating a "home for the aged" within the meaning of division (B)(1) of this section, beginning on the first day of January of the year in which such certificate is granted or approval is given.

(2) If a corporation, association, or trust is considered to be operating a "home for the aged" pursuant to division (C)(1) of this section, the corporation, association, or trust shall notify the tax commissioner in writing upon the occurrence of any of the following events:

(a) The corporation, association, or trust no longer intends to complete the construction of, addition to, or modification of the home or facility, to obtain the appropriate license for the home or facility, or to commence operation of the home or facility in accordance with the requirements of divisions (B)(1)(a) to (e) of this section;

(b) The certificate of approval referred to in division (C)(1) of this section expires, is revoked, or is otherwise terminated prior to the completion of the construction of, addition to, or modification of the home

or facility;

(c) The license to operate the home or facility is not granted by the director of health within one year following completion of the construction of, addition to, or modification of the home or facility;

(d) The license to operate the home or facility is not granted by the director of health within four years following the date upon which the certificate or approval referred to in division (C)(1) of this section was granted or given;

(e) The home or facility is granted a license to operate as a nursing home, residential care facility, or adult care facility.

(3) Upon the occurrence of any of the events referred to in divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the corporation, association, or trust shall no longer be considered to be operating a "home for the aged" pursuant to division (C)(1) of this section, except that the tax commissioner, for good cause shown and to the extent the commissioner considers appropriate, may extend the time period specified in division (C)(2)(c) or (d) of this section, or both. Nothing in division (C)(3) of this section shall be construed to prevent a nursing home, residential care facility, or adult care facility from qualifying as a "home for the aged" if, upon proper application made pursuant to division (B) of this section, it is found to meet the requirements of divisions (A) and (B) of this section.

Sec. 5703.05. All powers, duties, and functions of the department of taxation are vested in and shall be performed by the tax commissioner, which powers, duties, and functions shall include, but shall not be limited to, the following:

(A) Prescribing all blank forms which the department is authorized to prescribe, and to provide such forms and distribute the same as required by law and the rules of the department. ~~The tax commissioner shall include a mail-in registration form prescribed in section 3503.14 of the Revised Code within the return and instructions for the tax levied in odd-numbered years under section 5747.02 of the Revised Code, beginning with the tax levied for 1995. The secretary of state shall bear all costs for the inclusion of the mail-in registration form. That form shall be addressed for return to the office of the secretary of state.~~

(B) Exercising the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes or assessments, including penalties and interest thereon, illegally or erroneously assessed or collected, or for any other reason overpaid, and in addition, the commissioner may on written application of any person, firm, or corporation claiming to have overpaid to the treasurer of state at any time within five

years prior to the making of such application any tax payable under any law which the department of taxation is required to administer which does not contain any provision for refund, or on the commissioner's own motion investigate the facts and make in triplicate a written statement of the commissioner's findings, and, if the commissioner finds that there has been an overpayment, issue in triplicate a certificate of abatement payable to the taxpayer, the taxpayer's assigns, or legal representative which shows the amount of the overpayment and the kind of tax overpaid. One copy of such statement shall be entered on the journal of the commissioner, one shall be certified to the attorney general, and one certified copy shall be delivered to the taxpayer. All copies of the certificate of abatement shall be transmitted to the attorney general, and if the attorney general finds it to be correct the attorney general shall so certify on each copy, and deliver one copy to the taxpayer, one copy to the commissioner, and the third copy to the treasurer of state. Except as provided in sections 5725.08 and 5725.16 of the Revised Code the taxpayer's copy of any certificates of abatement may be tendered by the payee or transferee thereof to the treasurer of state as payment, to the extent of the amount thereof, of any tax payable to the treasurer of state.

(C) Exercising the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(D) Exercising the authority provided by law relative to the use of alternative tax bases by taxpayers in the making of personal property tax returns;

(E) Exercising the authority provided by law relative to authorizing the prepayment of taxes on retail sales of tangible personal property or on the storage, use, or consumption of personal property, and waiving the collection of such taxes from the consumers;

(F) Exercising the authority provided by law to revoke licenses;

(G) Maintaining a continuous study of the practical operation of all taxation and revenue laws of the state, the manner in which and extent to which such laws provide revenues for the support of the state and its political subdivisions, the probable effect upon such revenue of possible changes in existing laws, and the possible enactment of measures providing for other forms of taxation. For this purpose the commissioner may establish and maintain a division of research and statistics, and may appoint necessary employees who shall be in the unclassified civil service; the results of such study shall be available to the members of the general assembly and the public.

(H) Making all tax assessments, valuations, findings, determinations, computations, and orders the department of taxation is by law authorized

and required to make and, pursuant to time limitations provided by law, on the commissioner's own motion, reviewing, redetermining, or correcting any tax assessments, valuations, findings, determinations, computations, or orders the commissioner has made, but the commissioner shall not review, redetermine, or correct any tax assessment, valuation, finding, determination, computation, or order which the commissioner has made as to which an appeal or application for rehearing, review, redetermination, or correction has been filed with the board of tax appeals, unless such appeal or application is withdrawn by the appellant or applicant or dismissed;

(I) Appointing not more than five deputy tax commissioners, who, under such regulations as the rules of the department of taxation prescribe, may act for the commissioner in the performance of such duties as the commissioner prescribes in the administration of the laws which the commissioner is authorized and required to administer, and who shall serve in the unclassified civil service at the pleasure of the commissioner, but if a person who holds a position in the classified service is appointed, it shall not affect the civil service status of such person. The commissioner may designate not more than two of the deputy commissioners to act as commissioner in case of the absence, disability, or recusal of the commissioner or vacancy in the office of commissioner. The commissioner may adopt rules relating to the order of precedence of such designated deputy commissioners and to their assumption and administration of the office of commissioner.

(J) Appointing and prescribing the duties of all other employees of the department of taxation necessary in the performance of the work of the department which the tax commissioner is by law authorized and required to perform, and creating such divisions or sections of employees as, in the commissioner's judgment, is proper;

(K) Organizing the work of the department, which the commissioner is by law authorized and required to perform, so that, in the commissioner's judgment, an efficient and economical administration of the laws will result;

(L) Maintaining a journal, which is open to public inspection, in which the tax commissioner shall keep a record of all final determinations of the commissioner;

(M) Adopting and promulgating, in the manner provided by section 5703.14 of the Revised Code, all rules of the department, including rules for the administration of sections 3517.16, 3517.17, and 5747.081 of the Revised Code;

(N) Destroying any or all returns or assessment certificates in the manner authorized by law;

(O) Adopting rules, in accordance with division (B) of section 325.31 of the Revised Code, governing the expenditure of moneys from the real estate assessment fund under that division.

Sec. 5703.056. (A) As used in any section of the Revised Code that requires the tax commissioner to use certified mail or personal service or that requires or permits a payment to be made or a document to be submitted to the tax commissioner or the board of tax appeals by mail and as used in any section of Chapter 3734., 3769., 4303., or 4305. or Title LVII of the Revised Code that requires or permits a payment to be made or a document to be submitted to the treasurer of state by mail:

(1) "Certified mail," "express mail," "United States mail," "United States postal service," and similar terms include any delivery service authorized pursuant to division (B) of this section.

(2) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B)(3) of this section.

~~(b)~~(B) The tax commissioner may authorize the use of a delivery service for the delivery of any payment or document described in division (A) of this section if the commissioner finds that the delivery service:

(1) Is available to the general public;

(2) Is at least as timely and reliable on a regular basis as the United States postal service;

(3) Records electronically to a database kept in the regular course of its business, and marks on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery;

(4) Records electronically to a database kept in the regular course of its business the date on which the payment or document was given by the delivery service to the person who signed the receipt of delivery and the name of the person who signed the receipt; and

(5) Meets any other criteria that the tax commissioner may by rule prescribe.

Sec. 5703.059. (A) The tax commissioner may adopt rules requiring returns, including any accompanying schedule or statement, for any of the following taxes to be filed electronically using the Ohio business gateway as defined in section 718.051 of the Revised Code, filed telephonically using the system known as the Ohio telefile system, or filed by any other electronic means prescribed by the commissioner:

(1) Employer income tax withholding under Chapter 5747. of the Revised Code;

(2) Motor fuel tax under Chapter 5735. of the Revised Code;

(3) Cigarette and tobacco product tax under Chapter 5743. of the Revised Code;

(4) Severance tax under Chapter 5749. of the Revised Code;

(5) Use tax under Chapter 5741. of the Revised Code.

(B) The tax commissioner may adopt rules requiring any payment of tax shown on such a return to be due to be made electronically in a manner approved by the commissioner.

(C) A rule adopted under this section does not apply to returns or reports filed or payments made before six months after the effective date of the rule. The commissioner shall publicize any new electronic filing requirement on the department's web site. The commissioner shall educate the public of the requirement through seminars, workshops, conferences, or other outreach activities.

(D) Any person required to file returns and make payments electronically under rules adopted under this section may apply to the commissioner, on a form prescribed by the commissioner, to be excused from that requirement. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or reports or make the payments required under this section by nonelectronic means.

Sec. 5703.37. (A)(1) Except as provided in division (B) of this section, whenever service of a notice or order is required in the manner provided in this section, a copy of the notice or order shall be served upon the person affected thereby either by personal service ~~or,~~ by certified mail, or by a delivery service authorized under section 5703.056 of the Revised Code that notifies the tax commissioner of the date of delivery.

(2) With the permission of the person affected by the notice or order, the commissioner may enter into a written agreement to deliver a notice or order by alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Delivery by such means satisfies the requirements for delivery under this section.

(B)(1)(a) If certified mail is returned because of an undeliverable address, the commissioner shall first utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code. If, after using reasonable means, the commissioner is unable to ascertain a new last known address, the assessment is final for purposes of section 131.02 of the Revised Code sixty days after the notice or order sent by certified mail is first returned to

the commissioner, and the commissioner shall certify the notice or order, if applicable, to the attorney general for collection under section 131.02 of the Revised Code.

(b) Notwithstanding certification to the attorney general under division (B)(1)(a) of this section, once the commissioner or attorney general, or the designee of either, makes an initial contact with the person to whom the notice or order is directed, the person may protest an assessment by filing a petition for reassessment within sixty days after the initial contact. The certification of an assessment under division (B)(1)(a) of this section is prima-facie evidence that delivery is complete and that the notice or order is served.

(2) If mailing of a notice or order by certified mail is returned for some cause other than an undeliverable address, the tax commissioner shall resend the notice or order by ordinary mail. The notice or order shall show the date the commissioner sends the notice or order and include the following statement:

"This notice or order is deemed to be served on the addressee under applicable law ten days from the date this notice or order was mailed by the commissioner as shown on the notice or order, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima-facie evidence that delivery of the notice or order was completed ten days after the commissioner sent the notice or order by ordinary mail and that the notice or order was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the commissioner shall proceed under division (B)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (C) of this section.

(C)(1) A person disputing the presumption of delivery and service under division (B) of this section bears the burden of proving by a preponderance of the evidence that the address to which the notice or order was sent was not an address with which the person was associated at the time the commissioner originally mailed the notice or order by certified mail. For the purposes of this section, a person is associated with an address at the time the commissioner originally mailed the notice or order if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the notice or order was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of

this section, a person's affiliate is any other person that, at the time the notice or order was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If the person elects to protest an assessment certified to the attorney general for collection, the person must do so within sixty days after the attorney general's initial contact with the person. The attorney general may enter into a compromise with the person under sections 131.02 and 5703.06 of the Revised Code if the person does not file a petition for reassessment with the tax commissioner.

(D) Nothing in this section prohibits the tax commissioner or the commissioner's designee from delivering a notice or order by personal service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified.

(F) As used in this section:

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code.

(2) "Undeliverable address" means an address to which the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order.

Sec. 5703.57. (A) As used in this section, "Ohio business gateway" has the same meaning as in section 718.051 of the Revised Code.

(B) There is hereby created the Ohio business gateway steering committee to direct the continuing development of the Ohio business gateway and to oversee its operations. The committee shall provide general oversight regarding operation of the Ohio business gateway and shall recommend to the department of administrative services enhancements that will improve the Ohio business gateway. The committee shall consider all banking, technological, administrative, and other issues associated with the Ohio business gateway and shall make recommendations regarding the type of reporting forms or other tax documents to be filed through the Ohio

business gateway.

(C) The committee shall consist of:

(1) The following members, appointed by the governor with the advice and consent of the senate:

(a) Not more than ~~two~~ four representatives of the business community;

(b) Not more than ~~three representatives~~ one representative of municipal tax administrators; and

(c) Not more than two tax practitioners.

(2) The following ex officio members:

(a) The director or other highest officer of each state agency that has tax reporting forms or other tax documents filed with it through the Ohio business gateway or the director's designee;

(b) The secretary of state or the secretary of state's designee;

(c) The treasurer of state or the treasurer of state's designee;

(d) The director of budget and management or the director's designee;

(e) The state chief information officer or the officer's designee;

(f) The tax commissioner or the tax commissioner's designee; and

(g) The director of development or the director's designee.

An appointed member shall serve until the member resigns or is removed by the governor. Vacancies shall be filled in the same manner as original appointments.

(D) A vacancy on the committee does not impair the right of the other members to exercise all the functions of the committee. The presence of a majority of the members of the committee constitutes a quorum for the conduct of business of the committee. The concurrence of at least a majority of the members of the committee is necessary for any action to be taken by the committee. On request, each member of the committee shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's duties.

(E) The committee is a part of the department of taxation for administrative purposes.

(F) Each year, the governor shall select a member of the committee to serve as chairperson. The chairperson shall appoint an official or employee of the department of taxation to act as the committee's secretary. The secretary shall keep minutes of the committee's meetings and a journal of all meetings, proceedings, findings, and determinations of the committee.

(G) The committee ~~shall~~ may hire professional, technical, and clerical staff needed to support its activities.

(H) The committee shall meet as often as necessary to perform its duties.

Sec. 5703.58. (A) Subject to ~~division (C)~~ divisions (B) and (D) of this section, the tax commissioner shall not make or issue an assessment for any tax payable to the state that is administered by the tax commissioner, or any penalty, interest, or additional charge on such tax, after the expiration of ten years, including any extension, from the date the tax return or report was due when such amount was not reported and paid, provided that the ten-year period shall be extended by the period of any lawful stay to such assessment. As used in this section, "assessment" has the same meaning as in section 5703.50 of the Revised Code.

(B) Subject to division (D) of this section, the tax commissioner shall not make or issue an assessment against any person for any tax due under Chapter 5741. of the Revised Code, or any penalty, interest, or additional charge on such tax, after the expiration of seven years, including any extension, from the date the tax return or report was due if the amount of tax due was not reported and paid, provided that the seven-year period shall be extended by the period of any lawful stay to the assessment. The commissioner shall not make or issue an assessment against a consumer for any tax due under Chapter 5741. of the Revised Code, or for any penalty, interest, or additional charge on such tax, if the tax was due before January 1, 2008.

(C) This section does not apply to either of the following:

(1) Any amount collected for the state by a vendor or seller under Chapter 5739. or 5741. of the Revised Code or withheld by an employer under Chapter 5747. of the Revised Code.

(2) Any person who fraudulently attempts to avoid such tax.

~~(C)~~(D) This section does not authorize the assessment or collection of a tax for which the applicable period of limitation prescribed by law has expired and for which no valid assessment has been made and served as prescribed by law.

Sec. 5705.01. As used in this chapter:

(A) "Subdivision" means any county; municipal corporation; township; township police district; joint police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2152.41 and 2151.65 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a union cemetery district; a

county school financing district; a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district created under section 3313.83 of the Revised Code.

(B) "Municipal corporation" means all municipal corporations, including those that have adopted a charter under Article XVIII, Ohio Constitution.

(C) "Taxing authority" or "bond issuing authority" means, in the case of any county, the board of county commissioners; in the case of a municipal corporation, the council or other legislative authority of the municipal corporation; in the case of a city, local, exempted village, cooperative education, or joint vocational school district, the board of education; in the case of a community college district, the board of trustees of the district; in the case of a technical college district, the board of trustees of the district; in the case of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the joint board of county commissioners of the district; in the case of a township, the board of township trustees; in the case of a joint police district, the joint police district board; in the case of a joint fire district, the board of fire district trustees; in the case of a joint recreation district, the joint recreation district board of trustees; in the case of a joint-county alcohol, drug addiction, and mental health service district, the district's board of alcohol, drug addiction, and mental health services; in the case of a joint ambulance district or a fire and ambulance district, the board of trustees of the district; in the case of a union cemetery district, the legislative authority of the municipal corporation and the board of township trustees, acting jointly as described in section 759.341 of the Revised Code; in the case of a drainage improvement district, the board of county commissioners of the county in which the drainage district is located; in the case of a joint emergency medical services district, the joint board of county commissioners of all counties in which all or any part of the district lies; and in the case of a township police district, a township fire district, a township road district, or a township waste disposal district, the board of township trustees of the township in which the district is located. "Taxing authority" also means the educational service center governing board that serves as the taxing authority of a county school financing district as provided in section 3311.50 of the Revised Code, and the board of directors of a regional student education district created under section 3313.83 of the Revised Code.

(D) "Fiscal officer" in the case of a county, means the county auditor; in the case of a municipal corporation, the city auditor or village clerk, or an

officer who, by virtue of the charter, has the duties and functions of the city auditor or village clerk, except that in the case of a municipal university the board of directors of which have assumed, in the manner provided by law, the custody and control of the funds of the university, the chief accounting officer of the university shall perform, with respect to the funds, the duties vested in the fiscal officer of the subdivision by sections 5705.41 and 5705.44 of the Revised Code; in the case of a school district, the treasurer of the board of education; in the case of a county school financing district, the treasurer of the educational service center governing board that serves as the taxing authority; in the case of a township, the township fiscal officer; in the case of a joint police district, the treasurer of the district; in the case of a joint fire district, the clerk of the board of fire district trustees; in the case of a joint ambulance district, the clerk of the board of trustees of the district; in the case of a joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code; in the case of a fire and ambulance district, the person appointed as fiscal officer pursuant to division (B) of section 505.375 of the Revised Code; in the case of a joint recreation district, the person designated pursuant to section 755.15 of the Revised Code; in the case of a union cemetery district, the clerk of the municipal corporation designated in section 759.34 of the Revised Code; in the case of a children's home district, educational service center, general health district, joint-county alcohol, drug addiction, and mental health service district, county library district, detention facility district, district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a metropolitan park district for which no treasurer has been appointed pursuant to section 1545.07 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district; in the case of a metropolitan park district which has appointed a treasurer pursuant to section 1545.07 of the Revised Code, that treasurer; in the case of a drainage improvement district, the auditor of the county in which the drainage improvement district is located; in the case of a regional student education district, the fiscal officer appointed pursuant to section 3313.83 of the Revised Code; and in all other cases, the officer responsible for keeping the appropriation accounts and drawing warrants for the expenditure of the moneys of the district or taxing unit.

(E) "Permanent improvement" or "improvement" means any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and reconstructions, enlargements, and extensions thereof having an estimated life or usefulness

of five years or more.

(F) "Current operating expenses" and "current expenses" mean the lawful expenditures of a subdivision, except those for permanent improvements, and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(G) "Debt charges" means interest, sinking fund, and retirement charges on bonds, notes, or certificates of indebtedness.

(H) "Taxing unit" means any subdivision or other governmental district having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property of the district, including conservancy districts, metropolitan park districts, sanitary districts, road districts, and other districts.

(I) "District authority" means any board of directors, trustees, commissioners, or other officers controlling a district institution or activity that derives its income or funds from two or more subdivisions, such as the educational service center, the trustees of district children's homes, the district board of health, a joint-county alcohol, drug addiction, and mental health service district's board of alcohol, drug addiction, and mental health services, detention facility districts, a joint recreation district board of trustees, districts organized under section 2151.65 of the Revised Code, combined districts organized under sections 2152.41 and 2151.65 of the Revised Code, and other such boards.

(J) "Tax list" and "tax duplicate" mean the general tax lists and duplicates prescribed by sections 319.28 and 319.29 of the Revised Code.

(K) "Property" as applied to a tax levy means taxable property listed on general tax lists and duplicates.

(L) "School library district" means a school district in which a free public library has been established that is under the control and management of a board of library trustees as provided in section 3375.15 of the Revised Code.

Sec. 5705.14. No transfer shall be made from one fund of a subdivision to any other fund, by order of the court or otherwise, except as follows:

(A) The unexpended balance in a bond fund that is no longer needed for the purpose for which such fund was created shall be transferred to the sinking fund or bond retirement fund from which such bonds are payable.

(B) The unexpended balance in any specific permanent improvement fund, other than a bond fund, after the payment of all obligations incurred in the acquisition of such improvement, shall be transferred to the sinking fund or bond retirement fund of the subdivision; provided that if such money is

not required to meet the obligations payable from such funds, it may be transferred to a special fund for the acquisition of permanent improvements, or, with the approval of the court of common pleas of the county in which such subdivision is located, to the general fund of the subdivision.

(C) ~~The~~ (1) Except as provided in division (C)(2) of this section, the unexpended balance in the sinking fund or bond retirement fund of a subdivision, after all indebtedness, interest, and other obligations for the payment of which such fund exists have been paid and retired, shall be transferred, in the case of the sinking fund, to the bond retirement fund, and in the case of the bond retirement fund, to the sinking fund; provided that if such transfer is impossible by reason of the nonexistence of the fund to receive the transfer, such unexpended balance, with the approval of the court of common pleas of the county in which such division is located, may be transferred to any other fund of the subdivision.

(2) Money in a bond fund or bond retirement fund of a city, local, exempted village, cooperative education, or joint vocational school district may be transferred to a specific permanent improvement fund provided that the county budget commission of the county in which the school district is located approves the transfer upon its determination that the money transferred will not be required to meet the obligations payable from the bond fund or bond retirement fund. In arriving at such a determination, the county budget commission shall consider the balance of the bond fund or bond retirement fund, the outstanding obligations payable from the fund, and the sources and timing of the fund's revenue.

(D) The unexpended balance in any special fund, other than an improvement fund, existing in accordance with division (D), (F), or (G) of section 5705.09 or section 5705.12 of the Revised Code, may be transferred to the general fund or to the sinking fund or bond retirement fund after the termination of the activity, service, or other undertaking for which such special fund existed, but only after the payment of all obligations incurred and payable from such special fund.

(E) Money may be transferred from the general fund to any other fund of the subdivision.

(F) Moneys retained or received by a county under section 4501.04 or division (A)(3) of section 5735.27 of the Revised Code may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable.

(G) Moneys retained or received by a municipal corporation under section 4501.04 or division (A)(1) or (2) of section 5735.27 of the Revised

Code may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable.

(H)(1) Money may be transferred from the county developmental disabilities general fund to the county developmental disabilities capital fund established under section 5705.091 of the Revised Code or to any other fund created for the purposes of the county board of developmental disabilities, so long as money in the fund to which the money is transferred can be spent for the particular purpose of the transferred money. The county board of developmental disabilities may request, by resolution, that the board of county commissioners make the transfer. The county board of developmental disabilities shall transmit a certified copy of the resolution to the board of county commissioners. Upon receiving the resolution, the board of county commissioners may make the transfer. Money transferred to a fund shall be credited to an account appropriate to its particular purpose.

(2) An unexpended balance in an account in the county developmental disabilities capital fund or any other fund created for the purposes of the county board of developmental disabilities may be transferred back to the county developmental disabilities general fund. The transfer may be made if the unexpended balance is no longer needed for its particular purpose and all outstanding obligations have been paid. Money transferred back to the county developmental disabilities general fund shall be credited to an account for current expenses within that fund. The county board of developmental disabilities may request, by resolution, that the board of county commissioners make the transfer. The county board of developmental disabilities shall transmit a certified copy of the resolution to the board of county commissioners. Upon receiving the resolution, the board of county commissioners may make the transfer.

(I) Money may be transferred from the public assistance fund established under section 5101.161 of the Revised Code to either of the following funds, so long as the money to be transferred from the public assistance fund may be spent for the purposes for which money in the receiving fund may be used:

(1) The children services fund established under section 5101.144 of the Revised Code;

(2) The child support enforcement administrative fund established, as authorized under rules adopted by the director of job and family services, in the county treasury for use by any county family services agency.

Except in the case of transfer pursuant to division (E) of this section, transfers authorized by this section shall only be made by resolution of the

taxing authority passed with the affirmative vote of two-thirds of the members.

Sec. 5705.16. A resolution of the taxing authority of any political subdivision shall be passed by a majority of all the members thereof, declaring the necessity for the transfer of funds authorized by section 5705.15 of the Revised Code, and such taxing authority shall prepare a petition addressed to the court of common pleas of the county in which the funds are held. The petition shall set forth the name and amount of the fund, the fund to which it is desired to be transferred, a copy of such resolution with a full statement of the proceedings pertaining to its passage, and the reason or necessity for the transfer. A duplicate copy of said petition shall be forwarded to the tax commissioner for ~~his~~ the commissioner's examination and approval.

If the petition is disapproved by the commissioner, it shall be returned within ten days of its receipt to the officers who submitted it, with a memorandum of the commissioner's objections. This disapproval shall not prejudice a later application for approval. If the petition is approved by the commissioner, it shall be forwarded within ten days of its receipt to the clerk of the court of common pleas of the county to whose court of common pleas the petition is addressed, marked with the approval of the commissioner. If the commissioner approves the petition, ~~he~~ the commissioner shall notify immediately the officers who submitted the petition, who then may file the petition in the court to which it is addressed.

The petitioner shall give notice of the filing, object, and prayer of the petition, and of the time when it will be heard. The notice shall be given by one publication in ~~two newspapers having~~ a newspaper of general circulation in the territory to be affected by such transfer of funds~~, preference being given to newspapers published within the territory~~. If there ~~are~~ is no such ~~newspapers~~ newspaper, the notice shall be posted in ten conspicuous places within the territory for ~~the~~ a period of four weeks.

The petition may be heard at the time stated in the notice, or as soon thereafter as convenient for the court. Any person who objects to the prayer of such petition shall file ~~his~~ the person's objections in such cause on or before the time fixed in the notice for hearing, and ~~he~~ that person shall be entitled to be heard.

If, upon hearing, the court finds that the notice has been given as required by this section, that the petition states sufficient facts, that there are good reasons, or that a necessity exists, for the transfer, and that no injury will result therefrom, it shall grant the prayer of the petition and order the petitioners to make such transfer.

A copy of the findings, orders, and judgments of the court shall be certified by the clerk and entered on the records of the petitioning officers or board, and thereupon the petitioners may make the transfer of funds as directed by the court. All costs of such proceedings shall be paid by the petitioners, except that if objections are filed the court may order such objectors to pay all or a portion of the costs.

Sec. 5705.19. This section does not apply to school districts or county school financing districts.

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation for any of the following purposes:

(A) For current expenses of the subdivision, except that the total levy for current expenses of a detention facility district or district organized under section 2151.65 of the Revised Code shall not exceed two mills and that the total levy for current expenses of a combined district organized under sections 2151.65 and 2152.41 of the Revised Code shall not exceed four mills;

(B) For the payment of debt charges on certain described bonds, notes, or certificates of indebtedness of the subdivision issued subsequent to January 1, 1925;

(C) For the debt charges on all bonds, notes, and certificates of indebtedness issued and authorized to be issued prior to January 1, 1925;

(D) For a public library of, or supported by, the subdivision under whatever law organized or authorized to be supported;

(E) For a municipal university, not to exceed two mills over the limitation of one mill prescribed in section 3349.13 of the Revised Code;

(F) For the construction or acquisition of any specific permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue;

(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships;

(H) For parks and recreational purposes;

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and

materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of firefighting companies or permanent, part-time, or volunteer ~~firefighters or~~ firefighting ~~companies~~, emergency medical service, administrative, or communications personnel to operate the same, including the payment of ~~the firefighter employers' contribution~~ any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company;

(J) For the purpose of providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, or the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of ~~the police officer employers' contribution~~ any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, or the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, or the provision of ambulance or emergency medical services operated by a police department;

(K) For the maintenance and operation of a county home or detention facility;

(L) For community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that the procedure for such levies shall be as provided in section 5705.222 of the Revised Code;

(M) For regional planning;

(N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;

(P) For maintaining and operating sewage disposal plants and facilities;

(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;

(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(S) For the prevention, control, and abatement of air pollution;

(T) For maintaining and operating cemeteries;

(U) For providing ambulance service, emergency medical service, or both;

(V) For providing for the collection and disposal of garbage or refuse, including yard waste;

(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;

(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;

(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;

(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;

(AA) For the maintenance and operation of a free public museum of art, science, or history;

(BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code;

(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.

(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;

(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;

(FF) For the purpose of acquiring, establishing, constructing, improving,

equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing field, or other air navigation facility pursuant to section 505.15 of the Revised Code;

(GG) For the payment of costs incurred by a township as a result of a contract made with a county pursuant to section 505.263 of the Revised Code in order to pay all or any part of the cost of constructing, maintaining, repairing, or operating a water supply improvement;

(HH) For a board of township trustees to acquire, other than by appropriation, an ownership interest in land, water, or wetlands, or to restore or maintain land, water, or wetlands in which the board has an ownership interest, not for purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of the land, water, or wetlands against modification or encroachment resulting from occupation, development, or other use, which may be styled as protecting or preserving "greenspace" in the resolution, notice of election, or ballot form. Except as otherwise provided in this division, land is not acquired for purposes of recreation, even if the land is used for recreational purposes, so long as no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. Except as otherwise provided in this division, land that previously has been acquired in a township for these greenspace purposes may subsequently be used for recreational purposes if the board of township trustees adopts a resolution approving that use and no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. The authorization to use greenspace land for recreational use does not apply to land located in a township that had a population, at the time it passed its first greenspace levy, of more than thirty-eight thousand within a county that had a population, at that time, of at least eight hundred sixty thousand.

(II) For the support by a county of a crime victim assistance program that is provided and maintained by a county agency or a private, nonprofit corporation or association under section 307.62 of the Revised Code;

(JJ) For any or all of the purposes set forth in divisions (I) and (J) of this section. This division applies only to a township.

(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties.

(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code;

(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code;

(NN) For purchasing, maintaining, or improving, or any combination of

the foregoing, real estate on which to hold agricultural fairs. This division applies only to a county.

(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements;

(PP) For both of the purposes set forth in divisions (G) and (OO) of this section.

(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township.

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements.

(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county.

(TT) For the maintenance and operation of a facility that is organized in whole or in part to promote the sciences and natural history under section 307.761 of the Revised Code.

(UU) For the creation and operation of a county land reutilization corporation and for any programs or activities of the corporation found by the board of directors of the corporation to be consistent with the purposes for which the corporation is organized;

(VV) For construction and maintenance of improvements and expenses of soil and water conservation district programs under Chapter 1515. of the Revised Code;

(WW) For the Ohio cooperative extension service fund created under section 3335.35 of the Revised Code for the purposes prescribed under section 3335.36 of the Revised Code for the benefit of the citizens of a county. This division applies only to a county.

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.

The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate shall be in effect, which may or may not include a levy upon the duplicate of the current year. The number of

years may be any number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt charges, the increased rate shall be for the life of the indebtedness.

(2) When the additional rate is for any of the following, the increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2151.65 and 2152.41 of the Revised Code;

(b) For providing a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or under both of those sections.

(3) When the additional rate is for either of the following, the increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or (KK) of this section;

(b) For the maintenance and operation of a joint recreation district.

(4) When the increase is for the purpose or purposes set forth in division (D), (G), (H), (CC), or (PP) of this section, the tax levy may be for any specified number of years or for a continuing period of time, as set forth in the resolution.

(5) When the additional rate is for the purpose described in division (Z) of this section, the increased rate shall be for any number of years not exceeding ten.

A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount.

A resolution of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2151.65 and 2152.41 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for the current expenses and the other purpose or purposes shall be limited by the apportionment.

Whenever a board of county commissioners, acting either as the taxing authority of its county or as the taxing authority of a sewer district or subdistrict created under Chapter 6117. of the Revised Code, by resolution declares it necessary to levy a tax in excess of the ten-mill limitation for the purpose of constructing, improving, or extending sewage disposal plants or sewage systems, the tax may be in effect for any number of years not exceeding twenty, and the proceeds of the tax, notwithstanding the general provisions of this section, may be used to pay debt charges on any obligations issued and outstanding on behalf of the subdivision for the purposes enumerated in this paragraph, provided that any such obligations have been specifically described in the resolution.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election.

When the electors of a subdivision have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

Sec. 5705.191. The taxing authority of any subdivision, other than the board of education of a school district or the taxing authority of a county school financing district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the subdivision, and that it is necessary to levy a tax in excess of such limitation for any of the purposes in section 5705.19 of the Revised Code, or to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals, and that the question of such additional tax levy shall be submitted to the electors of the subdivision at a general, primary, or special election to be held at a time therein specified. Such resolution shall not include a levy on the current tax list and duplicate unless such election is to be held at or prior to the general election day of the current tax year. Such resolution shall conform to the requirements of section 5705.19 of the Revised Code, except that a levy to supplement the general fund for the purposes of public assistance, human or social services, relief, welfare, hospitalization, health, or the support of general or tuberculosis hospitals may not be for a longer period than ten years. All other levies under this section may not be for a longer period than five years unless a longer period is permitted by section

5705.19 of the Revised Code, and the resolution shall specify the date of holding such election, which shall not be earlier than ninety days after the adoption and certification of such resolution. The resolution shall go into immediate effect upon its passage and no publication of the same is necessary other than that provided for in the notice of election. A copy of such resolution, immediately after its passage, shall be certified to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code, and such section shall govern the arrangements for the submission of such question and other matters with respect to such election, to which section 5705.25 of the Revised Code refers, excepting that such election shall be held on the date specified in the resolution, which shall be consistent with the requirements of section 3501.01 of the Revised Code, provided that only one special election for the submission of such question may be held in any one calendar year and provided that a special election may be held upon the same day a primary election is held. Publication of notice of that election shall be made in ~~one or more newspapers~~ a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election.

If a majority of the electors voting on the question vote in favor thereof, the taxing authority of the subdivision may make the necessary levy within such subdivision at the additional rate or at any lesser rate outside the ten-mill limitation on the tax list and duplicate for the purpose stated in the resolution. Such tax levy shall be included in the next annual tax budget that is certified to the county budget commission.

After the approval of such a levy by the electors, the taxing authority of the subdivision may anticipate a fraction of the proceeds of such levy and issue anticipation notes. In the case of a continuing levy that is not levied for the purpose of current expenses, notes may be issued at any time after approval of the levy in an amount not more than fifty per cent of the total estimated proceeds of the levy for the succeeding ten years, less an amount equal to the fraction of the proceeds of the levy previously anticipated by the issuance of anticipation notes. In the case of a levy for a fixed period that is not for the purpose of current expenses, notes may be issued at any time after approval of the levy in an amount not more than fifty per cent of the total estimated proceeds of the levy throughout the remaining life of the levy, less an amount equal to the fraction of the proceeds of the levy previously anticipated by the issuance of anticipation notes. In the case of a

levy for current expenses, notes may be issued after the approval of the levy by the electors and prior to the time when the first tax collection from the levy can be made. Such notes may be issued in an amount not more than fifty per cent of the total estimated proceeds of the levy throughout the term of the levy in the case of a levy for a fixed period, or fifty per cent of the total estimated proceeds for the first ten years of the levy in the case of a continuing levy.

No anticipation notes that increase the net indebtedness of a county may be issued without the prior consent of the board of county commissioners of that county. The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not exceeding the life of the levy anticipated, and may have a principal payment in the year of their issuance.

"Taxing authority" and "subdivision" have the same meanings as in section 5705.01 of the Revised Code.

This section is supplemental to and not in derogation of sections 5705.20, 5705.21, and 5705.22 of the Revised Code.

Sec. 5705.194. The board of education of any city, local, exempted village, cooperative education, or joint vocational school district at any time may declare by resolution that the revenue that will be raised by all tax levies which the district is authorized to impose, when combined with state and federal revenues, will be insufficient to provide for the emergency requirements of the school district or to avoid an operating deficit, and that it is therefore necessary to levy an additional tax in excess of the ten-mill limitation. The resolution shall be confined to a single purpose and shall specify that purpose. If the levy is proposed to renew all or a portion of the proceeds derived from one or more existing levies imposed pursuant to this section, it shall be called a renewal levy and shall be so designated on the ballot. If two or more existing levies are to be included in a single renewal levy but are not scheduled to expire in the same year, the resolution shall specify that the existing levies to be renewed shall not be levied after the year preceding the year in which the renewal levy is first imposed. Notwithstanding the original purpose of any one or more existing levies that are to be in any single renewal levy, the purpose of the renewal levy may be either to avoid an operating deficit or to provide for the emergency requirements of the school district. The resolution shall further specify the amount of money it is necessary to raise for the specified purpose for each calendar year the millage is to be imposed; if a renewal levy, whether the levy is to renew all, or a portion of, the proceeds derived from one or more existing levies; and the number of years in which the millage is to be in

effect, which may include a levy upon the current year's tax list. The number of years may be any number not exceeding ten.

The question shall be submitted at a special election on a date specified in the resolution. The date shall not be earlier than eighty days after the adoption and certification of the resolution to the county auditor and shall be consistent with the requirements of section 3501.01 of the Revised Code. A resolution for a renewal levy shall not be placed on the ballot unless the question is submitted on a date on which a special election may be held under division (D) of section 3501.01 of the Revised Code, except for the first Tuesday after the first Monday in February and August, during the last year the levy to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year, except that if the resolution proposes renewing two or more existing levies, the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on that list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on the real and public utility property tax list and duplicate.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the county auditor of the proper county. Section 5705.195 of the Revised Code shall govern the arrangements for the submission of questions to the electors under this section and other matters concerning the election. Publication of notice of the election shall be made in one ~~or more newspapers~~ newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. If a majority of the electors voting on the question submitted in an election vote in favor of the levy, the board of education of the school district may make the additional levy necessary to raise the amount specified in the resolution for the purpose stated in the resolution. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

After the approval of the levy and prior to the time when the first tax

collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have principal payment in the year of their issuance.

Sec. 5705.196. The election provided for in section 5705.194 of the Revised Code shall be held at the regular places for voting in the district, and shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers, provided that in any such election in which only part of the electors of a precinct are qualified to vote, the board of elections may assign voters in such part to an adjoining precinct. Such an assignment may be made to an adjoining precinct in another county with the consent and approval of the board of elections of such other county. Notice of the election shall be published in one ~~or more newspapers~~ newspaper of general circulation in the district once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. Such notice shall state the annual proceeds of the proposed levy, the purpose for which such proceeds are to be used, the number of years during which the levy shall run, and the estimated average additional tax rate expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, outside the limitation imposed by Section 2 of Article XII, Ohio Constitution, as certified by the county auditor.

Sec. 5705.21. (A) At any time, the board of education of any city, local, exempted village, cooperative education, or joint vocational school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the school district, that it is necessary to levy a tax in excess of such limitation for one of the purposes specified in division (A), (D), (F), (H), or (DD) of section 5705.19 of the Revised Code, for general permanent improvements, for the purpose of operating a cultural center, or for the purpose of providing education technology, and that the question of such additional tax levy shall be submitted to the electors of the school district at a special election on a day

to be specified in the resolution. If the resolution states that the levy is for the purpose of operating a cultural center, the ballot shall state that the levy is "for the purpose of operating the ..... (name of cultural center)."

As used in this section, "cultural center" means a freestanding building, separate from a public school building, that is open to the public for educational, musical, artistic, and cultural purposes; "education technology" means, but is not limited to, computer hardware, equipment, materials, and accessories, equipment used for two-way audio or video, and software; and "general permanent improvements" means permanent improvements without regard to the limitation of division (F) of section 5705.19 of the Revised Code that the improvements be a specific improvement or a class of improvements that may be included in a single bond issue.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

(B) Such resolution shall be confined to a single purpose and shall specify the amount of the increase in rate that it is necessary to levy, the purpose of the levy, and the number of years during which the increase in rate shall be in effect. The number of years may be any number not exceeding five or, if the levy is for current expenses of the district or for general permanent improvements, for a continuing period of time. The resolution shall specify the date of holding such election, which shall not be earlier than ninety days after the adoption and certification of the resolution and which shall be consistent with the requirements of section 3501.01 of the Revised Code.

The resolution may propose to renew one or more existing levies imposed under this section or to increase or decrease a single levy imposed under this section. If the board of education imposes one or more existing levies for the purpose specified in division (F) of section 5705.19 of the Revised Code, the resolution may propose to renew one or more of those existing levies, or to increase or decrease a single such existing levy, for the purpose of general permanent improvements. If the resolution proposes to renew two or more existing levies, the levies shall be levied for the same purpose. The resolution shall identify those levies and the rates at which they are levied. The resolution also shall specify that the existing levies shall not be extended on the tax lists after the year preceding the year in which the renewal levy is first imposed, regardless of the years for which those levies originally were authorized to be levied.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for

in the notice of election. A copy of the resolution shall immediately after its passing be certified to the board of elections of the proper county in the manner provided by section 5705.25 of the Revised Code, and that section shall govern the arrangements for the submission of such question and other matters concerning such election, to which that section refers, except that such election shall be held on the date specified in the resolution. Publication of notice of that election shall be made in ~~one or more newspapers~~ a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(C)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy.

(2) After the approval of a levy for general permanent improvements for a specified number of years, or for permanent improvements having the purpose specified in division (F) of section 5705.19 of the Revised Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in each year over a period of five years after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(3) After approval of a levy for general permanent improvements for a continuing period of time, the board of education may anticipate a fraction

of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a specified period of years, not exceeding ten, after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

Sec. 5705.211. (A) As used in this section:

(1) "Adjusted charge-off increase" for a tax year means two and two-tenths per cent of the cumulative carryover property value increase. ~~If the cumulative carryover property value increase is computed on the basis of a school district's recognized valuation for a fiscal year before fiscal year 2014, the adjusted charge-off increase shall be adjusted to account for the greater charge-off rates prescribed for such fiscal years under sections 3317.022 and 3306.13 of the Revised Code.~~

(2) "Cumulative carryover property value increase" means the sum of the increases in carryover value certified under division (B)(2) of section 3317.015 of the Revised Code and included in a school district's total taxable value in the computation of recognized valuation under division (B) of that section for all fiscal years from the fiscal year that ends in the first tax year a levy under this section is extended on the tax list of real and public utility property until and including the fiscal year that ends in the current tax year.

(3) "Taxes charged and payable" means the taxes charged and payable from a tax levy extended on the real and public utility property tax list and the general list of personal property before any reduction under section 319.302, 323.152, or 323.158 of the Revised Code.

(B) The board of education of a city, local, or exempted village school district may adopt a resolution proposing the levy of a tax in excess of the ten-mill limitation for the purpose of paying the current operating expenses of the district. If the resolution is approved as provided in division (D) of this section, the tax may be levied at such a rate each tax year that the total taxes charged and payable from the levy equals the adjusted charge-off increase for the tax year or equals a lesser amount as prescribed under division (C) of this section. The tax may be levied for a continuing period of time or for a specific number of years, but not fewer than five years, as provided in the resolution. The tax may not be placed on the tax list for a tax year beginning before the first day of January following adoption of the resolution. A board of education may not adopt a resolution under this

section proposing to levy a tax under this section concurrently with any other tax levied by the board under this section.

(C) After the first year a tax is levied under this section, the rate of the tax in any year shall not exceed the rate, estimated by the county auditor, that would cause the sums levied from the tax against carryover property to exceed one hundred four per cent of the sums levied from the tax against carryover property in the preceding year. A board of education imposing a tax under this section may specify in the resolution imposing the tax that the percentage shall be less than one hundred four per cent, but the percentage shall not be less than one hundred per cent. At any time after a resolution adopted under this section is approved by a majority of electors as provided in division (D) of this section, the board of education, by resolution, may decrease the percentage specified in the resolution levying the tax.

(D) A resolution adopted under this section shall state that the purpose of the tax is to pay current operating expenses of the district, and shall specify the first year in which the tax is to be levied, the number of years the tax will be levied or that it will be levied for a continuing period of time, and the election at which the question of the tax is to appear on the ballot, which shall be a general or special election consistent with the requirements of section 3501.01 of the Revised Code. If the board of education specifies a percentage less than one hundred four per cent pursuant to division (C) of this section, the percentage shall be specified in the resolution.

Upon adoption of the resolution, the board of education may certify a copy of the resolution to the proper county board of elections. The copy of the resolution shall be certified to the board of elections not later than ninety days before the day of the election at which the question of the tax is to appear on the ballot. Upon receiving a timely certified copy of such a resolution, the board of elections shall make the necessary arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the school district for the election of members of the board of education. Notice of the election shall be published in ~~one or more newspapers~~ a newspaper of general circulation in the school district once per week for four consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall state that the purpose of the tax is for the current operating expenses of the school district, the first year the tax is to be levied, the number of years the tax is to be levied or that it is to be levied for a continuing period of time, that the tax is to be levied each year in an amount estimated to offset decreases in state base cost funding caused by appreciation in real estate values, and that the estimated additional tax in any

year shall not exceed the previous year's by more than four per cent, or a lesser percentage specified in the resolution levying the tax, except for increases caused by the addition of new taxable property.

The question shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

The form of the ballot shall be substantially as follows:

"An additional tax for the benefit of (name of school district) for the purpose of paying the current operating expenses of the district, for ..... (number of years or for continuing period of time), at a rate sufficient to offset any reduction in basic state funding caused by appreciation in real estate values? This levy will permit variable annual growth in revenue up to ..... (amount specified by school district) per cent for the duration of the levy.

	For the tax levy
	Against the tax levy

"

If a majority of the electors of the school district voting on the question vote in favor of the question, the board of elections shall certify the results of the election to the board of education and to the tax commissioner immediately after the canvass.

(E) When preparing any estimate of the contemplated receipts from a tax levied pursuant to this section for the purposes of sections 5705.28 to 5705.40 of the Revised Code, and in preparing to certify the tax under section 5705.34 of the Revised Code, a board of education authorized to levy such a tax shall use information supplied by the department of education to determine the adjusted charge-off increase for the tax year for which that certification is made. If the board levied a tax under this section in the preceding tax year, the sum to be certified for collection from the tax shall not exceed the sum that would exceed the limitation imposed under division (C) of this section. At the request of the board of education or the treasurer of the school district, the county auditor shall assist the board of education in determining the rate or sum that may be levied under this section.

The board of education shall certify the sum authorized to be levied to the county auditor, and, for the purpose of the county auditor determining the rate at which the tax is to be levied in the tax year, the sum so certified shall be the sum to be raised by the tax unless the sum exceeds the limitation imposed by division (C) of this section. A tax levied pursuant to this section

shall not be levied at a rate in excess of the rate estimated by the county auditor to produce the sum certified by the board of education before the reductions under sections 319.302, 323.152, and 323.158 of the Revised Code. Notwithstanding section 5705.34 of the Revised Code, a board of education authorized to levy a tax under this section shall certify the tax to the county auditor before the first day of October of the tax year in which the tax is to be levied, or at a later date as approved by the tax commissioner.

Sec. 5705.214. Not more than three elections during any calendar year shall include the questions by a school district of tax levies proposed under any one or any combination of the following sections: sections 5705.194, 5705.199, 5705.21, 5705.212, 5705.213, 5705.217, 5705.218, ~~and~~ 5705.219, and 5748.09 of the Revised Code.

Sec. 5705.218. (A) The board of education of a city, local, or exempted village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that it may be necessary for the school district to issue general obligation bonds for permanent improvements. The resolution shall state all of the following:

(1) The necessity and purpose of the bond issue;

(2) The date of the special election at which the question shall be submitted to the electors;

(3) The amount, approximate date, estimated rate of interest, and maximum number of years over which the principal of the bonds may be paid;

(4) The necessity of levying a tax outside the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities.

On adoption of the resolution, the board shall certify a copy of it to the county auditor. The county auditor promptly shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code.

(B) After receiving the county auditor's certification under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities; that it is necessary for

a specified number of years or for a continuing period of time to levy additional taxes in excess of the ten-mill limitation to provide funds for the acquisition, construction, enlargement, renovation, and financing of permanent improvements or to pay for current operating expenses, or both; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds;

(2) The proposed rate of the tax, if any, for current operating expenses, the first year the tax will be levied, and the number of years it will be levied, or that it will be levied for a continuing period of time;

(3) The proposed rate of the tax, if any, for permanent improvements, the first year the tax will be levied, and the number of years it will be levied, or that it will be levied for a continuing period of time.

The resolution shall apportion the annual rate of the tax between current operating expenses and permanent improvements, if both taxes are proposed. The apportionment may but need not be the same for each year of the tax, but the respective portions of the rate actually levied each year for current operating expenses and permanent improvements shall be limited by the apportionment. The resolution shall go into immediate effect upon its passage, and no publication of it is necessary other than that provided in the notice of election. The board of education shall certify a copy of the resolution, along with copies of the auditor's estimate and its resolution under division (A) of this section, to the board of elections immediately after its adoption.

(C) The board of elections shall make the arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers. The resolution shall be put before the electors as one ballot question, with a favorable vote indicating approval of the bond issue, the levy to pay debt charges on the bonds and any anticipatory securities, the current operating expenses levy, and the permanent improvements levy, if either or both levies are proposed. The board of elections shall publish notice of the election in ~~one or more newspapers~~ a newspaper of general circulation in the school district once a week for two consecutive weeks, or as provided in section

7.16 of the Revised Code, prior to the election~~, and, if~~. If a board of elections operates and maintains a web site, that board also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following:

(1) The principal amount of the proposed bond issue;

(2) The permanent improvements for which the bonds are to be issued;

(3) The maximum number of years over which the principal of the bonds may be paid;

(4) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;

(5) The proposed rate of the additional tax, if any, for current operating expenses;

(6) The number of years the current operating expenses tax will be in effect, or that it will be in effect for a continuing period of time;

(7) The proposed rate of the additional tax, if any, for permanent improvements;

(8) The number of years the permanent improvements tax will be in effect, or that it will be in effect for a continuing period of time;

(9) The time and place of the special election.

(D) The form of the ballot for an election under this section is as follows:

"Shall the ..... school district be authorized to do the following:

(1) Issue bonds for the purpose of ..... in the principal amount of $....., to be repaid annually over a maximum period of ..... years, and levy a property tax outside the ten-mill limitation, estimated by the county auditor to average over the bond repayment period ..... mills for each one dollar of tax valuation, which amounts to ..... (rate expressed in cents or dollars and cents, such as "36 cents" or "$1.41") for each $100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?"

If either a levy for permanent improvements or a levy for current operating expenses is proposed, or both are proposed, the ballot also shall contain the following language, as appropriate:

"(2) Levy an additional property tax to provide funds for the acquisition, construction, enlargement, renovation, and financing of permanent improvements at a rate not exceeding ..... mills for each one dollar of tax valuation, which amounts to ..... (rate expressed in cents or dollars and cents) for each $100 of tax valuation, for ..... (number of years of the levy, or a continuing period of time)?

(3) Levy an additional property tax to pay current operating expenses at

a rate not exceeding ..... mills for each one dollar of tax valuation, which amounts to ..... (rate expressed in cents or dollars and cents) for each $100 of tax valuation, for ..... (number of years of the levy, or a continuing period of time)?

	FOR THE BOND ISSUE AND LEVY (OR LEVIES)
	AGAINST THE BOND ISSUE AND LEVY (OR LEVIES)

"

(E) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote for it, the board of education may proceed with issuance of the bonds and with the levy and collection of the property tax or taxes at the additional rate or any lesser rate in excess of the ten-mill limitation. Any securities issued by the board of education under this section are Chapter 133. securities, as that term is defined in section 133.01 of the Revised Code.

(F)(1) After the approval of a tax for current operating expenses under this section and prior to the time the first collection and distribution from the levy can be made, the board of education may anticipate a fraction of the proceeds of such levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected during the first year of the levy.

(2) After the approval of a tax under this section for permanent improvements having a specific purpose, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax remaining to be collected in each year over a period of five years after issuance of the notes.

(3) After the approval of a tax for general, on-going permanent improvements under this section, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected in each year over a specified period of years, not exceeding ten, after issuance of the notes.

Anticipation notes under this section shall be issued as provided in section 133.24 of the Revised Code. Notes issued under division (F)(1) or (2) of this section shall have principal payments during each year after the

year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance. Notes issued under division (F)(3) of this section shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

(G) A tax for current operating expenses or for permanent improvements levied under this section for a specified number of years may be renewed or replaced in the same manner as a tax for current operating expenses or for permanent improvements levied under section 5705.21 of the Revised Code. A tax for current operating expenses or for permanent improvements levied under this section for a continuing period of time may be decreased in accordance with section 5705.261 of the Revised Code.

(H) The submission of a question to the electors under this section is subject to the limitation on the number of elections that can be held in a year under section 5705.214 of the Revised Code.

(I) A school district board of education proposing a ballot measure under this section to generate local resources for a project under the school building assistance expedited local partnership program under section 3318.36 of the Revised Code may combine the questions under division (D) of this section with a question for the levy of a property tax to generate moneys for maintenance of the classroom facilities acquired under that project as prescribed in section 3318.361 of the Revised Code.

Sec. 5705.25. (A) A copy of any resolution adopted as provided in section 5705.19 or 5705.2111 of the Revised Code shall be certified by the taxing authority to the board of elections of the proper county not less than ninety days before the general election in any year, and the board shall submit the proposal to the electors of the subdivision at the succeeding November election. Except as otherwise provided in this division, a resolution to renew an existing levy, regardless of the section of the Revised Code under which the tax was imposed, shall not be placed on the ballot unless the question is submitted at the general election held during the last year the tax to be renewed or replaced may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year. The limitation of the foregoing sentence does not apply to a resolution to renew and increase or to renew part of an existing levy that was imposed under section 5705.191 of the Revised Code to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: for public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals. The limitation of the second preceding sentence also does not apply to a

resolution that proposes to renew two or more existing levies imposed under section 5705.21 of the Revised Code, in which case the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on that tax list and duplicate.

The board shall make the necessary arrangements for the submission of such questions to the electors of such subdivision, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in such subdivision for the election of county officers. Notice of the election shall be published in a newspaper of general circulation in the subdivision once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the purpose, the proposed increase in rate expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, the number of years during which the increase will be in effect, the first month and year in which the tax will be levied, and the time and place of the election.

(B) The form of the ballots cast at an election held pursuant to division (A) of this section shall be as follows:

"An additional tax for the benefit of (name of subdivision or public library) ..... for the purpose of (purpose stated in the resolution) ..... at a rate not exceeding ..... mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) ..... for each one hundred dollars of valuation, for ..... (life of indebtedness or number of years the levy is to run).

	For the Tax Levy
	Against the Tax Levy

"

(C) If the levy is to be in effect for a continuing period of time, the notice of election and the form of ballot shall so state instead of setting forth a specified number of years for the levy.

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to run, the phrase ", commencing in ..... (first year the tax is to be

levied), first due in calendar year ..... (first calendar year in which the tax shall be due)."

If the levy submitted is a proposal to renew, increase, or decrease an existing levy, the form of the ballot specified in division (B) of this section may be changed by substituting for the words "An additional" at the beginning of the form, the words "A renewal of a" in case of a proposal to renew an existing levy in the same amount; the words "A renewal of ..... mills and an increase of ..... mills to constitute a" in the case of an increase; or the words "A renewal of part of an existing levy, being a reduction of ..... mills, to constitute a" in the case of a decrease in the proposed levy.

If the levy submitted is a proposal to renew two or more existing levies imposed under section 5705.21 of the Revised Code, the form of the ballot specified in division (B) of this section shall be modified by substituting for the words "an additional tax" the words "a renewal of ....(insert the number of levies to be renewed) existing taxes."

The question covered by such resolution shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. More than one such question may be submitted at the same election.

(D) A levy voted in excess of the ten-mill limitation under this section shall be certified to the tax commissioner. In the first year of the levy, it shall be extended on the tax lists after the February settlement succeeding the election. If the additional tax is to be placed upon the tax list of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the taxing authority, who shall make the necessary levy and certify it to the county auditor, who shall extend it on the tax lists for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5705.251. (A) A copy of a resolution adopted under section 5705.212 or 5705.213 of the Revised Code shall be certified by the board of education to the board of elections of the proper county not less than ninety days before the date of the election specified in the resolution, and the board of elections shall submit the proposal to the electors of the school district at a special election to be held on that date. The board of elections shall make the necessary arrangements for the submission of the question or questions to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the school district for the election of county officers. Notice of the election shall be published in a newspaper of general circulation in the subdivision once a

week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election.

(1) In the case of a resolution adopted under section 5705.212 of the Revised Code, the notice shall state separately, for each tax being proposed, the purpose; the proposed increase in rate, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation; the number of years during which the increase will be in effect; and the first calendar year in which the tax will be due. For an election on the question of a renewal levy, the notice shall state the purpose; the proposed rate, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation; and the number of years the tax will be in effect.

(2) In the case of a resolution adopted under section 5705.213 of the Revised Code, the notice shall state the purpose; the amount proposed to be raised by the tax in the first year it is levied; the estimated average additional tax rate for the first year it is proposed to be levied, expressed in mills for each one dollar of valuation and in dollars and cents for each one hundred dollars of valuation; the number of years during which the increase will be in effect; and the first calendar year in which the tax will be due. The notice also shall state the amount by which the amount to be raised by the tax may be increased in each year after the first year. The amount of the allowable increase may be expressed in terms of a dollar increase over, or a percentage of, the amount raised by the tax in the immediately preceding year. For an election on the question of a renewal levy, the notice shall state the purpose; the amount proposed to be raised by the tax; the estimated tax rate, expressed in mills for each one dollar of valuation and in dollars and cents for each one hundred dollars of valuation; and the number of years the tax will be in effect.

In any case, the notice also shall state the time and place of the election.

(B) The form of the ballot in an election on taxes proposed under section 5705.212 of the Revised Code shall be as follows:

"Shall the ..... school district be authorized to levy taxes for current expenses, the aggregate rate of which may increase in ..... (number) increment(s) of not more than ..... mill(s) for each dollar of valuation, from an original rate of ..... mill(s) for each dollar of valuation, which amounts to ..... (rate expressed in dollars and cents) for each one hundred dollars of valuation, to a maximum rate of ..... mill(s) for each dollar of valuation, which amounts to ..... (rate expressed in dollars and cents) for each one

hundred dollars of valuation? The original tax is first proposed to be levied in ..... (the first year of the tax), and the incremental tax in ..... (the first year of the increment) (if more than one incremental tax is proposed in the resolution, the first year that each incremental tax is proposed to be levied shall be stated in the preceding format, and the increments shall be referred to as the first, second, third, or fourth increment, depending on their number). The aggregate rate of tax so authorized will ..... (insert either, "expire with the original rate of tax which shall be in effect for ..... years" or "be in effect for a continuing period of time").

	FOR THE TAX LEVIES
	AGAINST THE TAX LEVIES

"

The form of the ballot in an election on the question of a renewal levy under section 5705.212 of the Revised Code shall be as follows:

"Shall the ..... school district be authorized to renew a tax for current expenses at a rate not exceeding ..... mills for each dollar of valuation, which amounts to ..... (rate expressed in dollars and cents) for each one hundred dollars of valuation, for ..... (number of years the levy shall be in effect, or a continuing period of time)?

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to be in effect, the phrase ", commencing in ..... (first year the tax is to be levied), first due in calendar year ..... (first calendar year in which the tax shall be due)."

(C) The form of the ballot in an election on a tax proposed under section 5705.213 of the Revised Code shall be as follows:

"Shall the ..... school district be authorized to levy the following tax for current expenses? The tax will first be levied in ..... (year) to raise ..... (dollars). In the ..... (number of years) following years, the tax will increase by not more than ..... (per cent or dollar amount of increase) each year, so that, during ..... (last year of the tax), the tax will raise approximately ..... (dollars). The county auditor estimates that the rate of the tax per dollar of valuation will be ..... mill(s), which amounts to $..... per one hundred dollars of valuation, both during ..... (first year of the tax) and ..... mill(s), which

amounts to $..... per one hundred dollars of valuation, during ..... (last year of the tax). The tax will not be levied after ..... (year).

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

The form of the ballot in an election on the question of a renewal levy under section 5705.213 of the Revised Code shall be as follows:

"Shall the ..... school district be authorized to renew a tax for current expenses which will raise ..... (dollars), estimated by the county auditor to be ..... mills for each dollar of valuation, which amounts to ..... (rate expressed in dollars and cents) for each one hundred dollars of valuation? The tax shall be in effect for ..... (the number of years the levy shall be in effect, or a continuing period of time).

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to be in effect, the phrase ", commencing in ..... (first year the tax is to be levied), first due in calendar year ..... (first calendar year in which the tax shall be due)."

(D) The question covered by a resolution adopted under section 5705.212 or 5705.213 of the Revised Code shall be submitted as a separate question, but may be printed on the same ballot with any other question submitted at the same election, other than the election of officers. More than one question may be submitted at the same election.

(E) Taxes voted in excess of the ten-mill limitation under division (B) or (C) of this section shall be certified to the tax commissioner. If an additional tax is to be placed upon the tax list of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the board of education. The board of education immediately shall make the necessary levy and certify it to the county auditor, who shall extend it on the tax list for collection. After the first year, the levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5705.261. The question of decrease of an increased rate of levy

approved for a continuing period of time by the voters of a subdivision may be initiated by the filing of a petition with the board of elections of the proper county not less than ninety days before the general election in any year requesting that an election be held on such question. Such petition shall state the amount of the proposed decrease in the rate of levy and shall be signed by qualified electors residing in the subdivision equal in number to at least ten per cent of the total number of votes cast in the subdivision for the office of governor at the most recent general election for that office. Only one such petition may be filed during each five-year period following the election at which the voters approved the increased rate for a continuing period of time.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the district at the succeeding general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections in such subdivision for county offices. Notice of the election shall be published in a newspaper of general circulation in the district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the purpose, the amount of the proposed decrease in rate, and the time and place of the election. The form of the ballot cast at such election shall be prescribed by the secretary of state. The question covered by such petition shall be submitted as a separate proposition but it may be printed on the same ballot with any other propositions submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question of a decrease at such election approve the proposed decrease in rate, the result of the election shall be certified immediately after the canvass by the board of elections to the subdivision's taxing authority, which shall thereupon, after the current year, cease to levy such increased rate or levy such tax at such reduced rate upon the duplicate of the subdivision. If notes have been issued in anticipation of the collection of such levy, the taxing authority shall continue to levy and collect under authority of the election authorizing the original levy such amounts as will be sufficient to pay the principal of and interest on such anticipation notes as the same fall due.

Sec. 5705.29. This section does not apply to a subdivision or taxing unit for which the county budget commission has waived the requirement to adopt a tax budget pursuant to section 5705.281 of the Revised Code. The tax budget shall present the following information in such detail as is

prescribed by the auditor of state:

(A)(1) A statement of the necessary current operating expenses for the ensuing fiscal year for each department and division of the subdivision, classified as to personal services and other expenses, and the fund from which such expenditures are to be made. Except in the case of a school district, this estimate may include a contingent expense not designated for any particular purpose, and not to exceed three per cent of the total amount of appropriations for current expenses. In the case of a school district, this estimate may include a contingent expense not designated for any particular purpose and not to exceed thirteen per cent of the total amount of appropriations for current expenses.

(2) A statement of the expenditures for the ensuing fiscal year necessary for permanent improvements, exclusive of any expense to be paid from bond issues, classified as to the improvements contemplated by the subdivision and the fund from which such expenditures are to be made;

(3) The amounts required for the payment of final judgments;

(4) A statement of expenditures for the ensuing fiscal year necessary for any purpose for which a special levy is authorized, and the fund from which such expenditures are to be made;

(5) Comparative statements, so far as possible, in parallel columns of corresponding items of expenditures for the current fiscal year and the two preceding fiscal years.

(B)(1) An estimate of receipts from other sources than the general property tax during the ensuing fiscal year, which shall include an estimate of unencumbered balances at the end of the current fiscal year, and the funds to which such estimated receipts are credited;

(2) The amount each fund requires from the general property tax, which shall be the difference between the contemplated expenditure from the fund and the estimated receipts, as provided in this section. The section of the Revised Code under which the tax is authorized shall be set forth.

(3) Comparative statements, so far as possible, in parallel columns of taxes and other revenues for the current fiscal year and the two preceding fiscal years.

(C)(1) The amount required for debt charges;

(2) The estimated receipts from sources other than the tax levy for payment of such debt charges, including the proceeds of refunding bonds to be issued to refund bonds maturing in the next succeeding fiscal year;

(3) The net amount for which a tax levy shall be made, classified as to bonds authorized and issued prior to January 1, 1922, and those authorized and issued subsequent to such date, and as to what portion of the levy will

be within and what in excess of the ten-mill limitation.

(D) An estimate of amounts from taxes authorized to be levied in excess of the ten-mill limitation on the tax rate, and the fund to which such amounts will be credited, together with the sections of the Revised Code under which each such tax is exempted from all limitations on the tax rate.

(E)(1) A board of education may include in its budget for the fiscal year in which a levy proposed under section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy proposed under section 5748.09, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty-five per cent of the total amount of the levy estimated to be available for appropriation in such year.

(2) A board of education may include in its budget for the fiscal year following the year in which a levy proposed under section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy proposed under section 5748.09, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty per cent of the amount of the levy estimated to be available for appropriation in such year.

(3) Except as provided in division (E)(4) of this section, the full amount of any reserve balance the board includes in its budget shall be retained by the county auditor and county treasurer out of the first semiannual settlement of taxes until the beginning of the next succeeding fiscal year, and thereupon, with the depository interest apportioned thereto, it shall be turned over to the board of education, to be used for the purposes of such fiscal year.

(4) A board of education, by a two-thirds vote of all members of the board, may appropriate any amount withheld as a voluntary contingency reserve balance during the fiscal year for any lawful purpose, provided that prior to such appropriation the board of education has authorized the expenditure of all amounts appropriated for contingencies under section 5705.40 of the Revised Code. Upon request by the board of education, the county auditor shall draw a warrant on the district's account in the county treasury payable to the district in the amount requested.

(F)(1) A board of education may include a spending reserve in its budget for fiscal years ending on or before June 30, 2002. The spending reserve shall consist of an estimate of expenditures not to exceed the district's spending reserve balance. A district's spending reserve balance is

the amount by which the designated percentage of the district's estimated personal property taxes to be settled during the calendar year in which the fiscal year ends exceeds the estimated amount of personal property taxes to be so settled and received by the district during that fiscal year. Moneys from a spending reserve shall be appropriated in accordance with section 133.301 of the Revised Code.

(2) For the purposes of computing a school district's spending reserve balance for a fiscal year, the designated percentage shall be as follows:

Fiscal year ending in:	Designated percentage
1998	50%
1999	40%
2000	30%
2001	20%
2002	10%

(G) Except as otherwise provided in this division, the county budget commission shall not reduce the taxing authority of a subdivision as a result of the creation of a reserve balance account. Except as otherwise provided in this division, the county budget commission shall not consider the amount in a reserve balance account of a township, county, or municipal corporation as an unencumbered balance or as revenue for the purposes of division (E)(3) or (4) of section 5747.51 of the Revised Code. The county budget commission may require documentation of the reasonableness of the reserve balance held in any reserve balance account. The commission shall consider any amount in a reserve balance account that it determines to be unreasonable as unencumbered and as revenue for the purposes of section 5747.51 of the Revised Code and may take such amounts into consideration when determining whether to reduce the taxing authority of a subdivision.

Sec. 5705.314. If the board of education of a city, local, or exempted village school district proposes to change its levy within the ten-mill limitation in a manner that will result in an increase in the amount of real property taxes levied by the board in the tax year the change takes effect, the board shall hold a public hearing solely on the proposal before adopting a resolution to implement the proposal. The board shall publish notice of the hearing in a newspaper of general circulation in the school district once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code. The second publication shall be not less than ten nor more than thirty days before the date of the hearing~~. The~~, and the notice shall include the date, time, place, and subject of the hearing, and a statement that the change proposed by the board may result in an increase in the amount of real property taxes levied by the board. At the time the board submits the

notice for publication, the board shall send a copy of the notice to the auditor of the county where the school district is located or, if the school district is located in more than one county, to the auditor of each of those counties.

Sec. 5705.392. (A) A board of county commissioners may adopt as a part of its annual appropriation measure a spending plan, or in the case of an amended appropriation measure, an amended spending plan, setting forth a quarterly schedule of expenses and expenditures of all appropriations for the fiscal year from the county general fund. The spending plan shall be classified to set forth separately a quarterly schedule of expenses and expenditures for each office, department, and division, and within each, the amount appropriated for personal services. Each office, department, and division shall be limited in its expenses and expenditures of moneys appropriated from the general fund during any quarter by the schedule established in the spending plan. The schedule established in the spending plan shall serve as a limitation during a quarter on the making of contracts and giving of orders involving the expenditure of money during that quarter for purposes of division (D) of section 5705.41 of the Revised Code.

(B)(1) A board of county commissioners, by resolution, may adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from any county fund, for the second half of a fiscal year and any subsequent fiscal year, for any county office, department, or division that has spent or encumbered more than six-tenths of the amount appropriated for personal services and payrolls during the first half of any fiscal year.

(2) During any fiscal year, a board of county commissioners, by resolution, may adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from any county fund, for any county office, department, or division that, during the previous fiscal year, spent one hundred ten per cent or more of the total amount appropriated for personal services and payrolls by the board in its annual appropriation measure required by section 5705.38 of the Revised Code. The spending plan or amended spending plan shall remain in effect two fiscal years, or until the county officer of the office for which the plan was adopted is no longer in office, including terms of office to which the county officer is re-elected, whichever is later.

(3) At least thirty days before adopting a resolution under division (B)(1) or (2) of this section, the board of county commissioners shall provide written notice to each county office, department, or division for which it intends to adopt a spending plan or an amended spending plan. The

notice shall be sent by regular first class mail or provided by personal service, and shall include a copy of the proposed spending plan or proposed amended spending plan. The county office, department, or division may meet with the board at any regular session of the board to comment on the notice, or to express concerns or ask questions about the proposed spending plan or proposed amended spending plan.

Sec. 5705.412. (A) As used in this section, "qualifying contract" means any agreement for the expenditure of money under which aggregate payments from the funds included in the school district's five-year forecast under section 5705.391 of the Revised Code will exceed the lesser of the following amounts:

(1) Five hundred thousand dollars;

(2) One per cent of the total revenue to be credited in the current fiscal year to the district's general fund, as specified in the district's most recent certificate of estimated resources certified under section 5705.36 of the Revised Code.

(B)(1) Notwithstanding section 5705.41 of the Revised Code, no school district shall adopt any appropriation measure, make any qualifying contract, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate, signed as required by this section, that the school district has in effect the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to maintain all personnel and programs for all the days set forth in its adopted school calendars for the current fiscal year and for a number of days in succeeding fiscal years equal to the number of days instruction was held or is scheduled for the current fiscal year, as follows:

~~(1)~~(a) A certificate attached to an appropriation measure under this section shall cover only the fiscal year in which the appropriation measure is effective and shall not consider the renewal or replacement of an existing levy as the authority to levy taxes that are subject to appropriation in the current fiscal year unless the renewal or replacement levy has been approved by the electors and is subject to appropriation in the current fiscal year.

~~(2)~~(b) A certificate attached, in accordance with this section, to any qualifying contract shall cover the term of the contract.

~~(3)~~(c) A certificate attached under this section to a wage or salary schedule shall cover the term of the schedule.

If the board of education has not adopted a school calendar for the school year beginning on the first day of the fiscal year in which a certificate

is required, the certificate attached to an appropriation measure shall include the number of days on which instruction was held in the preceding fiscal year and other certificates required under this section shall include that number of days for the fiscal year in which the certificate is required and any succeeding fiscal years that the certificate must cover.

The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316. of the Revised Code. In that case, the certificate shall be signed by a member of the district's financial planning and supervision commission who is designated by the commission for this purpose.

(2) In lieu of the certificate required under division (B) of this section, an alternative certificate stating the following may be attached:

(a) The contract is a multi-year contract for materials, equipment, or nonpayroll services essential to the education program of the district;

(b) The multi-year contract demonstrates savings over the duration of the contract as compared to costs that otherwise would have been demonstrated in a single year contract, and the terms will allow the district to reduce the deficit it is currently facing in future years as demonstrated in its five-year forecast adopted in accordance with section 5705.391 of the Revised Code.

The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316. of the Revised Code. In that case, the certificate shall be signed by a member of the district's financial planning and supervision commission who is designated by the commission for this purpose.

(C) Every qualifying contract made or wage or salary schedule adopted or put into effect without such a certificate shall be void, and no payment of any amount due thereon shall be made.

(D) The department of education and the auditor of state jointly shall adopt rules governing the methods by which treasurers, presidents of boards of education, superintendents, and members of financial planning and supervision commissions shall estimate revenue and determine whether such revenue is sufficient to provide necessary operating revenue for the purpose of making certifications required by this section.

(E) The auditor of state shall be responsible for determining whether school districts are in compliance with this section. At the time a school district is audited pursuant to section 117.11 of the Revised Code, the auditor of state shall review each certificate issued under this section since

the district's last audit, and the appropriation measure, contract, or wage and salary schedule to which such certificate was attached. If the auditor of state determines that a school district has not complied with this section with respect to any qualifying contract or wage or salary schedule, the auditor of state shall notify the prosecuting attorney for the county, the city director of law, or other chief law officer of the school district. That officer may file a civil action in any court of appropriate jurisdiction to seek a declaration that the contract or wage or salary schedule is void, to recover for the school district from the payee the amount of payments already made under it, or both, except that the officer shall not seek to recover payments made under any collective bargaining agreement entered into under Chapter 4117. of the Revised Code. If the officer does not file such an action within one hundred twenty days after receiving notice of noncompliance from the auditor of state, any taxpayer may institute the action in the taxpayer's own name on behalf of the school district.

(F) This section does not apply to any contract or increase in any wage or salary schedule that is necessary in order to enable a board of education to comply with division (B) of section 3317.13 of the Revised Code, provided the contract or increase does not exceed the amount required to be paid to be in compliance with such division.

(G) Any officer, employee, or other person who expends or authorizes the expenditure of any public funds or authorizes or executes any contract or schedule contrary to this section, expends or authorizes the expenditure of any public funds on the void contract or schedule, or issues a certificate under this section which contains any false statements is liable to the school district for the full amount paid from the district's funds on the contract or schedule. The officer, employee, or other person is jointly and severally liable in person and upon any official bond that the officer, employee, or other person has given to the school district to the extent of any payments on the void claim, not to exceed ten thousand dollars. However, no officer, employee, or other person shall be liable for a mistaken estimate of available resources made in good faith and based upon reasonable grounds. If an officer, employee, or other person is found to have complied with rules jointly adopted by the department of education and the auditor of state under this section governing methods by which revenue shall be estimated and determined sufficient to provide necessary operating revenue for the purpose of making certifications required by this section, the officer, employee, or other person shall not be liable under this section if the estimates and determinations made according to those rules do not, in fact, conform with actual revenue. The prosecuting attorney of the county, the city director of

law, or other chief law officer of the district shall enforce this liability by civil action brought in any court of appropriate jurisdiction in the name of and on behalf of the school district. If the prosecuting attorney, city director of law, or other chief law officer of the district fails, upon the written request of any taxpayer, to institute action for the enforcement of the liability, the attorney general, or the taxpayer in the taxpayer's own name, may institute the action on behalf of the subdivision.

(H) This section does not require the attachment of an additional certificate beyond that required by section 5705.41 of the Revised Code for current payrolls of, or contracts of employment with, any employees or officers of the school district.

This section does not require the attachment of a certificate to a temporary appropriation measure if all of the following apply:

(1) The amount appropriated does not exceed twenty-five per cent of the total amount from all sources available for expenditure from any fund during the preceding fiscal year;

(2) The measure will not be in effect on or after the thirtieth day following the earliest date on which the district may pass an annual appropriation measure;

(3) An amended official certificate of estimated resources for the current year, if required, has not been certified to the board of education under division (B) of section 5705.36 of the Revised Code.

Sec. 5705.71. (A) The electors of a county may initiate the question of a tax levy for support of senior citizens services or facilities by the filing of a petition with the board of elections of that county not less than ninety days before the date of any primary or general election requesting that an election be held on such question. The petition shall be signed by at least ten per cent of the qualified electors residing in the county and voting for the office of governor at the last general election.

(B) The petition shall state the purpose for which the senior citizens tax levy is being proposed, shall specify the amount of the proposed increase in rate, the period of time during which the increase is to be in effect, and whether the levy is to be imposed in the current year. The number of years may be any number not exceeding five, except that when the additional rate is for the payment of debt charges the increased rate shall be for the life of the indebtedness.

(C) After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the county at the succeeding primary or general election.

(D) The election shall be conducted, canvassed, and certified in the

same manner as regular elections in such county for county offices. Notice of the election shall be published in a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the purpose, the amount of the proposed increase in rate, and the time and place of the election.

(E) The form of the ballot cast at such election shall be prescribed by the secretary of state. If the tax is to be placed on the tax list of the current tax year, the form of the ballot shall include a statement to that effect and shall indicate the first calendar year the tax will be due. The question covered by such petition shall be submitted as a separate proposition but it may be printed on the same ballot with any other propositions submitted at the same election other than the election of officers.

(F) If a majority of electors voting on the question vote in favor of the levy, the board of county commissioners shall levy a tax, for the period and the purpose stated within the petition. If the tax is to be placed upon the tax list of the current year, as specified in the petition, the result of the election shall be certified immediately after the canvass by the board of elections to the board of county commissioners, which shall forthwith make the necessary levy and certify it to the county auditor, who shall extend it on the tax list for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5707.031. As used in this section, "qualifying dealer in intangibles" ~~has the same meaning as "qualifying dealer" in section 5725.24 of the Revised Code~~ means a dealer in intangibles that is a qualifying dealer in intangibles as defined in section 5733.45 of the Revised Code or a member of a qualifying controlled group, as defined in section 5733.04 of the Revised Code, of which an insurance company also is a member on the first day of January of the year in and for which the tax imposed by section 5707.03 of the Revised Code is required to be paid by the dealer.

Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a refundable credit may be claimed against the tax imposed on a qualifying dealer in intangibles under section 5707.03 and Chapter 5725. of the Revised Code. The credit shall be claimed on a return due under section 5725.14 of the Revised Code after the certificate is issued by the authority.

Sec. 5709.07. (A) The following property shall be exempt from taxation:

(1) ~~Public schoolhouses, the books and furniture in them, and the ground attached to them necessary for the proper occupancy, use, and enjoyment of the schoolhouses, and not leased or otherwise used with a view to profit;~~ Real property used by a school for primary or secondary educational purposes, including only so much of the land as is necessary for the proper occupancy, use, and enjoyment of such real property by the school for primary or secondary educational purposes. The exemption under division (A)(1) of this section does not apply to any portion of the real property not used for primary or secondary educational purposes.

For purposes of division (A)(1) of this section:

(a) "School" means a public or nonpublic school. "School" excludes home instruction as authorized under section 3321.04 of the Revised Code.

(b) "Public school" includes schools of a school district, STEM schools established under Chapter 3326. of the Revised Code, community schools established under Chapter 3314. of the Revised Code, and educational service centers established under section 3311.05 of the Revised Code.

(c) "Nonpublic school" means a nonpublic school for which the state board of education has issued a charter pursuant to section 3301.16 of the Revised Code and prescribes minimum standards under division (D)(2) of section 3301.07 of the Revised Code.

(2) Houses used exclusively for public worship, the books and furniture in them, and the ground attached to them that is not leased or otherwise used with a view to profit and that is necessary for their proper occupancy, use, and enjoyment;

(3) Real property owned and operated by a church that is used primarily for church retreats or church camping, and that is not used as a permanent residence. Real property exempted under division (A)(3) of this section may be made available by the church on a limited basis to charitable and educational institutions if the property is not leased or otherwise made available with a view to profit.

(4) Public colleges and academies and all buildings connected with them, and all lands connected with public institutions of learning, not used with a view to profit, including those buildings and lands that satisfy all of the following:

(a) The buildings are used for housing for full-time students or housing-related facilities for students, faculty, or employees of a state university, or for other purposes related to the state university's educational purpose, and the lands are underneath the buildings or are used for common space, walkways, and green spaces for the state university's students, faculty, or employees. As used in this division, "housing-related facilities"

includes both parking facilities related to the buildings and common buildings made available to students, faculty, or employees of a state university. The leasing of space in housing-related facilities shall not be considered an activity with a view to profit for purposes of division (A)(4) of this section.

(b) The buildings and lands are supervised or otherwise under the control, directly or indirectly, of an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and the state university has entered into a qualifying joint use agreement with the organization that entitles the students, faculty, or employees of the state university to use the lands or buildings;

(c) The state university has agreed, under the terms of the qualifying joint use agreement with the organization described in division (A)(4)(b) of this section, that the state university, to the extent applicable under the agreement, will make payments to the organization in amounts sufficient to maintain agreed-upon debt service coverage ratios on bonds related to the lands or buildings.

(B) This section shall not extend to leasehold estates or real property held under the authority of a college or university of learning in this state; but leaseholds, or other estates or property, real or personal, the rents, issues, profits, and income of which is given to a municipal corporation, school district, or subdistrict in this state exclusively for the use, endowment, or support of schools for the free education of youth without charge shall be exempt from taxation as long as such property, or the rents, issues, profits, or income of the property is used and exclusively applied for the support of free education by such municipal corporation, district, or subdistrict. Division (B) of this section shall not apply with respect to buildings and lands that satisfy all of the requirements specified in divisions (A)(4)(a) to (c) of this section.

(C) For purposes of this section, if the requirements specified in divisions (A)(4)(a) to (c) of this section are satisfied, the buildings and lands with respect to which exemption is claimed under division (A)(4) of this section shall be deemed to be used with reasonable certainty in furthering or carrying out the necessary objects and purposes of a state university.

(D) As used in this section:

(1) "Church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

(2) "State university" has the same meaning as in section 3345.011 of the Revised Code.

(3) "Qualifying joint use agreement" means an agreement that satisfies all of the following:

(a) The agreement was entered into before June 30, 2004;

(b) The agreement is between a state university and an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended; and

(c) The state university that is a party to the agreement reported to the Ohio board of regents that the university maintained a headcount of at least twenty-five thousand students on its main campus during the academic school year that began in calendar year 2003 and ended in calendar year 2004.

Sec. 5709.084. Real and personal property comprising a convention center that is constructed or, in the case of personal property, acquired, after January 1, 2010, are exempt from taxation if the convention center is located in a county having a population, when construction of the convention center commences, of more than one million two hundred thousand according to the most recent federal decennial census, and if the convention center, or the land upon which the convention center is situated, is owned or leased by the county. For the purposes of this section, construction of the convention center commences upon the earlier of issuance of debt to finance all or a portion of the convention center, demolition of existing structures on the site, or grading of the site in preparation for construction.

Real and personal property comprising a convention center owned by the largest city in a county having a population greater than seven hundred thousand but less than nine hundred thousand according to the most recent federal decennial census is exempt from taxation, regardless of whether the property is leased to or otherwise operated or managed by a person other than the city.

As used in this section, "convention center" has the same meaning as in section 307.695 of the Revised Code.

Sec. 5709.40. (A) As used in this section:

(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code.

(2) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential

purposes.

(4) "Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance.

(5) "Incentive district" means an area not more than three hundred acres in size enclosed by a continuous boundary in which a project is being, or will be, undertaken and having one or more of the following distress characteristics:

(a) At least fifty-one per cent of the residents of the district have incomes of less than eighty per cent of the median income of residents of the political subdivision in which the district is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.

(c) At least twenty per cent of the people residing in the district live at or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C. 5301, as amended, and regulations adopted pursuant to that act.

(d) The district is a blighted area.

(e) The district is in a situational distress area as designated by the director of development under division (F) of section 122.23 of the Revised Code.

(f) As certified by the engineer for the political subdivision, the public infrastructure serving the district is inadequate to meet the development needs of the district as evidenced by a written economic development plan or urban renewal plan for the district that has been adopted by the legislative authority of the subdivision.

(g) The district is comprised entirely of unimproved land that is located in a distressed area as defined in section 122.23 of the Revised Code.

(6) "Project" means development activities undertaken on one or more parcels, including, but not limited to, construction, expansion, and alteration of buildings or structures, demolition, remediation, and site development, and any building or structure that results from those activities.

(7) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; environmental

remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities; and the enhancement of public waterways through improvements that allow for greater public access.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation for a period of not more than ten years. The ordinance shall specify the percentage of the improvement to be exempted from taxation and the life of the exemption.

An ordinance adopted or amended under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the municipal corporation that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.42 of the Revised Code shall be used to finance the public infrastructure improvements designated in the ordinance, for the purpose described in division (D)(1) of this section or as provided in section 5709.43 of the Revised Code.

(C)(1) The legislative authority of a municipal corporation may adopt an ordinance creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no legislative authority of a municipal corporation that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt an ordinance that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the municipal corporation that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district

and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the municipal corporation for the preceding tax year. The ordinance shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. An ordinance may create more than one such district, and more than one ordinance may be adopted under division (C)(1) of this section.

(2) Not later than thirty days prior to adopting an ordinance under division (C)(1) of this section, if the municipal corporation intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the legislative authority of a municipal corporation shall conduct a public hearing on the proposed ordinance. Not later than thirty days prior to the public hearing, the legislative authority shall give notice of the public hearing and the proposed ordinance by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed ordinance.

(3)(a) An ordinance adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements, for the purpose described in division (D)(1) or (E) of this section, or as provided in section 5709.43 of the Revised Code.

An ordinance adopted under division (C)(1) of this section on or after ~~the effective date of this amendment~~ March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.42 of the Revised Code and received by the municipal corporation under the ordinance shall be used for police or fire equipment.

(b) An ordinance adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The ordinance shall designate the parcels within the district that are eligible for housing renovation. The ordinance shall state separately the amounts or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the general purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D)(1) If the ordinance declaring improvements to a parcel to be a public purpose or creating an incentive district specifies that payments in lieu of taxes provided for in section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village, and joint vocational school district in which the parcel or incentive district is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (D)(2) of this section.

(2) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval under this paragraph of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty

years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting an ordinance under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the legislative authority shall deliver to the board of education a notice stating its intent to adopt an ordinance making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvement that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The notice regarding improvements to parcels within an incentive district under division (C) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation. <u>If an agreement is negotiated between the legislative authority and the board to compensate the school district for all or part of the taxes exempted, including agreements for payments in lieu of taxes under section 5709.42 of the Revised Code, the legislative authority shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.</u>

(3) The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to the date the legislative authority intends to adopt the ordinance as indicated in the notice. If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for the number of years specified in the ordinance or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance and may declare the improvements a public purpose for up to thirty years, or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority.

(4) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of exemptions by the board is not required under division (D) of this section. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under division (D) of this section fewer than forty-five business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(5) If the legislative authority is not required by division (D) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the

Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(E)(1) If a proposed ordinance under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the legislative authority of the municipal corporation shall deliver to the board of county commissioners of the county within which the incentive district will be located a notice that states its intent to adopt an ordinance creating an incentive district. The notice shall include a copy of the proposed ordinance, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the legislative authority intends to adopt the ordinance.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the legislative authority. In no case shall the compensation provided to the board exceed the property taxes ~~foregone~~ forgone due to the exemption. If the board of county commissioners objects, and the board and legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance adopted under division (C)(1) of this section shall provide to the board compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the legislative authority not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the legislative authority may adopt the ordinance, and

no compensation shall be provided to the board of county commissioners. If the board timely certifies its resolution objecting to the ordinance, the legislative authority may adopt the ordinance at any time after a mutually acceptable compensation agreement is agreed to by the board and the legislative authority, or, if no compensation agreement is negotiated, at any time after the legislative authority agrees in the proposed ordinance to provide compensation to the board of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to an ordinance creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.42 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and

facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences with the tax year specified in the ordinance so long as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the ordinance. Except as otherwise provided in this division, the exemption ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the municipal public improvement tax increment equivalent fund established under division (A) of section 5709.43 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the ordinance, if the legislative authority and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (D)(2) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same manner as in the case of other real property exemptions. If an exemption status changes during a year, the procedure for the apportionment of the

taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) Additional municipal financing of public infrastructure improvements and housing renovations may be provided by any methods that the municipal corporation may otherwise use for financing such improvements or renovations. If the municipal corporation issues bonds or notes to finance the public infrastructure improvements and housing renovations and pledges money from the municipal public improvement tax increment equivalent fund to pay the interest on and principal of the bonds or notes, the bonds or notes are not subject to Chapter 133. of the Revised Code.

(I) The municipal corporation, not later than fifteen days after the adoption of an ordinance under this section, shall submit to the director of development a copy of the ordinance. On or before the thirty-first day of March of each year, the municipal corporation shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the funds created under section 5709.43 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a legislative authority from declaring to be a public purpose improvements with respect to more than one parcel.

Sec. 5709.41. (A) As used in this section:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(2) "Improvement" means the increase in assessed value of any parcel of property subsequent to the acquisition of the parcel by a municipal corporation engaged in urban redevelopment.

(B) The legislative authority of a municipal corporation, by ordinance, may declare to be a public purpose any improvement to a parcel of real property if both of the following apply:

(1) The municipal corporation held fee title to the parcel prior to the adoption of the ordinance;

(2) The parcel is leased, or the fee of the parcel is conveyed, to any person either before or after adoption of the ordinance.

Improvements used or to be used for residential purposes may be declared a public purpose under this section only if the parcel is located in a blighted area of an impacted city as those terms are defined in section 1728.01 of the Revised Code.

(C) Except as otherwise provided in division (C)(1), (2), or (3) of this section, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation. The ordinance shall specify the percentage of the improvement to be exempted from taxation.

(1) If the ordinance declaring improvements to a parcel to be a public purpose specifies that payments in lieu of taxes provided for in section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village school district in which the parcel is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (C)(2) of this section.

(2) Improvements may be exempted from taxation for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within the territory of which the improvements are or will be located, for up to thirty years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting an ordinance under this section, the legislative authority shall deliver to the board of education a notice stating its intent to declare improvements to be a public purpose under this section. The notice shall describe the parcel and the improvements, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice, may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both, or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation

to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period, or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of seventy-five per cent were that portion to be subject to taxation. The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to the date the legislative authority intends to adopt the ordinance as indicated in the notice. If the board of education approves the exemption on the condition that a compensation agreement be negotiated, the board in its resolution shall propose a compensation percentage. If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for the number of years specified in the ordinance or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for not more than ten years, but shall not exempt more than seventy-five per cent of the improvements from taxation. If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance and may declare the improvements a public purpose for up to thirty years. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority. If a mutually acceptable compensation agreement is negotiated between the legislative authority and the board, including agreements for payments in lieu of taxes under section 5709.42 of the Revised Code, the legislative authority shall compensate the joint vocational school district within the territory of which the improvements are or will be located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation and the resolution remains in effect, approval of exemptions by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five

business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) If the legislative authority is not required by division (C)(1), (2), or (3) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(D) The exemption commences on the effective date of the ordinance and ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose. The exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(E) A municipal corporation, not later than fifteen days after the adoption of an ordinance granting a tax exemption under this section, shall submit to the director of development a copy of the ordinance. On or before the thirty-first day of March each year, the municipal corporation shall submit a status report to the director of development outlining the progress of the project during each year that the exemption remains in effect.

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements

entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before October 15, ~~2011~~ 2012, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation

shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code.

The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, ~~2011~~ 2012, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to

relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of

development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all

agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before October 15, ~~2011~~ 2012, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in

which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and (B)(2) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a) or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the

agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, ~~2011~~ 2012, and with the consent of the legislative authority of each affected municipal corporation or board of

township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the

purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise

at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of this section as it pertains to divisions (C)(2)(a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of development or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of development for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of county commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the

manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before October 15, ~~2011~~ 2012, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or

more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement

shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.73. (A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a

resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption.

(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the township that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the township for the preceding tax year. The district shall be located within the unincorporated area of the township and shall not include any territory that is included within a district created under division (B) of section 5709.78 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. A resolution may create more than one district, and more than one resolution may be adopted under division (C)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under division (C)(1) of this section, if the township intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to

every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution.

(3)(a) A resolution adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (C)(1) of this section on or after ~~the effective date of this amendment~~ March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.74 of the Revised Code and received by the township under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be

exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section ~~E~~.

(D) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the board of township trustees shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The notice regarding improvements made under division (C) of this section to parcels within an incentive district shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of township trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage

of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

The board of education shall certify its resolution to the board of township trustees not later than fourteen days prior to the date the board of township trustees intends to adopt the resolution as indicated in the notice. If the board of education and the board of township trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of township trustees within the time prescribed by this section, the board of township trustees thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of township trustees may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of township trustees, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of township trustees. If a mutually acceptable compensation agreement is negotiated between the board of township trustees and the board of education, including agreements for payments in lieu of taxes under section 5709.74 of the Revised Code, the board of township trustees shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (D) of this section. If a board of education has adopted a resolution allowing a board of township trustees to deliver the notice required under division (D) of this section fewer than forty-five

business days prior to adoption of the resolution by the board of township trustees, the board of township trustees shall deliver the notice to the board of education not later than the number of days prior to the adoption as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of township trustees. If the board of education rescinds the resolution, it shall certify notice of the rescission to the board of township trustees.

If the board of township trustees is not required by division (D) of this section to notify the board of education of the board of township trustees' intent to declare improvements to be a public purpose, the board of township trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive the notice.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board of township trustees intends to adopt the resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If

the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of township trustees agrees in the proposed resolution to provide compensation to the board of county commissioners of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.74 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have

been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or families;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list

and duplicate of real and public utility property and that commences after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement and the board of education has approved the term of the exemption under division (D) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. The board of township trustees may, by majority vote, adopt a resolution permitting the township to enter into such agreements as the board finds necessary or appropriate to provide for the construction or undertaking of public infrastructure improvements and housing renovations. Any exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township fiscal officer, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes, which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a

copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure improvement. A board of township trustees that seeks by the amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on private property, or stormwater and flood remediation projects may do so provided that the board currently is a party to a hold-harmless agreement with the board of education of the city, local, or exempted village school district within the territory of which are located the parcels that are subject to an exemption. For the purposes of this division, a "hold-harmless agreement" means an agreement under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue that the school district would have received from further improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

Sec. 5709.78. (A) A board of county commissioners may, by resolution, declare improvements to certain parcels of real property located in the unincorporated territory of the county to be a public purpose. Except with the approval under division (C) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation, for a period of not more than ten years. The resolution shall specify the percentage of the improvement to be exempted and the life of the exemption.

A resolution adopted under this division shall designate the specific

public infrastructure improvements made, to be made, or in the process of being made by the county that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.79 of the Revised Code shall be used to finance the public infrastructure improvements designated in the resolution, or as provided in section 5709.80 of the Revised Code.

(B)(1) A board of county commissioners may adopt a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (E) of this section, exempt from taxation as provided in this section, but no board of county commissioners of a county that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the county that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the county for the preceding tax year. The district shall be located within the unincorporated territory of the county and shall not include any territory that is included within a district created under division (C) of section 5709.73 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (A) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under division (B)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under division (B)(1) of this section, if the county intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board of county commissioners shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution. The board also shall provide the notice by first class mail to the clerk of each township in which the proposed incentive district will be located.

(3)(a) A resolution adopted under division (B)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (B)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (B)(1) of this section on or after ~~the effective date of this amendment~~ March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.79 of the Revised Code and received by the county under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (B)(1) of this section may authorize the use of service payments provided for in section 5709.79 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (D) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (C) of this section.

(C)(1) Improvements with respect to a parcel may be exempted from

taxation under division (A) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (B) of this section, for up to ten years or, with the approval of the board of education of ~~the~~ each city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to the approval of a board of education under this division, the board of county commissioners shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (A) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The notice regarding improvements to parcels within an incentive district under division (B) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of county commissioners and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

(2) The board of education shall certify its resolution to the board of county commissioners not later than fourteen days prior to the date the board of county commissioners intends to adopt its resolution as indicated in the notice. If the board of education and the board of county commissioners negotiate a mutually acceptable compensation agreement, the resolution of the board of county commissioners may declare the improvements a public purpose for the number of years specified in that resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of county commissioners within the time prescribed by this section, the board of county commissioners thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of county commissioners may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of county commissioners, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of county commissioners. If a mutually acceptable compensation agreement is negotiated between the board of county commissioners and the board of education, including agreements for payments in lieu of taxes under section 5709.79 of the Revised Code, the board of county commissioners shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under division (C) of this section fewer than forty-five business days prior to approval of the resolution by the board of county commissioners, the board of county commissioners shall deliver the notice

to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of county commissioners shall deliver to the board of township trustees of any township within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board intends to adopt the resolution.

(2) The board of township trustees, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of township trustees objects, the board of township trustees may negotiate a mutually acceptable compensation agreement with the board of county commissioners. In no case shall the compensation provided to the board of township trustees exceed the property taxes ~~foregone~~ forgone due to the exemption. If the board of township trustees objects, and the board of township trustees and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (B)(1) of this section shall provide to the board of township trustees compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the township or, if the board of township trustee's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the township on the portion of the

improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of township trustees shall certify its resolution to the board of county commissioners not later than thirty days after receipt of the notice.

(3) If the board of township trustees does not object or fails to certify a resolution objecting to an exemption within thirty days after receipt of the notice, the board of county commissioners may adopt its resolution, and no compensation shall be provided to the board of township trustees. If the board of township trustees certifies its resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees. If the board of township trustees certifies a resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of county commissioners in the proposed resolution to provide compensation to the board of township trustees of fifty per cent of the taxes that would be payable to the township in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(E) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (B)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (D) of section 5709.79 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (B) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(F) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the county can no longer require annual service payments in lieu of taxes under section 5709.79 of the

Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of commissioners and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (C)(1) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(G) If the board of county commissioners is not required by this section to notify the board of education of the board of county commissioners' intent to declare improvements to be a public purpose, the board of county commissioners shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive such a notice.

(H) The county, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a copy of the resolution. On or before the thirty-first day of March of each year, the county shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.80 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(I) Nothing in this section shall be construed to prohibit a board of county commissioners from declaring to be a public purpose improvements with respect to more than one parcel.

Sec. 5709.82. (A) As used in this section:

(1) "New employee" means both of the following:

(a) Persons employed in the construction of real property exempted

from taxation under the chapters or sections of the Revised Code enumerated in division (B) of this section;

(b) Persons not described by division (A)(1)(a) of this section who are first employed at the site of such property and who within the two previous years have not been subject, prior to being employed at that site, to income taxation by the municipal corporation within whose territory the site is located on income derived from employment for the person's current employer. "New employee" does not include any person who replaces a person who is not a new employee under division (A)(1) of this section.

(2) "Infrastructure costs" means costs incurred by a municipal corporation in a calendar year to acquire, construct, reconstruct, improve, plan, or equip real or tangible personal property that directly benefits or will directly benefit the exempted property. If the municipal corporation finances the acquisition, construction, reconstruction, improvement, planning, or equipping of real or tangible personal property that directly benefits the exempted property by issuing debt, "infrastructure costs" means the annual debt charges incurred by the municipal corporation from the issuance of such debt. Real or tangible personal property directly benefits exempted property only if the exempted property places or will place direct, additional demand on the real or tangible personal property for which such costs were or will be incurred.

(3) "Taxing unit" has the same meaning as in division (H) of section 5705.01 of the Revised Code.

(B)(1) Except as otherwise provided under division (C) of this section, the legislative authority of any political subdivision that has acted under the authority of Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised Code to grant an exemption from taxation for real or tangible personal property may negotiate with the board of education of each city, local, exempted village, or joint vocational school district or other taxing unit within the territory of which the exempted property is located, and enter into an agreement whereby the school district or taxing unit is compensated for tax revenue foregone by the school district or taxing unit as a result of the exemption. Except as otherwise provided in division (B)(1) of this section, if a political subdivision enters into more than one agreement under this section with respect to a tax exemption, the political subdivision shall provide to each school district or taxing unit with which it contracts the same percentage of tax revenue foregone by the school district or taxing unit, which may be based on a good faith projection made at the time the exemption is granted. Such percentage shall be calculated on the basis of

amounts paid by the political subdivision and any amounts paid by an owner under division (B)(2) of this section. A political subdivision may provide a school district or other taxing unit with a smaller percentage of foregone tax revenue than that provided to other school districts or taxing units only if the school district or taxing unit expressly consents in the agreement to receiving a smaller percentage. If a subdivision has acted under the authority of section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code and enters into a compensation agreement with a city, local, or exempted village school district, the subdivision shall provide compensation to the joint vocational school district within the territory of which the exempted property is located at the same rate and under the same terms as received by the city, local, or exempted village school district.

(2) An owner of property exempted from taxation under the authority described in division (B)(1) of this section may, by becoming a party to an agreement described in division (B)(1) of this section or by entering into a separate agreement with a school district or other taxing unit, agree to compensate the school district or taxing unit by paying cash or by providing property or services by gift, loan, or otherwise. If the owner's property is exempted under the authority of section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code and the owner enters into a compensation agreement with a city, local, or exempted village school district, the owner shall provide compensation to the joint vocational school district within the territory of which the owner's property is located at the same rate and under the same terms as received by the city, local, or exempted village school district.

(C) This division does not apply to the following:

(1) The legislative authority of a municipal corporation that has acted under the authority of division (H) of section 715.70 or section 715.81 of the Revised Code to consent to the granting of an exemption from taxation for real or tangible personal property in a joint economic development district.

(2) The legislative authority of a municipal corporation that has specified in an ordinance adopted under section 5709.40 or 5709.41 of the Revised Code that payments in lieu of taxes provided for under section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village school district in which the improvements are located in the amount of taxes that would have been payable to the school district if the improvements had not been exempted from taxation, as directed in the ordinance.

If the legislative authority of any municipal corporation has acted under the authority of Chapter 725. or 1728. or section 3735.671, 5709.40,

5709.41, 5709.62, 5709.63, 5709.632, or 5709.88, or a housing officer under section 3735.67 of the Revised Code, to grant or consent to the granting of an exemption from taxation for real or tangible personal property on or after July 1, 1994, the municipal corporation imposes a tax on incomes, and the payroll of new employees resulting from the exercise of that authority equals or exceeds one million dollars in any tax year for which such property is exempted, the legislative authority and the board of education of each city, local, or exempted village school district within the territory of which the exempted property is located shall attempt to negotiate an agreement providing for compensation to the school district for all or a portion of the tax revenue the school district would have received had the property not been exempted from taxation. The agreement may include as a party the owner of the property exempted or to be exempted from taxation and may include provisions obligating the owner to compensate the school district by paying cash or providing property or services by gift, loan, or otherwise. Such an obligation is enforceable by the board of education of the school district pursuant to the terms of the agreement.

If the legislative authority and board of education fail to negotiate an agreement that is mutually acceptable within six months of formal approval by the legislative authority of the instrument granting the exemption, the legislative authority shall compensate the school district in the amount and manner prescribed by division (D) of this section.

(D) Annually, the legislative authority of a municipal corporation subject to this division shall pay to the city, local, or exempted village school district within the territory of which the exempted property is located an amount equal to fifty per cent of the difference between the amount of taxes levied and collected by the municipal corporation on the incomes of new employees in the calendar year ending on the day the payment is required to be made, and the amount of any infrastructure costs incurred in that calendar year. For purposes of such computation, the amount of infrastructure costs shall not exceed thirty-five per cent of the amount of those taxes unless the board of education of the school district, by resolution adopted by a majority of the board, approves an amount in excess of that percentage. If the amount of those taxes or infrastructure costs must be estimated at the time the payment is made, payments in subsequent years shall be adjusted to compensate for any departure of those estimates from the actual amount of those taxes.

A municipal corporation required to make a payment under this section shall make the payment from its general fund or a special fund established for the purpose. The payment is payable on the thirty-first day of December

of the tax year for or in which the exemption from taxation commences and on that day for each subsequent tax year property is exempted and the legislative authority and board fail to negotiate an acceptable agreement under division (C) of this section.

Sec. 5709.83. (A) Except as otherwise provided in division (B) or (C) of this section, prior to taking formal action to adopt or enter into any instrument granting a tax exemption under section 725.02, 1728.06, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised Code or formally approving an agreement under section 3735.671 of the Revised Code, or prior to forwarding an application for a tax exemption for residential property under section 3735.67 of the Revised Code to the county auditor, the legislative authority of the political subdivision or housing officer shall notify the board of education of each city, local, exempted village, or joint vocational school district in which the proposed tax-exempted property is located. The notice shall include a copy of the instrument or application. The notice shall be delivered not later than fourteen days prior to the day the legislative authority takes formal action to adopt or enter into the instrument, or not later than fourteen days prior to the day the housing officer forwards the application to the county auditor. If the board of education comments on the instrument or application to the legislative authority or housing officer, the legislative authority or housing officer shall consider the comments. If the board of education of the city, local, ~~or~~ exempted village, or joint vocational school district so requests, the legislative authority or the housing officer shall meet in person with a representative designated by the board of education to discuss the terms of the instrument or application.

(B) The notice otherwise required to be provided to boards of education under division (A) of this section is not required if the board has adopted a resolution waiving its right to receive such notices, and that resolution remains in effect. If a board of education adopts such a resolution, the board shall cause a copy of the resolution to be certified to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority. A board of education may adopt such a resolution with respect to any one or more counties, townships, or municipal corporations situated in whole or in part within the school district.

(C) If a legislative authority is required to provide notice to a city, local, or exempted village school district of its intent to grant such an exemption as required by section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code, the legislative authority, before adopting a resolution or ordinance

under that section, shall notify the board of education of each joint vocational school district in which the property to be exempted is located. The notice shall be delivered not later than forty-five days before the day the legislative authority adopts a resolution or ordinance under any of those sections. The content of the notice and procedures for responding to the notice are the same as required in division (A) of this section.

Sec. 5713.01. (A) Each county shall be the unit for assessing real estate for taxation purposes. The county auditor shall be the assessor of all the real estate in the auditor's county for purposes of taxation, but this section does not affect the power conferred by Chapter 5727. of the Revised Code upon the tax commissioner regarding the valuation and assessment of real property used in railroad operations.

(B) The auditor shall assess all the real estate situated in the county at its taxable value in accordance with sections 5713.03, 5713.31, and 5715.01 of the Revised Code and with the rules and methods applicable to the auditor's county adopted, prescribed, and promulgated by the tax commissioner. The auditor shall view and appraise or cause to be viewed and appraised at its true value in money, each lot or parcel of real estate, including land devoted exclusively to agricultural use, and the improvements located thereon at least once in each six-year period and the taxable values required to be derived therefrom shall be placed on the auditor's tax list and the county treasurer's duplicate for the tax year ordered by the commissioner pursuant to section 5715.34 of the Revised Code. The commissioner may grant an extension of one year or less if the commissioner finds that good cause exists for the extension. When the auditor so views and appraises, the auditor may enter each structure located thereon to determine by actual view what improvements have been made therein or additions made thereto since the next preceding valuation. The auditor shall revalue and assess at any time all or any part of the real estate in such county, including land devoted exclusively to agricultural use, where the auditor finds that the true or taxable values thereof have changed, and when a conservation easement is created under sections 5301.67 to 5301.70 of the Revised Code. The auditor may increase or decrease the true or taxable value of any lot or parcel of real estate in any township, municipal corporation, or other taxing district by an amount which will cause all real property on the tax list to be valued as required by law, or the auditor may increase or decrease the aggregate value of all real property, or any class of real property, in the county, township, municipal corporation, or other taxing district, or in any ward or other division of a municipal corporation by a per cent or amount which will cause all property to be properly valued and assessed for taxation in

accordance with Section 36, Article II, Section 2, Article XII, Ohio Constitution, this section, and sections 5713.03, 5713.31, and 5715.01 of the Revised Code.

(C) When the auditor determines to reappraise all the real estate in the county or any class thereof, when the tax commissioner orders an increase in the aggregate true or taxable value of the real estate in any taxing subdivision, or when the taxable value of real estate is increased by the application of a uniform taxable value per cent of true value pursuant to the order of the commissioner, the auditor shall advertise the completion of the reappraisal or equalization action in a newspaper of general circulation in the county once a week for the three consecutive weeks next preceding the issuance of the tax bills, or as provided in section 7.16 of the Revised Code for the two consecutive weeks next preceding the issuance of the tax bills. When the auditor changes the true or taxable value of any individual parcels of real estate, the auditor shall notify the owner of the real estate, or the person in whose name the same stands charged on the duplicate, by mail or in person, of the changes the auditor has made in the assessments of such property. Such notice shall be given at least thirty days prior to the issuance of the tax bills. Failure to receive notice shall not invalidate any proceeding under this section.

(D) The auditor shall make the necessary abstracts from books of the auditor's office containing descriptions of real estate in such county, together with such platbooks and lists of transfers of title to land as the auditor deems necessary in the performance of the auditor's duties in valuing such property for taxation. Such abstracts, platbooks, and lists shall be in such form and detail as the tax commissioner prescribes.

(E) The auditor, with the approval of the tax commissioner, may appoint and employ such experts, deputies, clerks, or other employees as the auditor deems necessary to the performance of the auditor's duties as assessor, or, with the approval of the tax commissioner, the auditor may enter into a contract with an individual, partnership, firm, company, or corporation to do all or any part of the work; the amount to be expended in the payment of the compensation of such employees shall be fixed by the board of county commissioners. If, in the opinion of the auditor, the board of county commissioners fails to provide a sufficient amount for the compensation of such employees, the auditor may apply to the tax commissioner for an additional allowance, and the additional amount of compensation allowed by the commissioner shall be certified to the board of county commissioners, and the same shall be final. The salaries and compensation of such experts, deputies, clerks, and employees shall be paid upon the

warrant of the auditor out of the general fund or the real estate assessment fund of the county, or both. If the salaries and compensation are in whole or in part fixed by the commissioner, they shall constitute a charge against the county regardless of the amount of money in the county treasury levied or appropriated for such purposes.

(F) Any contract for goods or services related to the auditor's duties as assessor, including contracts for mapping, computers, and reproduction on any medium of any documents, records, photographs, microfiche, or magnetic tapes, but not including contracts for the professional services of an appraiser, shall be awarded pursuant to the competitive bidding procedures set forth in sections 307.86 to 307.92 of the Revised Code and shall be paid for, upon the warrant of the auditor, from the real estate assessment fund.

(G) Experts, deputies, clerks, and other employees, in addition to their other duties, shall perform such services as the auditor directs in ascertaining such facts, description, location, character, dimensions of buildings and improvements, and other circumstances reflecting upon the value of real estate as will aid the auditor in fixing its true and taxable value and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value. The auditor may also summon and examine any person under oath in respect to any matter pertaining to the value of any real property within the county.

Sec. 5715.17. When the county board of revision has completed its work of equalization and transmitted the returns to ~~him~~ the county auditor, the ~~county~~ auditor shall give notice by advertising in ~~two newspapers of opposite politics published in and~~ a newspaper of general circulation throughout the county that the tax returns for the current year have been revised and the valuations have been completed and are open for public inspection in ~~his~~ the auditor's office, and that complaints against any valuation or assessment, except the valuations fixed and assessments made by the department of taxation, will be heard by the board, stating in the notice the time and place of the meeting of such board. Such advertisement shall be inserted in a conspicuous place in ~~each~~ such newspaper and be published daily for ten days~~, unless there is no daily newspaper published in and of general circulation throughout such county, in which event such advertisement shall be so published once each week for two weeks~~ or as provided in section 7.16 of the Revised Code.

The auditor shall, upon request, furnish to any person a certificate setting forth the assessment and valuation of any tract, lot, or parcel of real estate or any specific personal property, and mail the same when requested

to do so upon receipt of sufficient postage.

The auditor shall furnish notice to boards of education of school districts within the county of all hearings, and the results of such hearings, held in regard to the reduction or increasing of tax valuations in excess of one hundred thousand dollars directly affecting the revenue of such district.

Sec. 5715.23. Annually, immediately after the county board of revision has acted upon the assessments for the current year as required under section 5715.16 of the Revised Code and the county auditor has given notice by advertisement in ~~two newspapers~~ a newspaper of general circulation in the county that the valuations have been revised and are open for public inspection as provided in section 5715.17 of the Revised Code, each auditor shall make out and transmit to the tax commissioner an abstract of the real property of each taxing district in ~~his~~ the auditor's county, in which ~~he~~ the auditor shall set forth the aggregate amount and valuation of each class of real property in such county and in each taxing district therein as it appears on ~~his~~ the auditor's tax list or the statements and returns on file in ~~his~~ the auditor's office and an abstract of the current year's true value of land valued for such year under section 5713.31 of the Revised Code as it appears in the current year's agricultural land tax list.

Sec. 5715.26. (A)(1) Upon receiving the statement required by section 5715.25 of the Revised Code, the county auditor shall forthwith add to or deduct from each tract, lot, or parcel of real property or class of real property the required percentage or amount of the valuation thereof, adding or deducting any sum less than five dollars so that the value of any separate tract, lot, or parcel of real property shall be ten dollars or some multiple thereof.

(2) After making the additions or deductions required by this section, the auditor shall transmit to the tax commissioner the appropriate adjusted abstract of the real property of each taxing district in the auditor's county in which an adjustment was required.

(3) If the commissioner increases or decreases the aggregate value of the real property or any class thereof in any county or taxing district thereof and does not receive within ninety days thereafter an adjusted abstract conforming to its statement for such county or taxing district therein, the commissioner shall withhold from such county or taxing district therein fifty per cent of its share in the distribution of state revenues to local governments pursuant to sections 5747.50 to 5747.55 of the Revised Code and shall direct the department of education to withhold therefrom fifty per cent of state revenues to school districts pursuant to ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code. The commissioner shall withhold the

distribution of such funds until such county auditor has complied with this division, and the department shall withhold the distribution of such funds until the commissioner has notified the department that such county auditor has complied with this division.

(B)(1) If the commissioner's determination is appealed under section 5715.251 of the Revised Code, the county auditor, treasurer, and all other officers shall forthwith proceed with the levy and collection of the current year's taxes in the manner prescribed by law. The taxes shall be determined and collected as if the commissioner had determined under section 5715.24 of the Revised Code that the real property and the various classes thereof in the county as shown in the auditor's abstract were assessed for taxation and the true and agricultural use values were recorded on the agricultural land tax list as required by law.

(2) If as a result of the appeal to the board it is finally determined either that all real property and the various classes thereof have not been assessed as required by law or that the values set forth in the agricultural land tax list do not correctly reflect the true and agricultural use values of the lands contained therein, the county auditor shall forthwith add to or deduct from each tract, lot, or parcel of real property or class of real property the required percentage or amount of the valuation in accordance with the order of the board or judgment of the court to which the board's order was appealed, and the taxes on each tract, lot, or parcel and the percentages required by section 319.301 of the Revised Code shall be recomputed using the valuation as finally determined. The order or judgment making the final determination shall prescribe the time and manner for collecting, crediting, or refunding the resultant increases or decreases in taxes.

Sec. 5719.04. (A) Immediately after each settlement required by division (D) of section 321.24 of the Revised Code the county auditor shall make a tax list and duplicates thereof of all general personal and classified property taxes remaining unpaid, as shown by the county treasurer's books and the list of taxes returned as delinquent by the treasurer to the auditor at such settlement. The county auditor shall also include in such list all taxes assessed by the tax commissioner pursuant to law which were not charged upon the tax lists and duplicates on which such settlements were made nor previously charged upon a delinquent tax list and duplicates pursuant to this section, but the auditor shall not include taxes specifically excepted from collection pursuant to section 5711.32 of the Revised Code. Such tax list and duplicates shall contain the name of the person charged and the amount of such taxes, and the penalty, due and unpaid, and shall set forth separately the amount charged or chargeable on the general and on the classified list

and duplicate. The auditor shall deliver one such duplicate to the treasurer on the first day of December, annually. Upon receipt of the duplicate the treasurer may prepare and mail tax bills to all persons charged with such delinquent taxes. Each bill shall include a notice that the interest charge prescribed by section 5719.041 of the Revised Code has begun to accrue.

The auditor shall cause a copy of the delinquent personal and classified property tax list and duplicate provided for in this division to be published twice within sixty days after delivery of such duplicate to the treasurer in a newspaper ~~published in the English language in the county and~~ of general circulation ~~therein; provided that before~~ in the county. The newspaper shall meet the requirements of section 7.12 of the Revised Code. The auditor may publish the tax list on a pre-printed insert in the newspaper. The cost of the second publication of the list shall not exceed three-fourths of the cost of the first publication of the list.

Before such publication, the auditor shall cause a display notice of the forthcoming publication of such delinquent personal and classified property tax list to be inserted once a week for two consecutive weeks in a newspaper ~~published in the English language in the county and~~ of general circulation ~~therein~~ in the county. Copy for such display notice shall be furnished by the auditor to the newspaper selected to publish such delinquent tax lists simultaneously with the delivery of the duplicate to the treasurer. ~~If there is only one newspaper published in the county, such display notice and delinquent personal and classified property tax lists shall be published in it.~~ Publication of the delinquent lists may be made by a newspaper in installments, provided that complete publication thereof is made twice during said sixty-day period.

The office of the county treasurer shall be kept open to receive the payment of delinquent general and classified property taxes from the day of delivery of the duplicate thereof until the final publication of the delinquent tax list. The name of any taxpayer who prior to seven days before either the first or second publication of said list pays such taxes in full or enters into a delinquent tax contract to pay such taxes in installments pursuant to section 5719.05 of the Revised Code shall be stricken from such list, and the taxpayer's name shall not be included in the list for that publication.

The other such duplicate, from which shall first be eliminated the names of persons whose total liability for taxes and penalty is less than one hundred dollars, shall be filed by the auditor on the first day of December, annually, in the office of the county recorder, and the same shall constitute a notice of lien and operate as of the date of delivery as a lien on the lands and tenements, vested legal interests therein, and permanent leasehold estates of

each person named therein having such real estate in such county. Such notice of lien and such lien shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor whose rights have attached prior to the date of such delivery. Such duplicate shall be kept by the recorder, designated as the personal tax lien record, and indexed under the name of the person charged with such tax. No fee shall be charged by the recorder for the services required under this section.

The auditor shall add to the tax list made pursuant to this section all such taxes omitted in a previous year when assessed by the auditor or finally assessed by the tax commissioner pursuant to law, and by proper certificates cause the same to be added to the treasurer's delinquent tax duplicate provided for in this section, and, in proper cases, file notice of the lien with the recorder, as provided in this section.

If the authority making any assessment believes that the collection of such taxes will be jeopardized by delay, such assessing authority shall so certify on the assessment certificate thereof, and the auditor shall include a certificate of such jeopardy in the certificate given by the auditor to the treasurer. In such event the treasurer shall proceed immediately to collect such taxes, and to enforce the collection thereof by any means provided by law, and the treasurer may not accept a tender of any part of such taxes; but the person or the representatives of the person against whom such assessment is made may, in the event of an appeal to the tax commissioner therefrom, obtain a stay of collection of the whole or any part of the amount of such assessment by filing with the treasurer a bond in an amount not exceeding double the amount as to which the stay is desired, with such surety as the treasurer deems necessary, conditioned upon the payment of the amount determined to be due by the decision of the commissioner which has become final, and further conditioned that if an appeal is not filed within the period provided by law, the amount of collection which is stayed by the bond will be paid on notice and demand of the treasurer at any time after the expiration of such period. The taxpayer may waive such stay as to the whole or any part of the amount covered by the bond, and if as the result of such waiver any part of the amount covered by the bond is paid, then the bond shall be proportionately reduced on the request of the taxpayer.

(B) Immediately after each settlement required by division (D) of section 321.24 of the Revised Code the auditor shall make a separate list and duplicate, prepared as prescribed in division (A) of this section, of all general personal and classified property taxes that remain unpaid but are excepted from collection pursuant to section 5711.32 of the Revised Code. The duplicate of such list shall be delivered to the treasurer at the time of

delivery of the delinquent personal and classified property tax duplicate.

Sec. 5721.01. (A) As used in this chapter:

(1) "Delinquent lands" means all lands upon which delinquent taxes, as defined in section 323.01 of the Revised Code, remain unpaid at the time a settlement is made between the county treasurer and auditor pursuant to division (C) of section 321.24 of the Revised Code.

(2) "Delinquent vacant lands" means all lands that have been delinquent lands for at least one year and that are unimproved by any dwelling.

(3) "County land reutilization corporation" means a county land reutilization corporation organized under Chapter 1724. of the Revised Code.

(B) As used in sections 5719.04, 5721.03, and 5721.31 of the Revised Code and in any other sections of the Revised Code to which those sections are applicable, a "newspaper" or "newspaper of general circulation ~~shall be a publication bearing a title or name, regularly issued as frequently as once a week for a definite price or consideration paid for by not less than fifty per cent of those to whom distribution is made, having a second class mailing privilege, being not less than four pages, published continuously during the immediately preceding one-year period, and circulated generally in the political subdivision in which it is published. Such publication shall be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices~~" has the same meaning as in section 7.12 of the Revised Code.

Sec. 5721.03. (A) At the time of making the delinquent land list, as provided in section 5721.011 of the Revised Code, the county auditor shall compile a delinquent tax list consisting of all lands on the delinquent land list on which taxes have become delinquent at the close of the collection period immediately preceding the making of the delinquent land list. The auditor shall also compile a delinquent vacant land tax list of all delinquent vacant lands prior to the institution of any foreclosure and forfeiture actions against delinquent vacant lands under section 5721.14 of the Revised Code or any foreclosure actions against delinquent vacant lands under section 5721.18 of the Revised Code.

The delinquent tax list, and the delinquent vacant land tax list if one is compiled, shall contain all of the information included on the delinquent land list, except that, if the auditor's records show that the name of the person in whose name the property currently is listed is not the name that appears on the delinquent land list, the name used in the delinquent tax list or the delinquent vacant land tax list shall be the name of the person the

auditor's records show as the person in whose name the property currently is listed.

Lands that have been included in a previously published delinquent tax list shall not be included in the delinquent tax list so long as taxes have remained delinquent on such lands for the entire intervening time.

In either list, there may be included lands that have been omitted in error from a prior list and lands with respect to which the auditor has received a certification that a delinquent tax contract has become void since the publication of the last previously published list, provided the name of the owner was stricken from a prior list under section 5721.02 of the Revised Code.

(B)(1) The auditor shall cause the delinquent tax list and the delinquent vacant land tax list, if one is compiled, to be published twice within sixty days after the delivery of the delinquent land duplicate to the county treasurer, in a newspaper of general circulation in the county. The newspaper shall meet the requirements of section 7.12 of the Revised Code. The ~~publication shall be printed in the English language~~ auditor may publish the list or lists on a pre-printed insert in the newspaper. The cost of the second publication of the list or lists shall not exceed three-fourths of the cost of the first publication of the list or lists.

The auditor shall insert display notices of the forthcoming publication of the delinquent tax list and, if it is to be published, the delinquent vacant land tax list once a week for two consecutive weeks in a newspaper of general circulation in the county. The display notices shall contain the times and methods of payment of taxes provided by law, including information concerning installment payments made in accordance with a written delinquent tax contract. The display notice for the delinquent tax list also shall include a notice that an interest charge will accrue on accounts remaining unpaid after the last day of November unless the taxpayer enters into a written delinquent tax contract to pay such taxes in installments. The display notice for the delinquent vacant land tax list if it is to be published also shall include a notice that delinquent vacant lands in the list are lands on which taxes have remained unpaid for one year after being certified delinquent, and that they are subject to foreclosure proceedings as provided in section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code, or foreclosure and forfeiture proceedings as provided in section 5721.14 of the Revised Code. Each display notice also shall state that the lands are subject to a tax certificate sale under section 5721.32 or 5721.33 of the Revised Code or assignment to a county land reutilization corporation, as the case may be, and shall include any other information that

the auditor considers pertinent to the purpose of the notice. The display notices shall be furnished by the auditor to the ~~newspapers~~ newspaper selected to publish the lists at least ten days before their first publication.

(2) Publication of the list or lists may be made by a newspaper in installments, provided the complete publication of each list is made twice during the sixty-day period.

(3) There shall be attached to the delinquent tax list a notice that the delinquent lands will be certified for foreclosure by the auditor unless the taxes, assessments, interest, and penalties due and owing on them are paid. There shall be attached to the delinquent vacant land tax list, if it is to be published, a notice that delinquent vacant lands will be certified for foreclosure or foreclosure and forfeiture by the auditor unless the taxes, assessments, interest, and penalties due and owing on them are paid within twenty-eight days after the final publication of the notice.

(4) The auditor shall review the first publication of each list for accuracy and completeness and may correct any errors appearing in the list in the second publication.

(C) For the purposes of section 5721.18 of the Revised Code, land is first certified delinquent on the date of the certification of the delinquent land list containing that land.

Sec. 5721.04. The proper and necessary expenses of publishing the delinquent tax lists, delinquent vacant land tax lists, and display notices provided for by sections 5719.04 and 5721.03 of the Revised Code shall be paid from the county treasury as county expenses are paid, and the board of county commissioners shall make provision for them in the annual budget of the county submitted to the budget commission, and shall make the necessary appropriations. If the board fails to make such appropriations, or if an appropriation is insufficient to meet such an expense, any person interested may apply to the court of common pleas of the county for an allowance to cover the expense, and the court shall issue an order instructing the county auditor to issue ~~his~~ a warrant upon the county treasurer for the amount necessary. The order by the court shall be final and shall be complied with immediately.

The aggregate amount paid ~~shall~~ for publication may be apportioned by the county auditor among the taxing districts in which the lands on each list are located in proportion to the amount of delinquent taxes so advertised in such subdivision, or the county auditor may charge the property owner of land on a list a flat fee established under section 319.54 of the Revised Code for the cost of publishing the list and, if the fee is not paid, may place the fee upon the tax duplicate as a lien on the land, to be collected as other taxes.

Thereafter, the auditor, in making ~~his~~ the auditor's semiannual apportionment of funds, shall retain at each semiannual apportionment one half the amount apportioned to each such taxing district. The amounts retained shall be credited to the general fund of the county until the aggregate of all amounts paid in the first instance out of the treasury have been fully reimbursed.

Sec. 5721.18. The county prosecuting attorney, upon the delivery to the prosecuting attorney by the county auditor of a delinquent land or delinquent vacant land tax certificate, or of a master list of delinquent or delinquent vacant tracts, shall institute a foreclosure proceeding under this section in the name of the county treasurer to foreclose the lien of the state, in any court with jurisdiction or in the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code, unless the taxes, assessments, charges, penalties, and interest are paid prior to the time a complaint is filed, or unless a foreclosure or foreclosure and forfeiture action has been or will be instituted under section 323.25, sections 323.65 to 323.79, or section 5721.14 of the Revised Code. If the delinquent land or delinquent vacant land tax certificate or the master list of delinquent or delinquent vacant tracts lists minerals or rights to minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 of the Revised Code, the county prosecuting attorney may institute a foreclosure proceeding in the name of the county treasurer, in any court with jurisdiction, to foreclose the lien of the state against such minerals or rights to minerals, unless the taxes, assessments, charges, penalties, and interest are paid prior to the time the complaint is filed, or unless a foreclosure or foreclosure and forfeiture action has been or will be instituted under section 323.25, sections 323.65 to 323.79, or section 5721.14 of the Revised Code.

The prosecuting attorney shall prosecute the proceeding to final judgment and satisfaction. Within ten days after obtaining a judgment, the prosecuting attorney shall notify the treasurer in writing that judgment has been rendered. If there is a copy of a written delinquent tax contract attached to the certificate or an asterisk next to an entry on the master list, or if a copy of a delinquent tax contract is received from the auditor prior to the commencement of the proceeding under this section, the prosecuting attorney shall not institute the proceeding under this section, unless the prosecuting attorney receives a certification of the treasurer that the delinquent tax contract has become void.

(A) This division applies to all foreclosure proceedings not instituted and prosecuted under section 323.25 of the Revised Code or division (B) or (C) of this section. The foreclosure proceedings shall be instituted and

prosecuted in the same manner as is provided by law for the foreclosure of mortgages on land, except that, if service by publication is necessary, such publication shall be made once a week for three consecutive weeks instead of as provided by the Rules of Civil Procedure, and the service shall be complete at the expiration of three weeks after the date of the first publication. In any proceeding prosecuted under this section, if the prosecuting attorney determines that service upon a defendant may be obtained ultimately only by publication, the prosecuting attorney may cause service to be made simultaneously by certified mail, return receipt requested, ordinary mail, and publication.

In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure proceeding to the interested parties. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

It is sufficient, having been made a proper party to the foreclosure proceeding, for the treasurer to allege in the treasurer's complaint that the certificate or master list has been duly filed by the auditor, that the amount of money appearing to be due and unpaid is due and unpaid, and that there is a lien against the property described in the certificate or master list, without setting forth in the complaint any other or special matter relating to the foreclosure proceeding. The prayer of the complaint shall be that the court or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code issue an order that the property be sold or conveyed by the sheriff or otherwise be disposed of, and the equity of redemption be extinguished, according to the alternative redemption procedures prescribed in sections 323.65 to 323.79 of the Revised Code, or if the action is in the municipal court by the bailiff, in the manner provided in section 5721.19 of the Revised Code.

In the foreclosure proceeding, the treasurer may join in one action any number of lots or lands, but the decree shall be rendered separately, and any proceedings may be severed, in the discretion of the court or board of revision, for the purpose of trial or appeal, and the court or board of revision shall make such order for the payment of costs as is considered proper. The certificate or master list filed by the auditor with the prosecuting attorney is prima-facie evidence at the trial of the foreclosure action of the amount and validity of the taxes, assessments, charges, penalties, and interest appearing due and unpaid and of their nonpayment.

(B) Foreclosure proceedings constituting an action in rem may be commenced by the filing of a complaint after the end of the second year from the date on which the delinquency was first certified by the auditor. Prior to filing such an action in rem, the prosecuting attorney shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property subject to foreclosure. Following the title search, the action in rem shall be instituted by filing in the office of the clerk of a court with jurisdiction a complaint bearing a caption substantially in the form set forth in division (A) of section 5721.181 of the Revised Code.

Any number of parcels may be joined in one action. Each separate parcel included in a complaint shall be given a serial number and shall be separately indexed and docketed by the clerk of the court in a book kept by the clerk for such purpose. A complaint shall contain the permanent parcel number of each parcel included in it, the full street address of the parcel when available, a description of the parcel as set forth in the certificate or master list, the name and address of the last known owner of the parcel if they appear on the general tax list, the name and address of each lienholder and other person with an interest in the parcel identified in the title search relating to the parcel that is required by this division, and the amount of taxes, assessments, charges, penalties, and interest due and unpaid with respect to the parcel. It is sufficient for the treasurer to allege in the complaint that the certificate or master list has been duly filed by the auditor with respect to each parcel listed, that the amount of money with respect to each parcel appearing to be due and unpaid is due and unpaid, and that there is a lien against each parcel, without setting forth any other or special matters. The prayer of the complaint shall be that the court issue an order that the land described in the complaint be sold in the manner provided in section 5721.19 of the Revised Code.

(1) Within thirty days after the filing of a complaint, the clerk of the court in which the complaint was filed shall cause a notice of foreclosure substantially in the form of the notice set forth in division (B) of section 5721.181 of the Revised Code to be published once a week for three consecutive weeks in a newspaper of general circulation in the county. <u>The newspaper shall meet the requirements of section 7.12 of the Revised Code.</u> In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure proceeding to the interested parties. If

the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

After the third publication, the publisher shall file with the clerk of the court an affidavit stating the fact of the publication and including a copy of the notice of foreclosure as published. Service of process for purposes of the action in rem shall be considered as complete on the date of the last publication.

Within thirty days after the filing of a complaint and before the final date of publication of the notice of foreclosure, the clerk of the court also shall cause a copy of a notice substantially in the form of the notice set forth in division (C) of section 5721.181 of the Revised Code to be mailed by certified mail, with postage prepaid, to each person named in the complaint as being the last known owner of a parcel included in it, or as being a lienholder or other person with an interest in a parcel included in it. The notice shall be sent to the address of each such person, as set forth in the complaint, and the clerk shall enter the fact of such mailing upon the appearance docket. If the name and address of the last known owner of a parcel included in a complaint is not set forth in it, the auditor shall file an affidavit with the clerk stating that the name and address of the last known owner does not appear on the general tax list.

(2)(a) An answer may be filed in an action in rem under this division by any person owning or claiming any right, title, or interest in, or lien upon, any parcel described in the complaint. The answer shall contain the caption and number of the action and the serial number of the parcel concerned. The answer shall set forth the nature and amount of interest claimed in the parcel and any defense or objection to the foreclosure of the lien of the state for delinquent taxes, assessments, charges, penalties, and interest as shown in the complaint. The answer shall be filed in the office of the clerk of the court, and a copy of the answer shall be served on the prosecuting attorney, not later than twenty-eight days after the date of final publication of the notice of foreclosure. If an answer is not filed within such time, a default judgment may be taken as to any parcel included in a complaint as to which no answer has been filed. A default judgment is valid and effective with respect to all persons owning or claiming any right, title, or interest in, or lien upon, any such parcel, notwithstanding that one or more of such persons are minors, incompetents, absentees or nonresidents of the state, or convicts in confinement.

(b)(i) A receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code may file an answer pursuant to division (B)(2)(a) of this section, but is not required to do so as a condition of

receiving proceeds in a distribution under division (B)(1) of section 5721.17 of the Revised Code.

(ii) When a receivership under section 3767.41 of the Revised Code is associated with a parcel, the notice of foreclosure set forth in division (B) of section 5721.181 of the Revised Code and the notice set forth in division (C) of that section shall be modified to reflect the provisions of division (B)(2)(b)(i) of this section.

(3) At the trial of an action in rem under this division, the certificate or master list filed by the auditor with the prosecuting attorney shall be prima-facie evidence of the amount and validity of the taxes, assessments, charges, penalties, and interest appearing due and unpaid on the parcel to which the certificate or master list relates and their nonpayment. If an answer is properly filed, the court may, in its discretion, and shall, at the request of the person filing the answer, grant a severance of the proceedings as to any parcel described in such answer for purposes of trial or appeal.

(C) In addition to the actions in rem authorized under division (B) of this section and section 5721.14 of the Revised Code, an action in rem may be commenced under this division. An action commenced under this division shall conform to all of the requirements of division (B) of this section except as follows:

(1) The prosecuting attorney shall not cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property subject to foreclosure, except that the prosecuting attorney shall cause a title search to be conducted to identify any receiver's lien.

(2) The names and addresses of lienholders and persons with an interest in the parcel shall not be contained in the complaint, and notice shall not be mailed to lienholders and persons with an interest as provided in division (B)(1) of this section, except that the name and address of a receiver under section 3767.41 of the Revised Code shall be contained in the complaint and notice shall be mailed to the receiver.

(3) With respect to the forms applicable to actions commenced under division (B) of this section and contained in section 5721.181 of the Revised Code:

(a) The notice of foreclosure prescribed by division (B) of section 5721.181 of the Revised Code shall be revised to exclude any reference to the inclusion of the name and address of each lienholder and other person with an interest in the parcel identified in a statutorily required title search relating to the parcel, and to exclude any such names and addresses from the published notice, except that the revised notice shall refer to the inclusion of

the name and address of a receiver under section 3767.41 of the Revised Code and the published notice shall include the receiver's name and address. The notice of foreclosure also shall include the following in boldface type:

"If pursuant to the action the parcel is sold, the sale shall not affect or extinguish any lien or encumbrance with respect to the parcel other than a receiver's lien and other than the lien for land taxes, assessments, charges, interest, and penalties for which the lien is foreclosed and in satisfaction of which the property is sold. All other liens and encumbrances with respect to the parcel shall survive the sale."

(b) The notice to the owner, lienholders, and other persons with an interest in a parcel shall be a notice only to the owner and to any receiver under section 3767.41 of the Revised Code, and the last two sentences of the notice shall be omitted.

(4) As used in this division, a "receiver's lien" means the lien of a receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code that is acquired pursuant to division (H)(2)(b) of that section for any unreimbursed expenses and other amounts paid in accordance with division (F) of that section by the receiver and for the fees of the receiver approved pursuant to division (H)(1) of that section.

(D) If the prosecuting attorney determines that an action in rem under division (B) or (C) of this section is precluded by law, then foreclosure proceedings shall be filed pursuant to division (A) of this section, and the complaint in the action in personam shall set forth the grounds upon which the action in rem is precluded.

(E) The conveyance by the owner of any parcel against which a complaint has been filed pursuant to this section at any time after the date of publication of the parcel on the delinquent tax list but before the date of a judgment of foreclosure pursuant to section 5721.19 of the Revised Code shall not nullify the right of the county to proceed with the foreclosure.

Sec. 5721.19. (A) In its judgment of foreclosure rendered with respect to actions filed pursuant to section 5721.18 of the Revised Code, the court or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code shall enter a finding with respect to each parcel of the amount of the taxes, assessments, charges, penalties, and interest, and the costs incurred in the foreclosure proceeding instituted against it, that are due and unpaid. The court or the county board of revision shall order such premises to be transferred pursuant to division (I) of this section or may order each parcel to be sold, without appraisal, for not less than either of the following:

(1) The fair market value of the parcel, as determined by the county

auditor, plus the costs incurred in the foreclosure proceeding;

(2) The total amount of the finding entered by the court or the county board of revision, including all taxes, assessments, charges, penalties, and interest payable subsequent to the delivery to the county prosecuting attorney of the delinquent land tax certificate or master list of delinquent tracts and prior to the transfer of the deed of the parcel to the purchaser following confirmation of sale, plus the costs incurred in the foreclosure proceeding. For purposes of determining such amount, the county treasurer may estimate the amount of taxes, assessments, interest, penalties, and costs that will be payable at the time the deed of the property is transferred to the purchaser.

Notwithstanding the minimum sales price provisions of divisions (A)(1) and (2) of this section to the contrary, a parcel sold pursuant to this section shall not be sold for less than the amount described in division (A)(2) of this section if the highest bidder is the owner of record of the parcel immediately prior to the judgment of foreclosure or a member of the following class of parties connected to that owner: a member of that owner's immediate family, a person with a power of attorney appointed by that owner who subsequently transfers the parcel to the owner, a sole proprietorship owned by that owner or a member of that owner's immediate family, or a partnership, trust, business trust, corporation, or association in which the owner or a member of the owner's immediate family owns or controls directly or indirectly more than fifty per cent. If a parcel sells for less than the amount described in division (A)(2) of this section, the officer conducting the sale shall require the buyer to complete an affidavit stating that the buyer is not the owner of record immediately prior to the judgment of foreclosure or a member of the specified class of parties connected to that owner, and the affidavit shall become part of the court records of the proceeding. If the county auditor discovers within three years after the date of the sale that a parcel was sold to that owner or a member of the specified class of parties connected to that owner for a price less than the amount so described, and if the parcel is still owned by that owner or a member of the specified class of parties connected to that owner, the auditor within thirty days after such discovery shall add the difference between that amount and the sale price to the amount of taxes that then stand charged against the parcel and is payable at the next succeeding date for payment of real property taxes. As used in this paragraph, "immediate family" means a spouse who resides in the same household and children.

(B) Each parcel affected by the court's finding and order of sale shall be separately sold, unless the court orders any of such parcels to be sold

together.

Each parcel shall be advertised and sold by the officer to whom the order of sale is directed in the manner provided by law for the sale of real property on execution. The advertisement for sale of each parcel shall be published once a week for three consecutive weeks and shall include the date on which a second sale will be conducted if no bid is accepted at the first sale. Any number of parcels may be included in one advertisement.

The notice of the advertisement shall be substantially in the form of the notice set forth in section 5721.191 of the Revised Code. In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure sale to potential bidders. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

(C)(1) Whenever the officer charged to conduct the sale offers any parcel for sale the officer first shall read aloud a complete legal description of the parcel, or in the alternative, may read aloud only a summary description, including the complete street address of the parcel, if any, and a parcel number if the county has adopted a permanent parcel number system and if the advertising notice prepared pursuant to this section includes a complete legal description or indicates where the complete legal description may be obtained. Whenever the officer charged to conduct the sale offers any parcel for sale and no bids are made equal to the lesser of the amounts described in divisions (A)(1) and (2) of this section, the officer shall adjourn the sale of the parcel to the second date that was specified in the advertisement of sale. The second date shall be not less than two weeks or more than six weeks from the day on which the parcel was first offered for sale. The second sale shall be held at the same place and commence at the same time as set forth in the advertisement of sale. The officer shall offer any parcel not sold at the first sale. Upon the conclusion of any sale, or if any parcel remains unsold after being offered at two sales, the officer conducting the sale shall report the results to the court.

(2)(a) If a parcel remains unsold after being offered at two sales, or one sale in the case of abandoned lands foreclosed under sections 323.65 to 323.79 of the Revised Code, or if a parcel sells at any sale but the amount of the price is less than the costs incurred in the proceeding instituted against the parcel under section 5721.18 of the Revised Code, then the clerk of the court shall certify to the county auditor the amount of those costs that

remains unpaid. At the next semiannual apportionment of real property taxes that occurs following any such certification, the auditor shall reduce the real property taxes that the auditor otherwise would distribute to each taxing district. In making the reductions, the auditor shall subtract from the otherwise distributable real property taxes to a taxing district an amount that shall be determined by multiplying the certified costs by a fraction the numerator of which shall be the amount of the taxes, assessments, charges, penalties, and interest on the parcel owed to that taxing district at the time the parcel first was offered for sale pursuant to this section, and the denominator of which shall be the total of the taxes, assessments, charges, penalties, and interest on the parcel owed to all the taxing districts at that time. The auditor promptly shall pay to the clerk of the court the amounts of the reductions.

(b) If reductions occur pursuant to division (C)(2)(a) of this section, and if at a subsequent time a parcel is sold at a foreclosure sale or a forfeiture sale pursuant to Chapter 5723. of the Revised Code, then, notwithstanding other provisions of the Revised Code, except section 5721.17 of the Revised Code, governing the distribution of the proceeds of a foreclosure or forfeiture sale, the proceeds first shall be distributed to reimburse the taxing districts subjected to reductions in their otherwise distributable real property taxes. The distributions shall be based on the same proportions used for purposes of division (C)(2)(a) of this section.

(3) The court, in its discretion, may order any parcel not sold pursuant to the original order of sale to be advertised and offered for sale at a subsequent foreclosure sale. For such purpose, the court may direct the parcel to be appraised and fix a minimum price for which it may be sold.

(D) Except as otherwise provided in division (B)(1) of section 5721.17 of the Revised Code, upon the confirmation of a sale, the proceeds of the sale shall be applied as follows:

(1) The costs incurred in any proceeding filed against the parcel pursuant to section 5721.18 of the Revised Code shall be paid first.

(2) Following the payment required by division (D)(1) of this section, the part of the proceeds that is equal to five per cent of the taxes and assessments due shall be deposited in equal shares into each of the delinquent tax and assessment collection ~~fund~~ funds created pursuant to section 321.261 of the Revised Code. If a county land reutilization corporation is operating in the county, the board of county commissioners, by resolution, may provide that an additional amount, not to exceed five per cent of such taxes and assessments, shall be credited to the county land reutilization corporation fund created by section 321.263 of the Revised

Code to pay for the corporation's expenses. If such a resolution is in effect, the percentage of such taxes and assessments so provided shall be credited to that fund.

(3) Following the payment required by division (D)(2) of this section, the amount found due for taxes, assessments, charges, penalties, and interest shall be paid, including all taxes, assessments, charges, penalties, and interest payable subsequent to the delivery to the county prosecuting attorney of the delinquent land tax certificate or master list of delinquent tracts and prior to the transfer of the deed of the parcel to the purchaser following confirmation of sale. If the proceeds available for distribution pursuant to division (D)(3) of this section are sufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the portion of the proceeds representing taxes, interest, and penalties shall be paid to each claimant in proportion to the amount of taxes levied by the claimant in the preceding tax year, and the amount representing assessments and other charges shall be paid to each claimant in the order in which they became due. If the proceeds are not sufficient to pay that entire amount, the proportion of the proceeds representing taxes, penalties, and interest shall be paid to each claimant in the same proportion that the amount of taxes levied by the claimant against the parcel in the preceding tax year bears to the taxes levied by all such claimants against the parcel in the preceding tax year, and the proportion of the proceeds representing items of assessments and other charges shall be credited to those items in the order in which they became due.

(E) If the proceeds from the sale of a parcel are insufficient to pay in full the amount of the taxes, assessments, charges, penalties, and interest which are due and unpaid; the costs incurred in the foreclosure proceeding instituted against it which are due and unpaid; and, if division (B)(1) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code, the court, pursuant to section 5721.192 of the Revised Code, may enter a deficiency judgment against the owner of record of the parcel for the unpaid amount. If that owner of record is a corporation, the court may enter the deficiency judgment against the stockholder holding a majority of that corporation's stock.

If after distribution of proceeds from the sale of the parcel under division (D) of this section the amount of proceeds to be applied to pay the taxes, assessments, charges, penalties, interest, and costs is insufficient to pay them in full, and the court does not enter a deficiency judgment against

the owner of record pursuant to this division, the taxes, assessments, charges, penalties, interest, and costs shall be deemed satisfied.

(F)(1) Upon confirmation of a sale, a spouse of the party charged with the delinquent taxes or assessments shall thereby be barred of the right of dower in the property sold, though such spouse was not a party to the action. No statute of limitations shall apply to such action. When the land or lots stand charged on the tax duplicate as certified delinquent, it is not necessary to make the state a party to the foreclosure proceeding, but the state shall be deemed a party to such action through and be represented by the county treasurer.

(2) Except as otherwise provided in divisions (F)(3) and (G) of this section, unless such land or lots were previously redeemed pursuant to section 5721.25 of the Revised Code, upon the filing of the entry of confirmation of any sale or the expiration of the alternative redemption period as defined in section 323.65 of the Revised Code, if applicable, the title to such land or lots shall be incontestable in the purchaser and shall be free and clear of all liens and encumbrances, except a federal tax lien notice of which is properly filed in accordance with section 317.09 of the Revised Code prior to the date that a foreclosure proceeding is instituted pursuant to division (B) of section 5721.18 of the Revised Code and the easements and covenants of record running with the land or lots that were created prior to the time the taxes or assessments, for the nonpayment of which the land or lots are sold at foreclosure, became due and payable.

(3) When proceedings for foreclosure are instituted under division (C) of section 5721.18 of the Revised Code, unless the land or lots were previously redeemed pursuant to section 5721.25 of the Revised Code or before the expiration of the alternative redemption period, upon the filing of the entry of confirmation of sale or after the expiration of the alternative redemption period, as may apply to the case, the title to such land or lots shall be incontestable in the purchaser and shall be free of any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code and, except as otherwise provided in division (G) of this section, the liens for land taxes, assessments, charges, interest, and penalties for which the lien was foreclosed and in satisfaction of which the property was sold. All other liens and encumbrances with respect to the land or lots shall survive the sale.

(4) The title shall not be invalid because of any irregularity, informality, or omission of any proceedings under this chapter, or in any processes of taxation, if such irregularity, informality, or omission does not abrogate the provision for notice to holders of title, lien, or mortgage to, or other interests

in, such foreclosed lands or lots, as prescribed in this chapter.

(G) If a parcel is sold under this section for the amount described in division (A)(2) of this section, and the county treasurer's estimate exceeds the amount of taxes, assessments, interest, penalties, and costs actually payable when the deed is transferred to the purchaser, the officer who conducted the sale shall refund to the purchaser the difference between the estimate and the amount actually payable. If the amount of taxes, assessments, interest, penalties, and costs actually payable when the deed is transferred to the purchaser exceeds the county treasurer's estimate, the officer shall certify the amount of the excess to the treasurer, who shall enter that amount on the real and public utility property tax duplicate opposite the property; the amount of the excess shall be payable at the next succeeding date prescribed for payment of taxes in section 323.12 of the Revised Code.

(H) If a parcel is sold or transferred under this section or sections 323.28 and 323.65 to 323.78 of the Revised Code, the officer who conducted the sale or made the transfer of the property shall collect the recording fee and any associated costs to cover the recording from the purchaser or transferee at the time of the sale or transfer and, following confirmation of the sale or transfer, shall execute and record the deed conveying title to the parcel to the purchaser or transferee. For purposes of recording such deed, by placement of a bid or making a statement of interest by any party ultimately awarded the parcel, that purchaser or transferee thereby appoints the officer who makes the sale or is charged with executing and delivering the deed as agent for the purchaser or transferee for the sole purpose of accepting delivery of the deed. For such purposes, the confirmation of any such sale or order to transfer the parcel without appraisal or sale shall be deemed delivered upon the confirmation of such sale or transfer.

(I) Notwithstanding section 5722.03 of the Revised Code, if the complaint alleges that the property is delinquent vacant land as defined in section 5721.01 of the Revised Code, abandoned lands as defined in section 323.65 of the Revised Code, or lands described in division (E) of section 5722.01 of the Revised Code, and the value of the taxes, assessments, penalties, interest, and all other charges and costs of the action exceed the auditor's fair market value of the parcel, then the court or board of revision having jurisdiction over the matter on motion of the plaintiff, or on the court's or board's own motion, shall, upon any adjudication of foreclosure, order, without appraisal and without sale, the fee simple title of the property to be transferred to and vested in an electing subdivision as defined in division (A) of section 5722.01 of the Revised Code. For purposes of determining whether the taxes, assessments, penalties, interest, and all other

charges and costs of the action exceed the actual fair market value of the parcel, the auditor's most current valuation shall be rebuttably presumed to be, and constitute prima-facie evidence of, the fair market value of the parcel. In such case, the filing for journalization of a decree of foreclosure ordering that direct transfer without appraisal or sale shall constitute confirmation of the transfer and thereby terminate any further statutory or common law right of redemption.

Sec. 5721.30. As used in sections 5721.30 to 5721.43 of the Revised Code:

(A) "Tax certificate," "certificate," or "duplicate certificate" means a document that may be issued as a physical certificate, in book-entry form, or through an electronic medium, at the discretion of the county treasurer. Such document shall contain the information required by section 5721.31 of the Revised Code and shall be prepared, transferred, or redeemed in the manner prescribed by sections 5721.30 to 5721.43 of the Revised Code. As used in those sections, "tax certificate," "certificate," and "duplicate certificate" do not refer to the delinquent land tax certificate or the delinquent vacant land tax certificate issued under section 5721.13 of the Revised Code.

(B) "Certificate parcel" means the parcel of delinquent land that is the subject of and is described in a tax certificate.

(C) "Certificate holder" means a person, including a county land reutilization corporation, that purchases or otherwise acquires a tax certificate under section 5721.32, 5721.33, or 5721.42 of the Revised Code, or a person to whom a tax certificate has been transferred pursuant to section 5721.36 of the Revised Code.

(D) "Certificate purchase price" means, with respect to the sale of tax certificates under sections 5721.32, 5721.33, and 5721.42 of the Revised Code, the amount equal to delinquent taxes charged against a certificate parcel at the time the tax certificate respecting that parcel is sold or transferred, not including any delinquent taxes the lien for which has been conveyed to a certificate holder through a prior sale of a tax certificate respecting that parcel. Payment of the certificate purchase price in a sale under section 5721.33 of the Revised Code may be made wholly in cash or partially in cash and partially by noncash consideration acceptable to the county treasurer from the purchaser, and, in the case of a county land reutilization corporation, with notes. In the event that any such noncash consideration is delivered to pay a portion of the certificate purchase price, such noncash consideration may be subordinate to the rights of the holders of other obligations whose proceeds paid the cash portion of the certificate purchase price.

"Certificate purchase price" also includes the amount of the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(E)(1) With respect to a sale of tax certificates under section 5721.32 of the Revised Code, and except as provided in division (E)(2) of this section, "certificate redemption price" means the certificate purchase price plus the greater of the following:

(a) Simple interest, at the certificate rate of interest, accruing during the certificate interest period on the certificate purchase price, calculated in accordance with section 5721.41 of the Revised Code;

(b) Six per cent of the certificate purchase price.

(2) If the certificate rate of interest equals zero, the certificate redemption price equals the certificate purchase price plus the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(F) With respect to a sale or transfer of tax certificates under section 5721.33 of the Revised Code, "certificate redemption price" means the amount equal to the sum of the following:

(1) The certificate purchase price;

(2) Interest accrued on the certificate purchase price at the certificate rate of interest from the date on which a tax certificate is delivered through and including the day immediately preceding the day on which the certificate redemption price is paid;

(3) The fee, if any, charged by the county treasurer to the purchaser of the certificate under division (J) of section 5721.33 of the Revised Code;

(4) Any other fees charged by any county office in connection with the recording of tax certificates.

(G) "Certificate rate of interest" means the rate of simple interest per year bid by the winning bidder in an auction of a tax certificate held under section 5721.32 of the Revised Code, or the rate of simple interest per year not to exceed eighteen per cent per year fixed pursuant to section 5721.42 of the Revised Code or by the county treasurer with respect to any tax certificate sold or transferred pursuant to a negotiated sale under section 5721.33 of the Revised Code. The certificate rate of interest shall not be less than zero per cent per year.

(H) "Cash" means United States currency, certified checks, money orders, bank drafts, electronic transfer of funds, or other forms of payment authorized by the county treasurer, and excludes any other form of payment not so authorized.

(I) "The date on which a tax certificate is sold or transferred," "the date

the certificate was sold or transferred," "the date the certificate is purchased," and any other phrase of similar content mean, with respect to a sale pursuant to an auction under section 5721.32 of the Revised Code, the date designated by the county treasurer for the submission of bids and, with respect to a negotiated sale or transfer under section 5721.33 of the Revised Code, the date of delivery of the tax certificates to the purchasers thereof pursuant to a tax certificate sale/purchase agreement.

(J) "Certificate interest period" means, with respect to a tax certificate sold under section 5721.32 or 5721.42 of the Revised Code and for the purpose of accruing interest under section 5721.41 of the Revised Code, the period beginning on the date on which the certificate is purchased and, with respect to a tax certificate sold or transferred under section 5721.33 of the Revised Code, the period beginning on the date of delivery of the tax certificate, and in either case ending on one of the following dates:

(1) The date the certificate holder files a request for foreclosure or notice of intent to foreclose under division (A) of section 5721.37 of the Revised Code and submits the payment required under division (B) of that section;

(2) The date the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, redeems the certificate parcel under division (A) or (C) of section 5721.38 of the Revised Code or redeems the certificate under section 5721.381 of the Revised Code.

(K) "Qualified trustee" means a trust company within the state or a bank having the power of a trust company within the state with a combined capital stock, surplus, and undivided profits of at least one hundred million dollars.

(L) "Tax certificate sale/purchase agreement" means the purchase and sale agreement described in division (C) of section 5721.33 of the Revised Code setting forth the certificate purchase price, plus any applicable premium or less any applicable discount, including, without limitation, the amount to be paid in cash and the amount and nature of any noncash consideration, the date of delivery of the tax certificates, and the other terms and conditions of the sale, including, without limitation, the rate of interest that the tax certificates shall bear.

(M) "Noncash consideration" means any form of consideration other than cash, including, but not limited to, promissory notes whether subordinate or otherwise.

(N) "Private attorney" means any attorney licensed to practice law in this state whose license has not been revoked and is not currently suspended, and who is retained to bring foreclosure proceedings pursuant to section

5721.37 of the Revised Code on behalf of a certificate holder.

(O) "Related certificate parcel" means, with respect to a certificate holder, the certificate parcel with respect to which the certificate holder has purchased and holds a tax certificate pursuant to sections 5721.30 to 5721.43 of the Revised Code and, with respect to a tax certificate, the certificate parcel against which the tax certificate has been sold pursuant to those sections.

(P) "Delinquent taxes" means delinquent taxes as defined in section 323.01 of the Revised Code and includes assessments and charges, and penalties and interest computed under section 323.121 of the Revised Code.

(Q) "Certificate period" means the period of time after the sale or delivery of a tax certificate within which a certificate holder must initiate an action to foreclose the tax lien represented by the certificate as specified under division (A) of section 5721.32 of the Revised Code or as negotiated under section 5721.33 of the Revised Code.

Sec. 5721.31. (A)(1) After receipt of a duplicate of the delinquent land list compiled under section 5721.011 of the Revised Code, or a delinquent land list compiled previously under that section, the county treasurer may select from the list parcels of delinquent land the lien against which the county treasurer may attempt to transfer by the sale of tax certificates under sections 5721.30 to 5721.43 of the Revised Code. None of the following parcels may be selected for a tax certificate sale:

(a) A parcel for which the full amount of taxes, assessments, penalties, interest, and charges have been paid;

(b) A parcel for which a valid contract under section 323.122, 323.31, or 5713.20 of the Revised Code is in force;

(c) A parcel the owner of which has filed a petition in bankruptcy, so long as the parcel is property of the bankruptcy estate.

(2) The county treasurer shall compile a separate list of parcels selected for tax certificate sales, including the same information as is required to be included in the delinquent land list.

Upon compiling the list of parcels selected for tax certificate sales, the county treasurer may conduct a title search for any parcel on the list.

(B)(1) Except as otherwise provided in division (B)(3) of this section, when tax certificates are to be sold under section 5721.32 of the Revised Code with respect to parcels, the county treasurer shall send written notice by certified mail to either the owner of record or all interested parties discoverable through a title search, or both, of each parcel on the list. A notice to an owner shall be sent to the owner's last known tax-mailing address. The notice shall inform the owner or interested parties that a tax

certificate will be offered for sale on the parcel, and that the owner or interested parties may incur additional expenses as a result of the sale.

(2) Except as otherwise provided in division (B)(3) of this section, when tax certificates are to be sold or transferred under section 5721.33 of the Revised Code with respect to parcels, the county treasurer, at least thirty days prior to the date of sale or transfer of such tax certificates, shall send written notice of the sale or transfer by certified mail to the last known tax-mailing address of the record owner of the property or parcel and may send such notice to all parties with an interest in the property that has been recorded in the property records of the county pursuant to section 317.08 of the Revised Code. The notice shall state that a tax certificate will be offered for sale or transfer on the parcel, and that the owner or interested parties may incur additional expenses as a result of the sale or transfer.

(3) The county treasurer is not required to send a notice under division (B)(1) or (B)(2) of this section if the treasurer previously has attempted to send such notice to the owner of the parcel and the notice has been returned by the post office as undeliverable. The absence of a valid tax-mailing address for the owner of a parcel does not preclude the county treasurer from selling or transferring a tax certificate for the parcel.

(C) The county treasurer shall advertise the sale of tax certificates under section 5721.32 of the Revised Code in a newspaper of general circulation in the county~~,~~ once a week for two consecutive weeks. The newspaper shall meet the requirements of section 7.12 of the Revised Code. The advertisement shall include the date, the time, and the place of the public auction, abbreviated legal descriptions of the parcels, and the names of the owners of record of the parcels. The advertisement also shall include the certificate purchase prices of the parcels or the total purchase price of tax certificates for sale in blocks of tax certificates.

(D) After the county treasurer has compiled the list of parcels selected for tax certificate sales but before a tax certificate respecting a parcel is sold or transferred, if the owner of record of the parcel pays to the county treasurer in cash the delinquent taxes respecting the parcel or otherwise acts so that any condition in division (A)(1)(a), (b), or (c) of this section applies to the parcel, the owner of record of the parcel also shall pay a fee in an amount prescribed by the treasurer to cover the administrative costs of the treasurer under this section respecting the parcel. The fee shall be deposited in the county treasury to the credit of the tax certificate administration fund.

(E) A tax certificate administration fund shall be created in the county treasury of each county selling tax certificates under sections 5721.30 to 5721.43 of the Revised Code. The fund shall be administered by the county

treasurer, and used solely for the purposes of sections 5721.30 to 5721.43 of the Revised Code or as otherwise permitted in this division. Any fee received by the treasurer under sections 5721.30 to 5721.43 of the Revised Code shall be credited to the fund, except the bidder registration fee under division (B) of section 5721.32 of the Revised Code and the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code. To the extent there is a surplus in the fund from time to time, the surplus may, with the approval of the county treasurer, be utilized for the purposes of a county land reutilization corporation operating in the county.

(F) The county treasurers of more than one county may jointly conduct a regional sale of tax certificates under section 5721.32 of the Revised Code. A regional sale shall be held at a single location in one county, where the tax certificates from each of the participating counties shall be offered for sale at public auction. Before the regional sale, each county treasurer shall advertise the sale for the parcels in the treasurer's county as required by division (C) of this section. At the regional sale, tax certificates shall be sold on parcels from one county at a time, with all of the certificates for one county offered for sale before any certificates for the next county are offered for sale.

(G) The tax commissioner shall prescribe the form of the tax certificate under this section, and county treasurers shall use the form so prescribed.

Sec. 5721.32. (A) The sale of tax certificates by public auction may be conducted at any time after completion of the advertising of the sale under section 5721.31 of the Revised Code, on the date and at the time and place designated in the advertisements, and may be continued from time to time as the county treasurer directs. The county treasurer may offer the tax certificates for sale in blocks of tax certificates, consisting of any number of tax certificates as determined by the county treasurer, and may specify a certificate period of not less than three years and not more than six years.

(B)(1) The sale of tax certificates under this section shall be conducted at a public auction by the county treasurer or a designee of the county treasurer.

(2) No person shall be permitted to bid without completing a bidder registration form, in the form prescribed by the tax commissioner, and without filing the form with the county treasurer prior to the start of the auction, together with remittance of a registration fee, in cash, of five hundred dollars. The bidder registration form shall include a tax identification number of the registrant. The registration fee is refundable at the end of bidding on the day of the auction, unless the registrant is the winning bidder for one or more tax certificates or one or more blocks of tax

certificates, in which case the fee may be applied toward the deposit required by this section.

(3) The county treasurer may require a person who wishes to bid on one or more parcels to submit a letter from a financial institution stating that the bidder has sufficient funds available to pay the purchase price of the parcels and a written authorization for the treasurer to verify such information with the financial institution. The county treasurer may require submission of the letter and authorization sufficiently in advance of the auction to allow for verification. No person who fails to submit the required letter and authorization, or whose financial institution fails to provide the requested verification, shall be permitted to bid.

(C) At the public auction, the county treasurer or the treasurer's designee or agent shall begin the bidding at eighteen per cent per year simple interest, and accept lower bids in even increments of one-fourth of one per cent to the rate of zero per cent. The county treasurer, designee, or agent shall award the tax certificate to the person bidding the lowest certificate rate of interest. The county treasurer shall decide which person is the winning bidder in the event of a tie for the lowest bid offered, or if a person contests the lowest bid offered. The county treasurer's decision is not appealable.

(D)(1) The winning bidder shall pay the county treasurer a cash deposit of at least ten per cent of the certificate purchase price not later than the close of business on the day of the sale. The winning bidder shall pay the balance and the fee required under division (H) of this section not later than five business days after the day on which the certificate is sold. Except as provided under division (D)(2) of this section, if the winning bidder fails to pay the balance and fee within the prescribed time, the bidder forfeits the deposit, and the county treasurer shall retain the tax certificate and may attempt to sell it at any auction conducted at a later date.

(2) At the request of a winning bidder, the county treasurer may release the bidder from the bidder's tax certificate purchase obligation. The county treasurer may retain all or any portion of the deposit of a bidder granted a release. After granting a release under this division, the county treasurer may award the tax certificate to the person that submitted the second lowest bid at the auction.

(3) The county treasurer shall deposit the deposit forfeited or retained under divisions (D)(1) or (2) of this section in the county treasury to the credit of the tax certificate administration fund.

(E) Upon receipt of the full payment of the certificate purchase price from the purchaser, the county treasurer shall issue the tax certificate and record the tax certificate sale by entering into a tax certificate register the

certificate purchase price, the certificate rate of interest, the date the certificate was sold, the certificate period, the name and address of the certificate holder, and any other information the county treasurer considers necessary. The county treasurer may keep the tax certificate register in a hard-copy format or in an electronic format. The name and address of the certificate holder may be, upon receipt of instructions from the purchaser, that of the secured party of the actual purchaser, or an agent or custodian for the purchaser or secured party. The county treasurer also shall transfer the tax certificate to the certificate holder. The county treasurer shall apportion the part of the proceeds from the sale representing taxes, penalties, and interest among the several taxing districts in the same proportion that the amount of taxes levied by each district against the certificate parcel in the preceding tax year bears to the taxes levied by all such districts against the certificate parcel in the preceding tax year, and credit the part of the proceeds representing assessments and other charges to the items of assessments and charges in the order in which those items became due. Upon issuing a tax certificate, the delinquent taxes that make up the certificate purchase price are transferred, and the superior lien of the state and its taxing districts for those delinquent taxes is conveyed intact to the certificate holder.

(F) If a tax certificate is offered for sale under this section but is not sold, the county treasurer may sell the certificate in a negotiated sale authorized under section 5721.33 of the Revised Code, or may strike the corresponding certificate parcel from the list of parcels selected for tax certificate sales. The lien for taxes, assessments, charges, penalties, and interest against a parcel stricken from the list thereafter may be foreclosed in the manner prescribed by section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code unless, prior to the institution of such proceedings against the parcel, the county treasurer restores the parcel to the list of parcels selected for tax certificate sales.

(G) A certificate holder shall not be liable for damages arising from a violation of sections 3737.87 to 3737.891 or Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 6111. of the Revised Code, or a rule adopted or order, permit, license, variance, or plan approval issued under any of those chapters, that is or was committed by another person in connection with the parcel for which the tax certificate is held.

(H) When selling a tax certificate under this section, the county treasurer shall charge a fee to the purchaser of the certificate. The county treasurer shall set the fee at a reasonable amount that covers the treasurer's costs of administering the sale of the tax certificate. The county treasurer

shall deposit the fee in the county treasury to the credit of the tax certificate administration fund.

(I) After selling a tax certificate under this section, the county treasurer shall send written notice by certified mail to the owner of the certificate parcel at the owner's last known tax-mailing address. The notice shall inform the owner that the tax certificate was sold, shall describe the owner's options to redeem the parcel, including entering into a redemption payment plan under division (C)(1) of section 5721.38 of the Revised Code, and shall name the certificate holder and its secured party, if any. However, the county treasurer is not required to send a notice under this division if the treasurer previously has attempted to send a notice to the owner of the parcel at the owner's last known tax-mailing address, and the postal service has returned the notice as undeliverable.

(J) A tax certificate shall not be sold to the owner of the certificate parcel.

Sec. 5721.37. (A)(1) ~~Division (A)(1) of this section applies to tax certificates purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code.~~ At any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than ~~six years after that date~~ the end of the certificate period, a certificate holder, except for a county land reutilization corporation, may file with the county treasurer a request for foreclosure, or a private attorney on behalf of the certificate holder may file with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner, provided the certificate parcel has not been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires the tax certificate.

(2) ~~Division (A)(2) of this section applies to tax certificates purchased under section 5721.33 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code. At any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than six years~~

~~after that date or any extension of that date pursuant to division (C)(2) of section 5721.38 of the Revised Code, or not earlier or later than the dates negotiated by the county treasurer and specified in the tax certificate sale/purchase agreement, the certificate holder may file with the county treasurer a request for foreclosure, or a private attorney on behalf of a certificate holder other than a county land reutilization corporation may file with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner, provided the parcel has not been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires the tax certificate.~~

~~(3)(a) Division (A)(3)(a) of this section applies to a tax certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, and not held by a county land reutilization corporation. If, before the expiration of six years after the date a tax certificate was sold, the owner of the property for which the certificate was sold files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or the private attorney may file a notice of intent to foreclose is the later of six years after the date the certificate was sold or one hundred eighty days after the certificate parcel is no longer property of the bankruptcy estate; however, the six-year period measured from the date the certificate was sold is tolled while the property owner's bankruptcy case remains open.~~

~~(b) Division (A)(3)(b) of this section applies to a tax certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, and not held by a county land reutilization corporation. If, before six years after the date a tax certificate~~

~~was sold or before the date negotiated by the county treasurer~~ If, before the expiration of the certificate period, the owner of the property files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or a notice of intent to foreclose is the later of ~~six years after the date the tax certificate was sold or the date negotiated by the county treasurer,~~ the expiration of the certificate period or one hundred eighty days after the certificate parcel is no longer property of the bankruptcy estate; however, the ~~six-year or negotiated period being measured after the date the certificate was sold~~ certificate period is tolled while the property owner's bankruptcy case remains open. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires such tax certificate, subject to any restrictions under such bankruptcy law or proceeding.

~~(c)~~ Interest at the certificate rate of interest continues to accrue during any extension of time required by division ~~(A)(3)(a) or (b)~~(A)(2) of this section unless otherwise provided under Title 11 of the United States Code.

~~(4)~~(3) If, before the expiration of three years from the date a tax certificate was sold, the owner of property for which the certificate was sold applies for an exemption under section 3735.67 or 5715.27 of the Revised Code or under any other section of the Revised Code under the jurisdiction of the director of environmental protection, the county treasurer shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the application. Once a determination has been made on the exemption application, the county treasurer shall notify the certificate holder of the determination by ordinary first-class or certified mail or by binary means. Except with respect to a county land reutilization corporation, the last day on which the certificate holder may file a request for foreclosure shall be the later of three years from the date the certificate was sold or forty-five days after notice of the determination was provided.

(B) When a request for foreclosure or a notice of intent to foreclose is filed under ~~division (A)(1) or (2) of~~ this section, the certificate holder shall submit a payment to the county treasurer equal to the sum of the following:

(1) The certificate redemption prices of all outstanding tax certificates that have been sold on the parcel, other than tax certificates held by the

person requesting foreclosure;

(2) Any taxes, assessments, penalties, interest, and charges appearing on the tax duplicate charged against the certificate parcel that is the subject of the foreclosure proceedings and that are not covered by a tax certificate, but such amounts are not payable if the certificate holder is a county land reutilization corporation;

(3) If the foreclosure proceedings are filed by the county prosecuting attorney pursuant to section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, a fee in the amount prescribed by the county prosecuting attorney to cover the prosecuting attorney's legal costs incurred in the foreclosure proceeding.

(C)(1) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code, the county treasurer, within five days after receiving a foreclosure request and the payment required under division (B) of this section, shall certify notice to that effect to the county prosecuting attorney and shall provide a copy of the foreclosure request. The county treasurer also shall send notice by ordinary first class or certified mail to all certificate holders other than the certificate holder requesting foreclosure that foreclosure has been requested by a certificate holder and that payment for the tax certificates is forthcoming. Within ninety days of receiving the copy of the foreclosure request, the prosecuting attorney shall commence a foreclosure proceeding in the name of the county treasurer in the manner provided under section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, to enforce the lien vested in the certificate holder by the certificate. The prosecuting attorney shall attach to the complaint the foreclosure request and the county treasurer's written certification.

(2) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed, at least one certificate respecting the certificate parcel, held by the certificate holder filing the notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code, a notice of intent to foreclose has been filed, and the payment required under division (B) of this section has been made, the county treasurer shall certify notice to that effect to the private attorney. The county treasurer also shall send notice by ordinary first

class or certified mail or by binary means to all certificate holders other than the certificate holder represented by the attorney that a notice of intent to foreclose has been filed and that payment for the tax certificates is forthcoming. After receipt of the treasurer's certification and not later than one hundred twenty days after the filing of the intent to foreclose or the number of days specified under the terms of a negotiated sale under section 5721.33 of the Revised Code, the private attorney shall commence a foreclosure proceeding in the name of the certificate holder in the manner provided under division (F) of this section to enforce the lien vested in the certificate holder by the certificate. The private attorney shall attach to the complaint the notice of intent to foreclose and the county treasurer's written certification.

(D) The county treasurer shall credit the amount received under division (B)(1) of this section to the tax certificate redemption fund. The tax certificates respecting the payment shall be paid as provided in division (D) of section 5721.38 of the Revised Code. The amount received under division (B)(2) of this section shall be distributed to the taxing districts to which the delinquent and unpaid amounts are owed. The county treasurer shall deposit the fee received under division (B)(3) of this section in the county treasury to the credit of the delinquent tax and assessment collection fund.

(E)(1)~~(a) Except with respect to a county land reutilization corporation, if, in the case of a certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, the certificate holder does not file with the county treasurer a request for foreclosure or a notice of intent to foreclose with the required payment within six years after the date shown on the tax certificate as the date the certificate was sold or within the period provided under division (A)(3)(a) of this section, and during that time the certificate has not been voided under section 5721.381 of the Revised Code and the parcel has not been redeemed or foreclosed upon, the certificate holder's lien against the parcel is canceled, and the certificate is voided, subject to division (E)(1)(b) of this section.~~

~~(b) In the case of any tax certificate purchased under section 5721.32 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code prior to June 24, 2008, the county treasurer, upon application by the certificate holder, may sell to the certificate holder a new certificate extending the three-year period prescribed by division (E)(1) of this section, as that division existed prior to that date, to six years after the date shown on~~

~~the original certificate as the date it was sold or any extension of that date.~~

~~(2)(a)~~ Except with respect to a county land reutilization corporation, if~~,~~ ~~in the case of a certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code,~~ the certificate holder does not file with the county treasurer a request for foreclosure or a notice of intent to foreclose with respect to a certificate parcel with the required payment within ~~six years after the date shown on the tax certificate as the date the certificate was sold~~ the certificate period or any extension of that ~~date~~ period pursuant to division (C)(2) of section 5721.38 of the Revised Code, or within the period provided under division ~~(A)(3)(b)~~(A)(2) of this section ~~or as specified under the terms of a negotiated sale under section 5721.33 of the Revised Code~~, and during that time the certificate has not been voided under section 5721.381 of the Revised Code and the certificate parcel has not been redeemed or foreclosed upon, the certificate holder's lien against the parcel is canceled and the certificate is voided, subject to division ~~(E)(2)(b)~~(E)(2) of this section.

~~(b)~~(2) In the case of any tax certificate purchased under section ~~5721.33~~ 5721.32 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code prior to ~~October 10, 2000~~ June 24, 2008, the county treasurer, upon application by the certificate holder, may sell to the certificate holder a new certificate extending the three-year period prescribed by division ~~(E)(2)~~(E)(1) of this section, as that division existed prior to ~~October 10, 2000~~ that date, to six years after the date shown on the original certificate as the date it was sold or any extension of that date.

~~(3)~~ The county treasurer and the certificate holder shall negotiate the premium, in cash, to be paid for a new certificate sold under division ~~(E)(1)(b) or (2)(b)~~(E)(2) of this section. If the county treasurer and certificate holder do not negotiate a mutually acceptable premium, the county treasurer and certificate holder may agree to engage a person experienced in the valuation of financial assets to appraise a fair premium for the new certificate. The certificate holder has the option to purchase the new certificate for the fair premium so appraised. Not less than one-half of the fee of the person so engaged shall be paid by the certificate holder requesting the new certificate; the remainder of the fee shall be paid from the proceeds of the sale of the new certificate. If the certificate holder does not purchase the new certificate for the premium so appraised, the certificate holder shall pay the entire fee. The county treasurer shall credit the remaining proceeds from the sale to the items of taxes, assessments,

penalties, interest, and charges in the order in which they became due.

~~(4)~~ A certificate issued under division ~~(E)(1)(b) or (2)(b)~~(E)(2) of this section vests in the certificate holder and its secured party, if any, the same rights, interests, privileges, and immunities as are vested by the original certificate under sections 5721.30 to 5721.43 of the Revised Code. The certificate shall be issued in the same form as the form prescribed for the original certificate issued except for any modifications necessary, in the county treasurer's discretion, to reflect the extension under this division of the certificate holder's lien to six years after the date shown on the original certificate as the date it was sold or any extension of that date. The certificate holder may record a certificate issued under division ~~(E)(1)(b) or (2)(b)~~(E)(2) of this section or memorandum thereof as provided in division (B) of section 5721.35 of the Revised Code, and the county recorder shall index the certificate and record any subsequent cancellation of the lien as provided in that section. The sale of a certificate extending the lien under division ~~(E)(1)(b) or (2)(b)~~(E)(2) of this section does not impair the right of redemption of the owner of record of the certificate parcel or of any other person entitled to redeem the property.

~~(5)~~(3) If the holder of a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code submits a notice of intent to foreclose to the county treasurer but fails to file a foreclosure action in a court of competent jurisdiction within the time specified in division (C)(2) of this section, the liens represented by all tax certificates respecting the certificate parcel held by that certificate holder, and for which the deadline for filing a notice of intent to foreclose has passed, are canceled and the certificates voided, and the certificate holder forfeits the payment of the amounts described in division (B)(2) of this section.

(F) With respect to tax certificates purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, upon the delivery to the private attorney by the county treasurer of the certification provided for under division (C)(2) of this section, the private attorney shall institute a foreclosure proceeding under this division in the name of the certificate holder to enforce the holder's lien, in any court or board of revision with jurisdiction, unless the certificate redemption price is paid prior to the time a complaint is filed. The attorney shall prosecute the proceeding to final judgment and satisfaction, whether through sale of the property or the vesting of title and possession in the certificate holder or other disposition under sections 323.65 to 323.79 of the Revised Code or as may otherwise be provided by law.

The foreclosure proceedings under this division, except as otherwise

provided in this division, shall be instituted and prosecuted in the same manner as is provided by law for the foreclosure of mortgages on land, except that, if service by publication is necessary, such publication shall be made once a week for three consecutive weeks and the service shall be complete at the expiration of three weeks after the date of the first publication.

Any notice given under this division shall include the name of the owner of the parcel as last set forth in the records of the county recorder, the owner's last known mailing address, the address of the subject parcel if different from that of the owner, and a complete legal description of the subject parcel. In any county that has adopted a permanent parcel number system, such notice may include the permanent parcel number in addition to a complete legal description.

It is sufficient, having been made a proper party to the foreclosure proceeding, for the certificate holder to allege in such holder's complaint that the tax certificate has been duly purchased by the certificate holder, that the certificate redemption price is due and unpaid, that there is a lien against the property described in the tax certificate, and, if applicable, that the certificate holder desires to invoke the alternative redemption period prescribed in sections 323.65 to 323.79 of the Revised Code, without setting forth in such holder's complaint any other special matter relating to the foreclosure proceeding. The complaint shall pray for an order directing the sheriff, or the bailiff if the complaint is filed in municipal court, to offer the property for sale in the manner provided in section 5721.19 of the Revised Code or otherwise transferred according to any applicable procedures provided in sections 323.65 to 323.79 of the Revised Code, unless the complaint documents that the county auditor has determined that the true value of the certificate parcel is less than the certificate purchase price. In that case, the prayer of the complaint shall request that fee simple title to the property be transferred to and vested in the certificate holder free and clear of all subordinate liens.

In the foreclosure proceeding, the certificate holder may join in one action any number of tax certificates relating to the same owner. However, the decree for each tax certificate shall be rendered separately and any proceeding may be severed, in the discretion of the court or board of revision, for the purpose of trial or appeal. Except as may otherwise be provided in sections 323.65 to 323.79 of the Revised Code, upon confirmation of sale, the court or board of revision shall order payment of all costs related directly or indirectly to the tax certificate, including, without limitation, attorney's fees of the holder's attorney in accordance with section

5721.371 of the Revised Code. The tax certificate purchased by the certificate holder is presumptive evidence in all courts and boards of revision and in all proceedings, including, without limitation, at the trial of the foreclosure action, of the amount and validity of the taxes, assessments, charges, penalties by the court and added to such principal amount, and interest appearing due and unpaid and of their nonpayment.

(G) If a parcel is sold under this section, the officer who conducted the sale shall collect the recording fee from the purchaser at the time of the sale and, following confirmation of the sale, shall prepare and record the deed conveying the title to the parcel to the purchaser.

Sec. 5721.38. (A) At any time prior to payment to the county treasurer by the certificate holder to initiate foreclosure proceedings under division (B) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, may redeem the parcel by paying to the county treasurer an amount equal to the total of the certificate redemption prices of all tax certificates respecting that parcel.

(B) At any time after payment to the county treasurer by the certificate holder to initiate foreclosure proceedings under section 5721.37 of the Revised Code, and before the filing of the entry of confirmation of sale of a certificate parcel, or the expiration of the alternative redemption period defined in section 323.65 of the Revised Code under foreclosure proceedings filed by the county prosecuting attorney, and before the decree conveying title to the certificate holder is rendered as provided for in division (F) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel or any other person entitled to redeem that parcel may redeem the parcel by paying to the county treasurer the sum of the following amounts:

(1) The amount described in division (A) of this section;

(2) Interest on the certificate purchase price for each tax certificate sold respecting the parcel at the rate of eighteen per cent per year for the period beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division;

(3) An amount equal to the sum of the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code plus interest on that amount at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division. If the parcel is redeemed before the complaint has been filed, the prosecuting attorney shall adjust the fee to reflect services performed to the date of redemption, and the county

treasurer shall calculate the interest based on the adjusted fee and refund any excess fee to the certificate holder.

(4) Reasonable attorney's fees in accordance with section 5721.371 of the Revised Code if the certificate holder retained a private attorney to foreclose the lien;

(5) Any other costs and fees of the proceeding allocable to the certificate parcel as determined by the court or board of revision.

The county treasurer may collect the total amount due under divisions (B)(1) to (5) of this section in the form of guaranteed funds acceptable to the treasurer. Immediately upon receipt of such payments, the county treasurer shall reimburse the certificate holder who initiated foreclosure proceedings as provided in division (D) of this section. The county treasurer shall pay the certificate holder interest at the rate of eighteen per cent per year on amounts paid under divisions (B)(2) and (3) of section 5721.37 of the Revised Code, beginning on the day the certificate holder paid the amounts under those divisions and ending on the day the parcel is redeemed under this section.

(C)(1) During the period beginning on the date a tax certificate is sold under section 5721.32 of the Revised Code and ending one year from that date, the county treasurer may enter into a redemption payment plan with the owner of record of the certificate parcel or any other person entitled to redeem that parcel. The plan shall require the owner or other person to pay the certificate redemption price for the tax certificate in installments, with the final installment due no later than one year after the date the tax certificate is sold. The certificate holder may at any time, by written notice to the county treasurer, agree to accept installments collected to the date of notice as payment in full. Receipt of such notice by the treasurer shall constitute satisfaction of the payment plan and redemption of the tax certificate.

(2) During the period beginning on the date a tax certificate is sold under section 5721.33 of the Revised Code and ending on the date the decree is rendered on the foreclosure proceeding under division (F) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, may enter into a redemption payment plan with the certificate holder and all secured parties of the certificate holder. The plan shall require the owner or other person to pay the certificate redemption price for the tax certificate, an administrative fee not to exceed one hundred dollars per year, and the actual fees and costs incurred, in installments, with the final installment due no later than ~~six years after the date the tax certificate is sold~~ the expiration of the certificate period. The certificate holder shall give written notice of the plan to the

applicable county treasurer within sixty days after entering into the plan and written notice of default under the plan within ninety days after the default. If such a plan is entered into, the time period for filing a request for foreclosure or a notice of intent to foreclose under section 5721.37 of the Revised Code is extended by the length of time the plan is in effect and not in default.

(D)(1) Immediately upon receipt of full payment under division (A) or (B) of this section, the county treasurer shall make an entry to that effect in the tax certificate register, credit the payment to the tax certificate redemption fund created in the county treasury, and shall notify the certificate holder or holders by ordinary first class or certified mail or by binary means that the parcel has been redeemed and the lien or liens canceled, and that payment on the certificate or certificates is forthcoming. The treasurer shall pay the tax certificate holder or holders promptly.

The county treasurer shall administer the tax certificate redemption fund for the purpose of redeeming tax certificates. Interest earned on the fund shall be credited to the county general fund. If the county has established a county land reutilization corporation, the county treasurer may apply interest earned on the fund to the payment of the expenses of such corporation.

(2) If a redemption payment plan is entered into pursuant to division (C)(1) of this section, the county treasurer immediately shall notify each certificate holder by ordinary first class or certified mail or by binary means of the terms of the plan. Installment payments made pursuant to the plan shall be deposited in the tax certificate redemption fund. Any overpayment of the installments shall be refunded to the person responsible for causing the overpayment if the person applies for a refund under this section. If the person responsible for causing the overpayment fails to apply for a refund under this section within five years from the date the plan is satisfied, an amount equal to the overpayment shall be deposited into the general fund of the county. If the county has established a county land reutilization corporation, the county treasurer may apply such overpayment to the payment of the expenses of the corporation.

Upon satisfaction of the plan, the county treasurer shall indicate in the tax certificate register that the plan has been satisfied, and shall notify each certificate holder by ordinary first class or certified mail or by binary means that the plan has been satisfied and that payment on the certificate or certificates is forthcoming. The treasurer shall pay each certificate holder promptly.

If a redemption payment plan becomes void, the county treasurer shall notify each certificate holder by ordinary first class or certified mail or by

binary means. If a certificate holder files a request for foreclosure under section 5721.37 of the Revised Code, upon the filing of the request for foreclosure, any money paid under the plan shall be refunded to the person that paid the money under the plan.

(3) Upon receipt of the payment required under division (B)(1) of section 5721.37 of the Revised Code, the treasurer shall pay all other certificate holders and indicate in the tax certificate register that such certificates have been satisfied. If a county has organized a county land reutilization corporation, the county treasurer may apply the redemption price and any applicable interest payable under division (B) of this section to the payment of the expenses of the corporation.

Sec. 5721.42. After the settlement required under division (C) of section 321.24 of the Revised Code, the county treasurer shall notify the certificate holder of the most recently issued tax certificate, by ordinary first class or certified mail or by binary means, that the certificate holder may purchase a subsequent tax certificate by paying all delinquent taxes on the related certificate parcel~~,~~ the lien against which has not been transferred by the sale of a tax certificate. During the thirty days after receiving the notice, the certificate holder possesses the exclusive right to purchase the subsequent tax certificate by paying those amounts to the county treasurer. The amount of the payment shall constitute a separate lien against the certificate parcel that shall be evidenced by the issuance by the treasurer to the certificate holder of an additional tax certificate with respect to the delinquent taxes so paid on the related certificate parcel. The amount of the payment as set forth in the tax certificate shall earn interest at the rate of eighteen per cent per year. The certificate period of each subsequent tax certificate shall terminate on the expiration date of the certificate period of the most recent tax certificate for the same certificate parcel.

Sec. 5722.13. Real property acquired and held by an electing subdivision pursuant to this chapter that is not sold or otherwise transferred within fifteen years after such acquisition shall be offered for sale at public auction during the sixteenth year after acquisition. If the real property is not sold at that time, it may be disposed of or retained for any lawful purpose without further application of this chapter.

Notice of the sale shall contain a description of each parcel, the permanent parcel number, and the full street address when available. The notice shall be published once a week for three consecutive weeks prior to the sale in a newspaper of general circulation within the electing subdivision. The newspaper shall meet the requirements of section 7.12 of the Revised Code.

Each parcel subsequent to the fifteenth year after its acquisition as part of a land reutilization program shall be sold for an amount equal to not less than the greater of:

(A) Two-thirds of its fair market value;

(B) The total amount of accrued taxes, assessments, penalties, interest, charges, and costs incurred by the electing subdivision in the acquisition, maintenance, and disposal of each parcel and the parcel's share of the costs and expenses of the land reutilization program.

The sale requirements of this section do not apply to real property acquired and held by a county land reutilization corporation.

Sec. 5723.05. If the taxes, assessments, charges, penalties, interest, and costs due on the forfeited lands have not been paid when the county auditor fixes the date for the sale of forfeited lands, the auditor shall give notice of them once a week for two consecutive weeks prior to the date fixed by the auditor for the sale, ~~in two newspapers~~ as provided in section 5721.03 of the Revised Code. The notice shall state that if the taxes, assessments, charges, penalties, interest, and costs charged against the lands forfeited to the state for nonpayment of taxes are not paid into the county treasury, and the county treasurer's receipt produced for the payment before the time specified in the notice for the sale of the lands, which day shall be named in the notice, each forfeited tract on which the taxes, assessments, charges, penalties, interest, and costs remain unpaid will be offered for sale beginning on the date set by the auditor, at the courthouse in the county, in order to satisfy the unpaid taxes, assessments, charges, penalties, interest, and costs, and that the sale will continue from day to day until each of the tracts is sold or offered for sale.

The notice also shall state that, if the forfeited land is sold for an amount that is less than the amount of the delinquent taxes, assessments, charges, penalties, and interest against it, and, if division (B)(2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code, the court, in a separate order, may enter a deficiency judgment against the last owner of record of the land before its forfeiture to the state, for the amount of the difference; and that, if that owner of record is a corporation, the court may enter the deficiency judgment against the stockholder holding a majority of that corporation's stock.

Sec. 5723.18. (A) Except as otherwise provided in division (B)(2) of section 5721.17 and division (B) of section 319.43 of the Revised Code, the proceeds from a forfeiture sale shall be distributed as follows:

(1) The county auditor shall deduct all costs pertaining to the forfeiture and sale of forfeited lands, including costs pertaining to a foreclosure and forfeiture proceeding instituted under section 5721.14 of the Revised Code, except those paid under section 5721.04 of the Revised Code, from the moneys received from the sale of land and town lots forfeited to the state for the nonpayment of taxes, and shall pay such costs into the proper fund. In the case of the forfeiture sale of a parcel against which a foreclosure and forfeiture proceeding was instituted under section 5721.14 of the Revised Code, if the proceeds from the forfeiture sale are insufficient to pay the costs pertaining to such proceeding, the county auditor, at the next semiannual apportionment of real property taxes, shall reduce the amount of real property taxes that the auditor otherwise would distribute to each subdivision to which taxes, assessments, charges, penalties, or interest charged against the parcel are due. The reduction in each subdivision's real property tax distribution shall equal the amount of the unpaid costs multiplied by a fraction, the numerator of which is the amount of taxes, assessments, charges, penalties, and interest due the subdivision, and the denominator of which is the total amount of taxes, assessments, charges, penalties, and interest due all such subdivisions.

(2) Following the payment required by division (A)(1) of this section, the part of the proceeds that is equal to ten per cent of the taxes and assessments due shall be deposited in equal shares into each of the delinquent tax and assessment collection ~~fund~~ funds created pursuant to section 321.261 of the Revised Code.

(3) Following the payment required by division (A)(2) of this section, the remaining proceeds shall be distributed by the auditor to the appropriate subdivisions to pay the taxes, assessments, charges, penalties, and interest which are due and unpaid. If the proceeds available for distribution under this division are insufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the auditor shall distribute the proceeds available for distribution under this division to the appropriate subdivisions in proportion to the amount of those taxes, assessments, charges, penalties, and interest that each is due.

(B) If the proceeds from the sale of forfeited land are insufficient to pay in full the amount of the taxes, assessments, charges, penalties, and interest; the costs incurred in the proceedings instituted pursuant to this chapter and section 5721.18 of the Revised Code, or the foreclosure and forfeiture proceeding instituted pursuant to section 5721.14 of the Revised Code; and, if division (B)(2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the

Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code, the court may enter a deficiency judgment against the last owner of record of the land before its forfeiture to the state, for the unpaid amount. The court shall enter the judgment pursuant to section 5721.192 of the Revised Code. Except as otherwise provided in division (B) of section 319.43 of the Revised Code, the proceeds paid pursuant to the entry and satisfaction of such a judgment shall be distributed as if they had been received as a part of the proceeds from the sale of the land to satisfy the amount of the taxes, assessments, charges, penalties, and interest which are due and unpaid; the costs incurred in the associated proceedings which were due and unpaid; and, if division (B)(2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code.

Sec. 5725.151. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5707.03 and assessed under section 5725.15 of the Revised Code for a dealer in intangibles subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any dealer for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the dealer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The dealer may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) A dealer in intangibles claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

~~(D) For the purpose of division (C) of section 5725.24 of the Revised Code, reductions in the amount of taxes collected on account of credits allowed under this section shall be applied to reduce the amount credited to~~

~~the general revenue fund and shall not be applied to reduce the amount to be credited to the undivided local government funds of the counties in which such taxes originate.~~

Sec. 5725.24. (A) ~~As used in this section, "qualifying dealer" means a dealer in intangibles that is a qualifying dealer in intangibles as defined in section 5733.45 of the Revised Code or a member of a qualifying controlled group, as defined in section 5733.04 of the Revised Code, of which an insurance company also is a member on the first day of January of the year in and for which the tax imposed by section 5707.03 of the Revised Code is required to be paid by the dealer.~~

~~(B)~~ The taxes levied by section 5725.18 of the Revised Code and collected pursuant to this chapter shall be paid into the state treasury to the credit of the general revenue fund.

~~(C)~~(B) The taxes levied by section 5707.03 of the Revised Code on the value of shares in and capital employed by all dealers in intangibles ~~other than those that are qualifying dealers~~ shall be ~~for the use of~~ paid into the state treasury to the credit of the general revenue fund ~~of the state and the local government funds of the several counties in which the taxes originate as provided in this division.~~

~~During each month for which there is money in the state treasury for disbursement under this division, the tax commissioner shall provide for payment to the county treasurer of each county of five-eighths of the amount of the taxes collected on account of shares in and capital employed by dealers in intangibles other than those that are qualifying dealers, representing capital employed in the county. The balance of the money received and credited on account of taxes assessed on shares in and capital employed by such dealers in intangibles shall be credited to the general revenue fund.~~

~~Reductions in the amount of taxes collected on account of credits allowed under section 5725.151 of the Revised Code shall be applied to reduce the amount credited to the general revenue fund and shall not be applied to reduce the amount to be credited to the undivided local government funds of the counties in which such taxes originate.~~

~~For the purpose of this division, such taxes are deemed to originate in the counties in which such dealers in intangibles have their offices.~~

~~Money received into the treasury of a county pursuant to this section shall be credited to the undivided local government fund of the county and shall be distributed by the budget commission as provided by law.~~

~~(D) All of the taxes levied under section 5707.03 of the Revised Code on the value of the shares in and capital employed by dealers in intangibles~~

~~that are qualifying dealers shall be paid into the state treasury to the credit of the general revenue fund~~.

Sec. 5725.34. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any company for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate and in the order required under section 5725.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the company but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The company may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) An insurance company claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Sec. 5725.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5725.18 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

(2) The credit for eligible employee training costs under section 5725.31 of the Revised Code;

(3) The credit for purchasers of qualified low-income community investments under section 5725.33 of the Revised Code;

(4) The nonrefundable job retention credit under division (B)(1) of section 122.171 of the Revised Code;

(5) The offset of assessments by the Ohio life and health insurance guaranty association permitted by section 3956.20 of the Revised Code;

(6) The refundable credit for rehabilitating a historic building under

section 5725.34 of the Revised Code.

(7) The refundable credit for Ohio job retention under division (B)(2) or (3) of section 122.171 of the Revised Code;

~~(7)~~(8) The refundable credit for Ohio job creation under section 5725.32 of the Revised Code;

~~(8)~~(9) The refundable credit under section 5725.19 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5727.57. In addition to all other remedies for the collection of any taxes or penalties due under law, whenever any taxes, fees, or penalties due from any public utility have remained unpaid for a period of ninety days, or whenever any public utility has failed for a period of ninety days to make any report or return required by law, or to pay any penalty for failure to make or file such report or return, the attorney general, upon the request of the tax commissioner, shall file a petition in the court of common pleas in the county of the state in which such public utility has its principal place of business for a judgment for the amount of the taxes and penalties appearing to be due, the enforcement of any lien in favor of the state, and an injunction to restrain such public utility and its officers, directors, and managing agents from the transaction of any business within this state, other than such acts as are incidental to liquidation or winding up, until the payment of such taxes, fees, penalties, and the costs of the proceeding, which shall be fixed by the court, or the making and filing of such report or return.

Such petition shall be in the name of the state. All or any of the public utilities having their principal places of business in the county may be joined in one suit. On the motion of the attorney general, the court of common pleas shall enter an order requiring all defendants to answer by a day certain, and may appoint a special master commissioner to take testimony, with such other power and authority as the court confers, and permit process to be served by certified mail and by publication in a newspaper of general circulation ~~published~~ in the county, which publication need not be made more than once, setting forth the name of each delinquent public utility, the matter in which such public utility is delinquent, the names of its officers,

directors, and managing agents, if set forth in the petition, and the amount of any taxes, fees, or penalties claimed to be owing by said public utility.

All of the officers, directors, shareholders, or managing agents of any public utility may be joined as defendants with such public utility.

If it appears to the court upon hearing that any public utility which is a party to such proceeding is indebted to the state for taxes, fees, or penalties, judgment shall be entered therefor with interest, which shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code; and if it appears that any public utility has failed to make or file any report or return, a mandatory injunction may be issued against such public utility, its officers, directors, and managing agents, as such enjoining them from the transaction of any business within this state, other than acts incidental to liquidation or winding up, until the making and filing of all proper reports or returns and the payment in full of all taxes, fees, and penalties.

If the officers, directors, shareholders, or managing agents of a public utility are not made parties in the first instance, and a judgment or an injunction is rendered or issued against such public utility, such officers, directors, shareholders, or managing agents, or any of them, may be made parties to such proceedings upon the motion of the attorney general, and, upon notice to them of the form and terms of such injunction, they shall be bound thereby as fully as if they had been made parties in the first instance.

In any action authorized by this section, a statement of the commissioner or the secretary of state, when duly certified shall be prima-facie evidence of the amount of taxes, fees, or penalties due from any public utility, or of the failure of any public utility to file with the commissioner or the secretary of state any report required by law, and any such certificate of the commissioner or the secretary of state may be required in evidence in any such proceeding.

On the application of any defendant and for good cause shown, the court may order a separate hearing of the issues as to any defendant.

The costs of the proceeding shall be apportioned among the parties as the court deems proper.

The court in such proceeding may make, enter, and enforce such other judgments and orders and grant such other relief as is necessary or incidental to the enforcement of the claims and lien of the state.

In the performance of the duties enjoined ~~upon him~~ by this section the attorney general may direct any prosecuting attorney to bring an action, as authorized by this section, in the name of the state with respect to any delinquent public utilities within ~~his~~ the prosecuting attorney's county, and like proceedings and orders shall be had as if such action were instituted by

the attorney general.

Sec. 5727.75. (A) For purposes of this section:

(1) "Qualified energy project" means an energy project certified by the director of development pursuant to this section.

(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.

(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E)(1)(b) or (c) of this section.

(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.

(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.

(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 ~~and,~~ 2012, 2013, and 2014 if all of the following conditions are satisfied:

(a) On or before December 31, ~~2011~~ 2013, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.

(b) Construction or installation of the energy facility begins on or after January 1, 2009, and before January 1, ~~2012~~ 2014. For the purposes of this division, construction begins on the earlier of the date of application for a certificate or other approval or permit described in division (B)(1)(a) of this section, or the date the contract for the construction or installation of the energy facility is entered into.

(c) For a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting an application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(2) If tangible personal property of a qualified energy project using renewable energy resources was exempt from taxation under this section ~~for~~ beginning in any of tax years 2011 ~~and~~, 2012, 2013, or 2014, and the certification under division (E)(2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for tax year ~~2013~~ 2015 and all ensuing tax years if the property was placed into service before January 1, ~~2013~~ 2015, as certified in the construction progress report required under division (F)(2) of this section. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation. An energy project for which certification has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation for the first tax year that the property would be listed for taxation and all subsequent years if all of the following circumstances are met:

(1) The property was placed into service before January 1, ~~2017~~ 2019. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation.

(2) For such a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E)(2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(D) Except as otherwise provided in this ~~division~~ section, real property of a qualified energy project is exempt from taxation for any tax year for which the tangible personal property of the qualified energy project is

exempted under this section.

(E)(1)(a) A person may apply to the director of development for certification of an energy project as a qualified energy project on or before the following dates:

(i) December 31, ~~2011~~ 2013, for an energy project using renewable energy resources;

(ii) December 31, ~~2013~~ 2015, for an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology.

(b) The director shall forward a copy of each application for certification of an energy project with a nameplate capacity of five megawatts or greater to the board of county commissioners of each county in which the project is located and to each taxing unit with territory located in each of the affected counties. Any board that receives from the director a copy of an application submitted under this division shall adopt a resolution approving or rejecting the application unless it has adopted a resolution under division (E)(1)(c) of this section. A resolution adopted under division (E)(1)(b) or (c) of this section may require an annual service payment to be made in addition to the service payment required under division (G) of this section. The sum of the service payment required in the resolution and the service payment required under division (G) of this section shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county. The resolution shall specify the time and manner in which the payments required by the resolution shall be paid to the county treasurer. The county treasurer shall deposit the payment to the credit of the county's general fund to be used for any purpose for which money credited to that fund may be used.

The board shall send copies of the resolution by certified mail to the owner of the facility and the director within thirty days after receipt of the application, or a longer period of time if authorized by the director.

(c) A board of county commissioners may adopt a resolution declaring the county to be an alternative energy zone and declaring all applications submitted to the director of development under this division after the adoption of the resolution, and prior to its repeal, to be approved by the board.

All tangible personal property and real property of an energy project with a nameplate capacity of five megawatts or greater is taxable if it is located in a county in which the board of county commissioners adopted a resolution rejecting the application submitted under this division or failed to adopt a resolution approving the application under division (E)(1)(b) or (c) of this section.

(2) The director shall certify an energy project if all of the following circumstances exist:

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E)(1)(b) or (c) of this section.

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(3) The director shall deny a certification application if the director determines the person has failed to comply with any requirement under this section. The director may revoke a certification if the director determines the person, or subsequent owner or lessee pursuant to a sale and leaseback transaction of the qualified energy project, has failed to comply with any requirement under this section. Upon certification or revocation, the director shall notify the person, owner, or lessee, the tax commissioner, and the county auditor of a county in which the project is located of the certification or revocation. Notice shall be provided in a manner convenient to the director.

(F) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall do each of the following:

(1) Comply with all applicable regulations;

(2) File with the director of development a certified construction progress report before the first day of March of each year during the energy facility's construction or installation indicating the percentage of the project completed, and the project's nameplate capacity, as of the preceding thirty-first day of December. Unless otherwise instructed by the director of development, the owner or lessee of an energy project shall file a report with the director on or before the first day of March each year after completion of the energy facility's construction or installation indicating the project's nameplate capacity as of the preceding thirty-first day of December. Not later than sixty days after ~~the effective date of this section~~ June 17, 2010, the owner or lessee of an energy project, the construction of which was completed before ~~the effective date of this section~~ June 17, 2010, shall file a certificate indicating the project's nameplate capacity.

(3) File with the director of development, in a manner prescribed by the director, a report of the total number of full-time equivalent employees, and the total number of full-time equivalent employees domiciled in Ohio, who are employed in the construction or installation of the energy facility;

(4) For energy projects with a nameplate capacity of five megawatts or

greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans, reinforcements, modifications, use and repair of roads, financial security to be provided, and any other relevant issue.

(5) Provide or facilitate training for fire and emergency responders for response to emergency situations related to the energy project and, for energy projects with a nameplate capacity of five megawatts or greater, at the person's expense, equip the fire and emergency responders with proper equipment as reasonably required to enable them to respond to such emergency situations;

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. In the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For

all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

(7) For energy projects with a nameplate capacity in excess of two megawatts, establish a relationship with a member of the university system of Ohio as defined in section 3345.011 of the Revised Code or with a person offering an apprenticeship program registered with the employment and training administration within the United States department of labor or with the apprenticeship council created by section 4139.02 of the Revised Code, to educate and train individuals for careers in the wind or solar energy industry. The relationship may include endowments, cooperative programs, internships, apprenticeships, research and development projects, and curriculum development.

(8) Offer to sell power or renewable energy credits from the energy project to electric distribution utilities or electric service companies subject to renewable energy resource requirements under section 4928.64 of the Revised Code that have issued requests for proposal for such power or renewable energy credits. If no electric distribution utility or electric service company issues a request for proposal on or before December 31, 2010, or accepts an offer for power or renewable energy credits within forty-five days after the offer is submitted, power or renewable energy credits from the energy project may be sold to other persons. Division (F)(8) of this section does not apply if:

(a) The owner or lessee is a rural electric company or a municipal power agency as defined in section 3734.058 of the Revised Code.

(b) The owner or lessee is a person that, before completion of the energy project, contracted for the sale of power or renewable energy credits with a rural electric company or a municipal power agency.

(c) The owner or lessee contracts for the sale of power or renewable energy credits from the energy project before ~~the effective date of this section as enacted by this act~~ June 17, 2010.

(9) Make annual service payments as required by division (G) of this section and as may be required in a resolution adopted by a board of county

commissioners under division (E) of this section.

(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of development and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be in the following amount:

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of December 31, 2010, for tax year 2011, as of December 31, 2011, for tax year 2012, ~~and~~ as of December 31, 2012, for tax year 2013, as of December 31, 2013, for tax year 2014, and as of December 31, 2014, for tax year 2015 and each tax year thereafter;

(2) In the case of any other energy project using renewable energy resources, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(3) In the case of an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology, the following:

(a) If the project maintains during the construction or installation of the

energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(H) The director of development in consultation with the tax commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code to implement and enforce this section.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid," for a school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year: divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (G), (L), and (N) of section 3317.024; and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the

Revised Code; and the adjustments required by: division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. However, when calculating state education aid for a school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly, as subsequently amended, instead of division (D) of section 3317.022 of the Revised Code; and include amounts calculated under Section 269.30.80 of ~~this act~~ H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year thereafter~~ 2011, the sum of the amounts computed for the district under former sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 3306.192~~;~~ of the Revised Code and the following provisions, as they existed for the applicable fiscal year: division (G) of section 3317.024; sections 3317.05, 3317.052, and 3317.053 of the Revised Code; and the adjustments required by division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 ~~and~~, 3313.981, and 3326.33 of the Revised Code.

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS" and the adjustments required by division (C) of section 3310.08; division (C)(2) of section 3310.41; section 3310.55; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (B), (H), (I), (J), and (K) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code.

(5) "State education aid," for a joint vocational school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal years 2010 and 2011, the amount computed for the district

in accordance with the section of ~~this act~~ H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS".

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(7) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(8) "Electric company tax value loss" means the amount determined under division (D) of this section.

(9) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

(12) "Fixed-rate levy loss" means the amount determined under division (G) of this section.

(13) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code.

(14) "Fixed-sum levy loss" means the amount determined under division (H) of this section.

(15) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(16) "Total resources" has the same meaning as in section 5751.20 of the Revised Code.

(17) "2011 current expense S.B. 3 allocation" means the sum of payments received by a school district or joint vocational school district in fiscal year 2011 for current expense levy losses pursuant to division (C)(2) of section 5727.85 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2011 current expense S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 of the Revised Code in the tax years

following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy.

(18) "2010 current expense S.B. 3 allocation" means the sum of payments received by a municipal corporation in calendar year 2010 for current expense levy losses pursuant to division (A)(1) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2010 current expense S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy.

(19) "2010 S.B. 3 allocation" means the sum of payments received by a local taxing unit during calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2010 S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy.

(20) "Total S.B. 3 allocation" means, in the case of a school district or joint vocational school district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(2) and (D) of section 5727.85 of the Revised Code. In the case of a local taxing unit, "total S.B. 3 allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1) and (4) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "total S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 or division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85 or division (A)(1)(b) of section 5727.86 of the Revised Code.

(21) "2011 non-current expense S.B. 3 allocation" means the difference of a school district's or joint vocational school district's total S.B. 3 allocation minus the sum of the school district's 2011 current expense S.B. 3 allocation and the portion of the school district's total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (D) of section 5727.85 of the Revised Code.

(22) "2010 non-current expense S.B. 3 allocation" means the difference

of a municipal corporation's total S.B. 3 allocation minus the sum of its 2010 current expense S.B. 3 allocation and the portion of its total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (A)(4) of section 5727.86 of the Revised Code.

(23) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit, "threshold per cent" means two per cent for calendar year 2011, four per cent for calendar year 2012, and six per cent for calendar years 2013 and thereafter.

(B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

~~(1) Sixty-three per cent shall be credited to the general revenue fund.~~

~~(2) Twenty-five and four-tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.~~

~~(3) Eleven and six-tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.~~

Fiscal Year	General Revenue Fund	School District Property Tax Replacement Fund	Local Government Property Tax Replacement Fund
2001-2011	63.0%	25.4%	11.6%
2012 and thereafter	88.0%	9.0%	3.0%

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as follows:

(1) For fiscal years before fiscal year 2012:

(a) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

~~(2)~~(b) Thirty-one and three-tenths per cent shall be credited to the local

government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

(2) For fiscal years 2012 and thereafter, one hundred per cent to the general revenue fund.

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (4) of this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D)(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(3) In the case of a taxing district having a nuclear power plant within its territory, any amount, resulting in an electric company tax value loss, obtained by subtracting the amount described in division (D)(1) of this section from the difference obtained by subtracting the amount described in division (D)(3)(b) of this section from the amount described in division (D)(3)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or

an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

(4) In the case of a taxing district having a nuclear power plant within its territory, the difference obtained by subtracting the amount described in division (D)(4)(b) of this section from the amount described in division (D)(4)(a) of this section, provided that such difference is greater than ten per cent of the amount described in division (D)(4)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2005 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2006, and as apportioned to the taxing district for tax year 2005;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2006 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2007, and as apportioned to the taxing district for tax year 2006.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary

assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division (H)(2) of this section from the amount described in division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy

that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division ~~(E)~~(F) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in ~~2016~~ 2010, the department of education shall determine the following for each school district and each joint vocational

school district:

(1) The state education aid offset, which, except as provided in division (A)(1)(c) of this section, is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district;

(c) The state education aid offset for fiscal year 2010 and fiscal year 2011 equals the greater of the state education aid offset calculated for that fiscal year under divisions (A)(1)(a) and (b) of this section or the state education aid offset calculated for fiscal year 2009.

(2) ~~The~~ For fiscal years 2008 through 2011, the greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through ~~2016~~ 2010, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year as of the fifteenth day of July, by including in the definition of recognized valuation the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses, as defined in section 5751.20 of the Revised Code, for the school district or joint vocational school district for the preceding tax year;

(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss, excluding the tax loss from levies within the ten-mill limitation to pay debt charges, determined under division (G) of section 5727.84 of the Revised Code for all taxing districts in each school district, plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from

January 1, 2002, to the thirtieth day of June of the current year.

(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund.

(C) ~~The~~ Beginning in 2002 for school districts and beginning in August 2011 for joint vocational school districts, the department of education shall pay from the school district property tax replacement fund to each school district all of the following:

(1) In February 2002, one-half of the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code between the twenty-first and twenty-eighth days of February.

(2) From August 2002 through ~~August 2017~~ February 2011, one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February, provided the difference computed under division (B)(3) of this section is not less than or equal to zero.

~~For~~ (3) For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(3)(a) or (b) and (c) of this section shall be paid on or before the thirty-first day of August and the twenty-eighth day of February:

(a) If the ratio of 2011 current expense S.B. 3 allocation to total resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of 2011 current expense S.B. 3 allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of 2011 current expense S.B. 3 allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of 2011 non-current expense S.B. 3 allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

~~The department of education shall report to each school district the~~

~~apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.~~

~~(D)~~(E) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 ~~to August 2016~~ through February 2011, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

~~(E)~~(F)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-half of the fixed-sum levy loss so certified for each year between the twenty-first and twenty-eighth days of August and of February.

(2) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division ~~(E)~~(F)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

~~(F)~~(G) If the balance of the half-mill equalization fund created under section 3318.18 of the Revised Code is insufficient to make the full amount of payments required under division (D) of that section, the department of education, at the end of the third quarter of the fiscal year, shall certify to the director of budget and management the amount of the deficiency, and the director shall transfer an amount equal to the deficiency from the school district property tax replacement fund to the half-mill equalization fund.

~~(G)~~(H) Beginning in August 2002, and ending in May ~~2017~~ 2011, the director of budget and management shall transfer from the school district property tax replacement fund to the general revenue fund each of the following:

(1) Between the twenty-eighth day of August and the fifth day of September, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund;

(2) Between the first and fifth days of May, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund.

~~(H)~~(I) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), ~~and~~ (G), and (H) of this section to the half-mill equalization fund created under section 3318.18 of the Revised Code to the extent required to make any payments in the current fiscal year under that section, and shall transfer the remaining balance to the general revenue fund.

~~(I) From~~ (J) After fiscal year 2002 ~~through fiscal year 2016~~, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), (E), ~~and~~ (F), and (G) of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly.

~~(J)~~(K) If all of the territory of a school district or joint vocational school district is merged with an existing district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or new district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For the merger of all of the territory of two or more districts, the ~~fixed-rate levy loss and the~~ total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and fixed-sum levy loss of the successor district shall be equal to the sum of the ~~fixed-rate levy losses and the~~ total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and fixed-sum levy ~~losses~~ loss for each of the districts involved in the merger.

(2) For the transfer of a part of one district's territory to an existing district, the amount of the ~~fixed-rate levy loss~~ total resources, 2011 current

expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation that is transferred to the recipient district shall be an amount equal to the transferring district's ~~total fixed-rate levy loss~~ total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation times a fraction, the numerator of which is the ~~value of electric company tangible personal property located in the part of the territory that was~~ number of pupils being transferred to the recipient district, measured, in the case of a school district, by average daily membership as reported under division (A) of section 3317.03 of the Revised Code or, in the case of a joint vocational school district, by formula ADM as reported in division (D) of that section, and the denominator of which is the ~~total value of electric company tangible personal property located in the entire district from which the territory was transferred. The value of electric company tangible personal property under this division shall be determined for the most recent year for which data is available~~ average daily membership or formula ADM of the transferor district. Fixed-sum levy losses for both districts shall be determined under division ~~(J)~~(K)(4) of this section.

(3) For the transfer of a part of the territory of one or more districts to create a new district:

(a) If the new district is created on or after January 1, 2000, but before January 1, 2005, the new district shall be paid its current fixed-rate levy loss through August 2009. ~~From~~ In February 2010 ~~to,~~ August ~~2016~~ 2010, and February 2011, the new district shall be paid fifty per cent of the lesser of: (i) the amount calculated under division (C)(2) of this section or (ii) an amount equal to seventy per cent of the new district's fixed-rate levy loss ~~multiplied by the percentage prescribed by the following schedule:~~

~~YEAR~~	~~PERCENTAGE~~
~~2010~~	~~70%~~
~~2011~~	~~70%~~
~~2012~~	~~60%~~
~~2013~~	~~50%~~
~~2014~~	~~40%~~
~~2015~~	~~24%~~
~~2016~~	~~11.5%~~
~~2017 and thereafter~~	~~0%.~~

Beginning in fiscal year 2012, the new district shall be paid as provided in division (C) of this section.

Fixed-sum levy losses for the districts shall be determined under division ~~(J)~~(K)(4) of this section.

(b) If the new district is created on or after January 1, 2005, the new district shall be deemed not to have any fixed-rate levy loss or, except as provided in division ~~(J)~~(K)(4) of this section, fixed-sum levy loss. The district or districts from which the territory was transferred shall have no reduction in their fixed-rate levy loss, or, except as provided in division ~~(J)~~(K)(4) of this section, their fixed-sum levy loss.

(4) If a recipient district under division ~~(J)~~(K)(2) of this section or a new district under division ~~(J)~~(K)(3)(a) or (b) of this section takes on debt from one or more of the districts from which territory was transferred, and any of the districts transferring the territory had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy losses.

~~(K) There is hereby created the public utility property tax study committee, effective January 1, 2011. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the house of representatives appointed by the speaker of the house of representatives. The appointments shall be made not later than January 31, 2011. The tax commissioner shall be the chairperson of the committee.~~

~~The committee shall study the extent to which each school district or joint vocational school district has been compensated, under sections 5727.84 and 5727.85 of the Revised Code as enacted by Substitute Senate Bill No. 3 of the 123rd general assembly and any subsequent acts, for the property tax loss caused by the reduction in the assessment rates for natural gas, electric, and rural electric company tangible personal property. Not later than June 30, 2011, the committee shall issue a report of its findings, including any recommendations for providing additional compensation for the property tax loss or regarding remedial legislation, to the president of the senate and the speaker of the house of representatives, at which time the committee shall cease to exist.~~

~~The department of taxation and department of education shall provide such information and assistance as is required for the committee to carry out its duties.~~

Sec. 5727.86. (A) Not later than January 1, 2002, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), (3), and (4) and division (E) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner determined, pursuant to division (H) of section 5727.84 of

the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in divisions (A)(3) and (4) of this section, ~~for fixed-rate levy losses determined under division (G) of section 5727.84 of the Revised Code, payments shall be made in each of the following years at the following percentage of the fixed-rate levy loss certified under division (A) of this section:~~

~~YEAR~~	~~PERCENTAGE~~
~~2002~~	~~100%~~
~~2003~~	~~100%~~
~~2004~~	~~100%~~
~~2005~~	~~100%~~
~~2006~~	~~100%~~
~~2007~~	~~80%~~
~~2008~~	~~80%~~
~~2009~~	~~80%~~
~~2010~~	~~80%~~
~~2011~~	~~80%~~
~~2012~~	~~66.7%~~
~~2013~~	~~53.4%~~
~~2014~~	~~40.1%~~
~~2015~~	~~26.8%~~
~~2016~~	~~13.5%~~
~~2017 and thereafter~~	~~0%~~

the following amounts shall be paid on or before the thirty-first day of August and the twenty-eighth day of February:

(a) For years 2002 through 2006, fifty per cent of the fixed-rate levy loss computed under division (G) of section 5727.84 of the Revised Code;

(b) For years 2007 through 2010, forty per cent of the fixed rate levy loss computed under division (G) of section 5727.84 of the Revised Code;

(c) For the payment in 2011 to be made on or before the twentieth day of February, the amount required to be paid in 2010 on or before the twentieth day of February;

(d) For the payment in 2011 to be made on or before the thirty-first day of August and for all payments to be made in years 2012 and thereafter, the sum of the amounts in divisions (A)(1)(d)(i) or (ii) and (iii) of this section:

(i) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is equal to or less than the threshold per cent, zero;

(ii) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is greater than the threshold per cent, the difference of fifty per cent of the 2010 S.B. 3 allocation minus the product of total

resources multiplied by the threshold per cent;

(iii) In the case of a municipal corporation, fifty per cent of the product of its 2010 non-current expense S.B. 3 allocation multiplied by seventy-five per cent for year 2011, fifty per cent for year 2012, and twenty-five percent for years 2013 and thereafter.

(2) For fixed-sum levy losses determined under division (H) of section 5727.84 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2002 and thereafter.

(3) A local taxing unit in a county of less than two hundred fifty square miles that receives eighty per cent or more of its combined general fund and bond retirement fund revenues from property taxes and rollbacks based on 1997 actual revenues as presented in its 1999 tax budget, and in which electric companies and rural electric companies comprise over twenty per cent of its property valuation, shall receive one hundred per cent of its fixed-rate levy losses from electric company tax value losses certified under division (A) of this section in years 2002 to ~~2016~~ 2010. Beginning in 2011, payments for such local taxing units shall be determined under division (A)(1) of this section.

(4) For taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from ~~fiscal year 2006~~ 2011 through ~~fiscal year~~ 2016 if the levy was imposed for debt purposes in tax year 2010. If the levy is not imposed for debt purposes in tax year 2010 or any following tax year before tax year 2016, payments for that levy shall be made under division (A)(1) of this section beginning with the first year after the year the levy is imposed for a purpose other than debt. For the purposes of this division, taxes levied pursuant to a municipal charter refer to taxes levied pursuant to a provision of a municipal charter that permits the tax to be levied without prior voter approval.

(B) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy loss determined under division (H) of section 5727.84 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units required to be made under divisions (A) and (E) of this section shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. ~~One-half of the amount certified under those divisions shall be paid between the twenty-first and twenty-eighth days of August and of February.~~ The county treasurer shall distribute amounts paid under division (A) of this section to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes. Except in the case of amounts distributed to the county as a local taxing unit, amounts distributed under division (E)(2) of this section shall be credited to the general fund of the local taxing unit that receives them. Amounts distributed to each county as a local taxing unit under division (E)(2) of this section shall be credited in the proportion that the current taxes charged and payable from each levy of or by the county bears to the total current taxes charged and payable from all levies of or by the county.

(D) By February 5, 2002, the tax commissioner shall estimate the amount of money in the local government property tax replacement fund in excess of the amount necessary to make payments in that month under division (C) of this section. Notwithstanding division (A) of this section, the tax commissioner may pay any local taxing unit, from those excess funds, nine and four-tenths times the amount computed for 2002 under division (A)(1) of this section. A payment made under this division shall be in lieu of the payment to be made in February 2002 under division (A)(1) of this section. A local taxing unit receiving a payment under this division will no longer be entitled to any further payments under division (A)(1) of this section. A payment made under this division shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. The county treasurer shall distribute the payment to the proper local taxing unit as if it had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(E)(1) On the thirty-first day of July of 2002, 2003, 2004, 2005, and 2006, and on the thirty-first day of January and July of 2007 ~~and each year thereafter~~ <u>through January 2011</u>, if the amount credited to the local government property tax replacement fund exceeds the amount needed to be distributed from the fund under division (A) of this section in the following month, the tax commissioner shall distribute the excess to each county as

follows:

(a) One-half shall be distributed to each county in proportion to each county's population.

(b) One-half shall be distributed to each county in the proportion that the amounts determined under divisions (G) and (H) of section 5727.84 of the Revised Code for all local taxing units in the county is of the total amounts so determined for all local taxing units in the state.

(2) The amounts distributed to each county under division (E) of this section shall be distributed by the county auditor to each local taxing unit in the county in the proportion that the unit's current taxes charged and payable are of the total current taxes charged and payable of all the local taxing units in the county. If the amount that the county auditor determines to be distributed to a local taxing unit is less than five dollars, that amount shall not be distributed, and the amount not distributed shall remain credited to the county undivided income tax fund. At the time of the next distribution under division (E)(2) of this section, any amount that had not been distributed in the prior distribution shall be added to the amount available for the next distribution prior to calculation of the amount to be distributed. As used in this division, "current taxes charged and payable" means the taxes charged and payable as most recently determined for local taxing units in the county.

~~(3) If, in the opinion of the tax commissioner, the excess remaining in the local government property tax replacement fund in any year is not sufficient to warrant distribution~~ After January 2011, any amount that exceeds the amount needed to be distributed from the fund under division ~~(E)~~(A) of this section~~, the excess shall remain to the credit of~~ in the following month shall be transferred to the general revenue fund.

(F) ~~From fiscal year 2002 through fiscal year 2016, if~~ If the total amount in the local government property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the difference between the total amount to be paid and the amount in the local government property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill 95 of the 125th general assembly.

(G) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this

section to each of the local taxing units in proportion to the ~~tax value loss~~ square mileage apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the tax commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5729.17. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5729.03 of the Revised Code for an insurance company subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any company for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate and in the order required under section 5729.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the company but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The company may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) An insurance company claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Sec. 5729.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

(2) The credit for eligible employee training costs under section 5729.07 of the Revised Code;

(3) The credit for purchases of qualified low-income community investments under section 5729.16 of the Revised Code;

(4) The nonrefundable job retention credit under division (B)(1) of section 122.171 of the Revised Code;

(5) The offset of assessments by the Ohio life and health insurance guaranty association against tax liability permitted by section 3956.20 of the Revised Code;

(6) The refundable credit for rehabilitating a historic building under section 5729.17 of the Revised Code.

(7) The refundable credit for Ohio job retention under division (B)(2) or (3) of section 122.171 of the Revised Code;

~~(7)~~(8) The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;

~~(8)~~(9) The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5731.02. (A) A tax is hereby levied on the transfer of the taxable estate, determined as provided in section 5731.14 of the Revised Code, of every person dying on or after July 1, 1968, and before January 1, 2013, who at the time of death was a resident of this state, as follows:

If the taxable estate is:	The tax shall be:
Not over $40,000	2% of the taxable estate
Over $40,000 but not over $100,000	$800 plus 3% of the excess over $40,000
Over $100,000 but not over $200,000	$2,600 plus 4% of the excess over $100,000
Over $200,000 but not over $300,000	$6,600 plus 5% of the excess over $200,000
Over $300,000 but not over $500,000	$11,600 plus 6% of the excess over $300,000
Over $500,000	$23,600 plus 7% of the excess over $500,000.

(B) A credit shall be allowed against the tax imposed by division (A) of this section equal to the lesser of five hundred dollars or the amount of the tax for persons dying on or after July 1, 1968, but before January 1, 2001; the lesser of six thousand six hundred dollars or the amount of the tax for persons dying on or after January 1, 2001, but before January 1, 2002; or the

lesser of thirteen thousand nine hundred dollars or the amount of the tax for persons dying on or after January 1, 2002.

Sec. 5731.19. (A) A tax is hereby levied upon the transfer of so much of the taxable estate of every person dying on or after July 1, 1968, and before January 1, 2013, who, at the time of ~~his~~ death, was not a resident of this state, as consists of real property situated in this state, tangible personal property having an actual situs in this state, and intangible personal property employed in carrying on a business within this state unless exempted from tax under the provisions of section 5731.34 of the Revised Code.

(B) The amount of the tax on such real and tangible personal property shall be determined as follows:

(1) Determine the amount of tax which would be payable under Chapter 5731. of the Revised Code if the decedent had died a resident of this state with all ~~his~~ the decedent's property situated or located within this state;

(2) Multiply the tax so determined by a fraction, the denominator of which shall be the value of the gross estate wherever situated and the numerator of which shall be the said gross estate value of the real property situated and the tangible personal property having an actual situs in this state and intangible personal property employed in carrying on a business within this state and not exempted from tax under section 5731.34 of the Revised Code. The product shall be the amount of tax payable to this state.

(C) In addition to the tax levied by division (A) of this section, an additional tax is hereby levied on such real and tangible personal property determined as follows:

(1) Determine the amount of tax which would be payable under division (A) of section 5731.18 of the Revised Code, if the decedent had died a resident of this state with all ~~his~~ the decedent's property situated or located within this state;

(2) Multiply the tax so determined by a fraction, the denominator of which shall be the value of the gross estate wherever situated and the numerator of which shall be the said gross estate value of the real property situated and the tangible property having an actual situs in this state and intangible personal property employed in carrying on a business within this state and not exempted from tax under section 5731.34 of the Revised Code. The product so derived shall be credited with the amount of the tax determined under division (B) of this section.

Sec. 5731.21. (A)(1)(a) Except as provided under division (A)(3) of this section, the executor or administrator, or, if no executor or administrator has been appointed, another person in possession of property the transfer of which is subject to estate taxes under section 5731.02 or division (A) of

section 5731.19 of the Revised Code, shall file an estate tax return, within nine months of the date of the decedent's death, in the form prescribed by the tax commissioner, in duplicate, with the probate court of the county. The return shall include all property the transfer of which is subject to estate taxes, whether that property is transferred under the last will and testament of the decedent or otherwise. The time for filing the return may be extended by the tax commissioner.

(b) The estate tax return described in division (A)(1)(a) of this section shall be accompanied by a certificate, in the form prescribed by the tax commissioner, that is signed by the executor, administrator, or other person required to file the return, and that states all of the following:

(i) The fact that the return was filed;

(ii) The date of the filing of the return;

(iii) The fact that the estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, that are shown to be due in the return, have been paid in full;

(iv) If applicable, the fact that real property listed in the inventory for the decedent's estate is included in the return;

(v) If applicable, the fact that real property not listed in the inventory for the decedent's estate, including, but not limited to, survivorship tenancy property as described in section 5302.17 of the Revised Code or transfer on death property as described in sections 5302.22 and 5302.23 of the Revised Code, also is included in the return. In this regard, the certificate additionally shall describe that real property by the same description used in the return.

(2) The probate court shall forward one copy of the estate tax return described in division (A)(1)(a) of this section to the tax commissioner.

(3) A person shall not be required to file a return under division (A) of this section if the decedent was a resident of this state and the value of the decedent's gross estate is twenty-five thousand dollars or less in the case of a decedent dying on or after July 1, 1968, but before January 1, 2001; two hundred thousand dollars or less in the case of a decedent dying on or after January 1, 2001, but before January 1, 2002; or three hundred thirty-eight thousand three hundred thirty-three dollars or less in the case of a decedent dying on or after January 1, 2002. No return shall be filed for estates of decedents dying on or after January 1, 2013.

(4)(a) Upon receipt of the estate tax return described in division (A)(1)(a) of this section and the accompanying certificate described in division (A)(1)(b) of this section, the probate court promptly shall give notice of the return, by a form prescribed by the tax commissioner, to the

county auditor. The auditor then shall make a charge based upon the notice and shall certify a duplicate of the charge to the county treasurer. The treasurer then shall collect, subject to division (A) of section 5731.25 of the Revised Code or any other statute extending the time for payment of an estate tax, the tax so charged.

(b) Upon receipt of the return and the accompanying certificate, the probate court also shall forward the certificate to the auditor. When satisfied that the estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, that are shown to be due in the return, have been paid in full, the auditor shall stamp the certificate so forwarded to verify that payment. The auditor then shall return the stamped certificate to the probate court.

(5)(a) The certificate described in division (A)(1)(b) of this section is a public record subject to inspection and copying in accordance with section 149.43 of the Revised Code. It shall be kept in the records of the probate court pertaining to the decedent's estate and is not subject to the confidentiality provisions of section 5731.90 of the Revised Code.

(b) All persons are entitled to rely on the statements contained in a certificate as described in division (A)(1)(b) of this section if it has been filed in accordance with that division, forwarded to a county auditor and stamped in accordance with division (A)(4) of this section, and placed in the records of the probate court pertaining to the decedent's estate in accordance with division (A)(5)(a) of this section. The real property referred to in the certificate shall be free of, and may be regarded by all persons as being free of, any lien for estate taxes under section 5731.02 and division (A) of section 5731.19 of the Revised Code.

(B) An estate tax return filed under this section, in the form prescribed by the tax commissioner, and showing that no estate tax is due shall result in a determination that no estate tax is due, if the tax commissioner within three months after the receipt of the return by the department of taxation, fails to file exceptions to the return in the probate court of the county in which the return was filed. A copy of exceptions to a return of that nature, when the tax commissioner files them within that period, shall be sent by ordinary mail to the person who filed the return. The tax commissioner is not bound under this division by a determination that no estate tax is due, with respect to property not disclosed in the return.

(C) If the executor, administrator, or other person required to file an estate tax return fails to file it within nine months of the date of the decedent's death, the tax commissioner may determine the estate tax in that estate and issue a certificate of determination in the same manner as is

provided in division (B) of section 5731.27 of the Revised Code. A certificate of determination of that nature has the same force and effect as though a return had been filed and a certificate of determination issued with respect to the return.

Sec. 5731.39. (A) No corporation organized or existing under the laws of this state shall transfer on its books or issue a new certificate for any share of its capital stock registered in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, without the written consent of the tax commissioner.

(B) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code or other corporation or person, having in possession, control, or custody a deposit standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, shall deliver or transfer an amount in excess of three-fourths of the total value of such deposit, including accrued interest and dividends, as of the date of decedent's death, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of amounts having a value of three-fourths or less of said total value.

(C) No life insurance company shall pay the proceeds of an annuity or matured endowment contract, or of a life insurance contract payable to the estate of a decedent, or of any other insurance contract taxable under Chapter 5731. of the Revised Code, without the written consent of the tax commissioner. Any life insurance company may pay the proceeds of any insurance contract not specified in this division (C) without the written consent of the tax commissioner.

(D) No trust company or other corporation or person shall pay the proceeds of any death benefit, retirement, pension or profit sharing plan in excess of two thousand dollars, without the written consent of the tax commissioner. Such trust company or other corporation or person, however, may pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan which consists of insurance on the life of the decedent payable to a beneficiary other than the estate of the insured without the written consent of the tax commissioner.

(E) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in possession, control, or custody securities, assets, or other property (including the shares of the capital stock of, or other interest in, such safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other

corporation), standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, and the transfer of which is taxable under Chapter 5731. of the Revised Code, shall deliver or transfer any such securities, assets, or other property which have a value as of the date of decedent's death in excess of three-fourths of the total value thereof, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of any such securities, assets, or other property having a value of three-fourths or less of said total value.

(F) No safe deposit company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person having possession or control of a safe deposit box or similar receptacle standing in the name of a decedent or in the name of the decedent and another person or persons, or to which the decedent had a right of access, except when such safe deposit box or other receptacle stands in the name of a corporation or partnership, or in the name of the decedent as guardian or executor, shall deliver any of the contents thereof unless the safe deposit box or similar receptacle has been opened and inventoried in the presence of the tax commissioner or the commissioner's agent, and a written consent to transfer issued; provided, however, that a safe deposit company, financial institution, or other corporation or person having possession or control of a safe deposit box may deliver wills, deeds to burial lots, and insurance policies to a representative of the decedent, but that a representative of the safe deposit company, financial institution, or other corporation or person must supervise the opening of the box and make a written record of the wills, deeds, and policies removed. Such written record shall be included in the tax commissioner's inventory records.

(G) Notwithstanding any provision of this section:

(1) The tax commissioner may authorize any delivery or transfer or waive any of the foregoing requirements under such terms and conditions as the commissioner may prescribe;

(2) An adult care facility, as defined in section ~~3722.01~~ 5119.70 of the Revised Code, or a home, as defined in section 3721.10 of the Revised Code, may transfer or use the money in a personal needs allowance account in accordance with section 5111.113 of the Revised Code without the written consent of the tax commissioner, and without the account having been opened and inventoried in the presence of the commissioner or the commissioner's agent.

Failure to comply with this section shall render such safe deposit company, trust company, life insurance company, financial institution as

defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person liable for the amount of the taxes and interest due under the provisions of Chapter 5731. of the Revised Code on the transfer of such stock, deposit, proceeds of an annuity or matured endowment contract or of a life insurance contract payable to the estate of a decedent, or other insurance contract taxable under Chapter 5731. of the Revised Code, proceeds of any death benefit, retirement, pension, or profit sharing plan in excess of two thousand dollars, or securities, assets, or other property of any resident decedent, and in addition thereto, to a penalty of not less than five hundred or more than five thousand dollars.

Sec. 5733.0610. (A) A refundable corporation franchise tax credit granted by the tax credit authority under section 122.17 or division (B)(2) or (3) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5733.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax year. The refundable credit shall not be claimed for any tax years following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.171 of the Revised Code.

(B) A nonrefundable corporation franchise tax credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5733.98 of the Revised Code.

Sec. 5733.23. In addition to all other remedies for the collection of any taxes or penalties due under law, whenever any taxes, fees, or penalties due from any corporation have remained unpaid for a period of ninety days, or whenever any corporation has failed for a period of ninety days to make any report or return required by law, or to pay any penalty for failure to make or file such report or return, the attorney general, upon the request of the tax commissioner, shall file a petition in the court of common pleas in the county of the state in which such corporation has its principal place of business for a judgment for the amount of the taxes or penalties appearing to be due, the enforcement of any lien in favor of the state, and an injunction to restrain such corporation and its officers, directors, and managing agents from the transaction of any business within this state, other than such acts as are incidental to liquidation or winding up, until the payment of such taxes, fees, and penalties, and the costs of the proceeding which shall be fixed by the court, or the making and filing of such report or return.

Such petition shall be in the name of the state. All or any of the

corporations having their principal places of business in the county may be joined in one suit. On the motion of the attorney general, the court of common pleas shall enter an order requiring all defendants to answer by a day certain, and may appoint a special master commissioner to take testimony, with such other power and authority as the court confers, and permitting process to be served by registered mail and by publication in a newspaper of general circulation ~~published~~ in the county, which publication need not be made more than once, setting forth the name of each delinquent corporation, the matter in which such corporation is delinquent, the names of its officers, directors, and managing agents, if set forth in the petition, and the amount of any taxes, fees, or penalties claimed to be owing by said corporation.

All or any of the officers, directors, shareholders, or managing agents of any corporation may be joined as defendants with such corporation.

If it appears to the court upon hearing that any corporation which is a party to such proceeding is indebted to the state for taxes, fees, or penalties, judgment shall be entered therefor with interest; and if it appears that any corporation has failed to make or file any report or return, a mandatory injunction may be issued against such corporation, its officers, directors, and managing agents, enjoining them from the transaction of any business within this state, other than acts incidental to liquidation or winding up, until the making and filing of all proper reports or returns and until the payment in full of all taxes, fees, and penalties.

If the officers, directors, shareholders, or managing agents of a corporation are not made parties in the first instance, and a judgment or an injunction is rendered or issued against such corporation, such officers, directors, shareholders, or managing agents may be made parties to such proceedings upon the motion of the attorney general, and, upon notice to them of the form and terms of such injunction, they shall be bound thereby as fully as if they had been made parties in the first instance.

In any action authorized by this section, a statement of the commissioner, or the secretary of state, when duly certified, shall be prima-facie evidence of the amount of taxes, fees, or penalties due from any corporation, or of the failure of any corporation to file with the commissioner or the secretary of state any report required by law, and any such certificate of the commissioner or the secretary of state may be required in evidence in any such proceeding.

On the application of any defendant and for good cause shown, the court may order a separate hearing of the issues as to any defendant.

The costs of the proceeding shall be apportioned among the parties as

the court deems proper.

The court in such proceeding may make, enter, and enforce such other judgments and orders and grant such other relief as is necessary or incidental to the enforcement of the claims and lien of the state.

In the performance of the duties enjoined upon ~~him~~ the attorney general by this section the attorney general may direct any prosecuting attorney to bring an action, as authorized by this section, in the name of the state with respect to any delinquent corporations within ~~his~~ the prosecuting attorney's county, and like proceedings and orders shall be had as if such action were instituted by the attorney general.

Sec. 5733.351. (A) As used in this section, "qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B)(1) A nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for tax year 2002 for a taxpayer whose taxable year for tax year 2002 ended before July 1, 2001. The credit shall equal seven per cent of the excess of qualified research expenses incurred in this state by the taxpayer between January 1, 2001, and the end of the taxable year, over the taxpayer's average annual qualified research expenses incurred in this state for the three preceding taxable years.

(2) A nonrefundable credit also is allowed against the tax imposed by section 5733.06 of the Revised Code for each tax year, commencing with tax year 2004, and in the case of a corporation subject to division (G)(2) of section 5733.01 of the Revised Code ending with tax year 2008. The credit shall equal seven per cent of the excess of qualified research expenses incurred in this state by the taxpayer for the taxable year over the taxpayer's average annual qualified research expenses incurred in this state for the three preceding taxable years.

(3) The taxpayer shall claim the credit allowed under division (B)(1) or (2) of this section in the order required by section 5733.98 of the Revised Code. Any credit amount in excess of the tax due under section 5733.06 of the Revised Code, after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code, may be carried forward for seven taxable years, but the amount of the excess credit allowed in any such year shall be deducted from the balance carried forward to the next year. A corporation subject to division (G)(2) of section 5733.01 of the Revised Code may carry forward any credit not fully utilized by tax year 2008 and apply it against the tax levied by Chapter 5751. of the Revised Code to the extent allowed under section 5751.51 of the Revised Code, provided that the total number of taxable years under this

section and calendar years under Chapter 5751. of the Revised Code for which the credit is carried forward shall not exceed seven.

(C) In the case of a qualifying controlled group, the credit allowed under division (B)(1) or (2) of this section to taxpayers in the qualifying controlled group shall be computed as if all corporations in the qualifying controlled group were a consolidated, single taxpayer. For purposes of this division, an insurance company subject to the tax levied under section 5727.18 or Chapter 5729. of the Revised Code may be considered a member of a qualifying controlled group by the group, even though the insurance company is not subject to the tax levied under section 5733.06 of the Revised Code. The credit shall be allocated to such taxpayers in any amount elected for the taxable year by the qualifying controlled group. The election shall be revocable and amendable during the period prescribed by division (B) of section 5733.12 of the Revised Code.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service;

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided;

(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;

(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely

within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated

into a subsurface drainage system appurtenant to land used or to be used ~~directly~~ primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business;

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement;

(11)(a) Except as provided in division (B)(11)(b) of this section, on and after October 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state.

(b) If the centers for medicare and medicaid services of the United States department of health and human services determines that the taxation

of transactions described in division (B)(11)(a) of this section constitutes an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations adopted thereunder, the director of job and family services shall notify the tax commissioner of that determination. Beginning with the first day of the month following that notification, the transactions described in division (B)(11)(a) of this section are not sales for the purposes of this chapter or Chapter 5741. of the Revised Code. The tax commissioner shall order that the collection of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code shall cease for transactions occurring on or after that date.

Except as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers

of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid

health insuring corporation is not subject to the exception for resale under division (E)(1) of this section or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to complete the sale;

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor

at the time of the sale of the item to the consumer; and one of the following criteria is met:

(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation from a third party to cover all or part of the gift card value. For the purposes of this division, a gift card is not sold by a vendor or purchased by a consumer if it is distributed pursuant to an awards, loyalty, or promotional program. Past and present purchases of tangible personal property or services by the consumer shall not be treated as consideration exchanged for a gift card.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

(4) In the case of transactions for health care services under division (B)(11) of this section, "price" means the amount of managed care premiums received each month by a medicaid health insuring corporation.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that the dollar value of gift cards distributed pursuant to an awards, loyalty, or promotional program, and cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer

has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service. In this definition, "public utility" includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under 49 U.S.C. 41102.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts,

and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6),

and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(h) Ancillary service;

(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.

(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:

(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(c) "Directory assistance" means an ancillary service of providing telephone number or address information.

(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.

(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in

predetermined units of dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units of dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(8) "Customer" has the same meaning as in section 5739.034 of the Revised Code.

(BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar

year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the

calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service or from a third party that provided or supplied the personnel to the provider or supplier. "Employment service" does not include:

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports

club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food ~~or,~~ food production, ~~and includes~~ or other agricultural purposes, including, but ~~is~~ not limited to, cattle, sheep, goats, swine, ~~and~~ poultry, and captive deer. "Livestock" does not include invertebrates, ~~fish,~~ amphibians, reptiles, ~~horses,~~ domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing

event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way

calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than

the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) "Food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.

(2) As used in division (EEE)(1) of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(2)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

(2) As used in division (KKK)(1) of this section:

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit

materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale.

(MMM) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and is under contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(NNN) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state.

(OOO) "Captive deer" means deer and other cervidae that have been legally acquired, or their offspring, that are privately owned for agricultural or farming purposes.

(PPP) "Gift card" means a document, card, certificate, or other record, whether tangible or intangible, that may be redeemed by a consumer for a dollar value when making a purchase of tangible personal property or services.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

(A)(1) The tax shall be collected as provided in section 5739.025 of the Revised Code. The rate of the tax shall be five and one-half per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any

tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this

section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the

production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state; and, until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)(42)(a) ~~or,~~ (g), or (h) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)(15) of this section does not apply to persons engaged in highway transportation for hire.

(16) Sales of food to persons using supplemental nutrition assistance program benefits to purchase the food. As used in this division, "food" has the same meaning as in 7 U.S.C. 2012 and federal regulations adopted pursuant to the Food and Nutrition Act of 2008.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption ~~directly~~ primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption ~~directly~~ primarily in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin

alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services or county humane societies;

(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;

(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;

(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage

devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section; and of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(c) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(38) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(42) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, ~~farming, agriculture, horticulture, or floriculture,~~ or directly in the rendition of a public utility service, except that the sales tax levied by

this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering ~~farming, agricultural, horticultural, or floricultural services, and~~ services in the exploration for, and production of, crude oil and natural gas~~,~~ for others are deemed engaged directly in ~~farming, agriculture, horticulture, and floriculture, or~~ the exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial fishing;

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section

5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.

As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division,

"call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services, as defined in division (FF) of section 5739.01 of the Revised Code.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(48)(a) Sales of machinery, equipment, and software to a qualified direct selling entity for use in a warehouse or distribution center primarily for storing, transporting, or otherwise handling inventory that is held for sale to independent salespersons who operate as direct sellers and that is held primarily for distribution outside this state;

(b) As used in division (B)(48)(a) of this section:

(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.

(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.

(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.

(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)(49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff

weight or used exclusively in general aviation.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent aircraft operations in ground and flight conditions, a visual system providing an out-of-the-cockpit view, and a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and has the full range of capabilities of the systems installed in the device as described in appendices A and B of part 60 of chapter 1 of title 14 of the Code of Federal Regulations.

(51) Any transfer or lease of tangible personal property between the state and a successful proposer in accordance with sections 126.60 to 126.605 of the Revised Code, provided the property is part of a project as defined in section 126.60 of the Revised Code and the state retains ownership of the project or part thereof that is being transferred or leased, between the state and JobsOhio in accordance with section 4313.02 of the Revised Code.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.021. (A) For the purpose of providing additional general revenues for the county or supporting criminal and administrative justice

services in the county, or both, and to pay the expenses of administering such levy, any county may levy a tax at the rate of not more than one per cent at any multiple of one-fourth of one per cent upon every retail sale made in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase the rate of an existing tax to not more than one per cent at any multiple of one-fourth of one per cent.

The tax shall be levied and the rate increased pursuant to a resolution of the board of county commissioners. The resolution shall state the purpose for which the tax is to be levied and the number of years for which the tax is to be levied, or that it is for a continuing period of time. If the tax is to be levied for the purpose of providing additional general revenues and for the purpose of supporting criminal and administrative justice services, the resolution shall state the rate or amount of the tax to be apportioned to each such purpose. The rate or amount may be different for each year the tax is to be levied, but the rates or amounts actually apportioned each year shall not be different from that stated in the resolution for that year. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for such necessity. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of the calendar quarter.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

Except as provided in division (B)(3) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code.

If a petition for a referendum is filed, the county auditor with whom the petition was filed shall, within five days, notify the board of county commissioners and the tax commissioner of the filing of the petition by certified mail. If the board of elections with which the petition was filed declares the petition invalid, the board of elections, within five days, shall

notify the board of county commissioners and the tax commissioner of that declaration by certified mail. If the petition is declared to be invalid, the effective date of the tax or increased rate of tax levied by this section shall be the first day of a calendar quarter following the expiration of sixty-five days from the date the commissioner receives notice from the board of elections that the petition is invalid.

(B)(1) A resolution that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than ninety days after a certified copy of such resolution is transmitted to the board of elections and the election is not held in February or August of any year. Upon transmission of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under this division shall go into effect unless approved by a majority of those voting upon it, and, except as provided in division (B)(3) of this section, shall become effective on the first day of a calendar quarter following the expiration of sixty-five days from the date the tax commissioner receives notice from the board of elections of the affirmative vote.

(2) A resolution that is adopted as an emergency measure shall go into effect as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than ninety days after a certified copy of the resolution is transmitted to the board of elections. Upon transmission of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner receive notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the

tax at the rate at which it was imposed immediately prior to the increase in rate.

(3) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (H) of this section.

(C) If a resolution is rejected at a referendum or if a resolution adopted after January 1, 1982, as an emergency measure is repealed by the electors pursuant to division (B)(2) of this section or section 5739.022 of the Revised Code, then for one year after the date of the election at which the resolution was rejected or repealed the board of county commissioners may not adopt any resolution authorized by this section as an emergency measure.

(D) The board of county commissioners, at any time while a tax levied under this section is in effect, may by resolution reduce the rate at which the tax is levied to a lower rate authorized by this section. Any reduction in the rate at which the tax is levied shall be made effective on the first day of a calendar quarter next following the sixty-fifth day after a certified copy of the resolution is delivered to the tax commissioner.

(E) The tax on every retail sale subject to a tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.023 or 5739.026 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.021 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(F) For purposes of this section, a copy of a resolution is "certified" when it contains a written statement attesting that the copy is a true and

exact reproduction of the original resolution.

(G) If a board of commissioners intends to adopt a resolution to levy a tax in whole or in part for the purpose of criminal and administrative justice services, the board shall prepare and make available at the first public hearing at which the resolution is considered a statement containing the following information:

(1) For each of the two preceding fiscal years, the amount of expenditures made by the county from the county general fund for the purpose of criminal and administrative justice services;

(2) For the fiscal year in which the resolution is adopted, the board's estimate of the amount of expenditures to be made by the county from the county general fund for the purpose of criminal and administrative justice services;

(3) For each of the two fiscal years after the fiscal year in which the resolution is adopted, the board's preliminary plan for expenditures to be made from the county general fund for the purpose of criminal and administrative justice services, both under the assumption that the tax will be imposed for that purpose and under the assumption that the tax would not be imposed for that purpose, and for expenditures to be made from the special fund created under division (E) of this section under the assumption that the tax will be imposed for that purpose.

The board shall prepare the statement and the preliminary plan using the best information available to the board at the time the statement is prepared. Neither the statement nor the preliminary plan shall be used as a basis to challenge the validity of the tax in any court of competent jurisdiction, nor shall the statement or preliminary plan limit the authority of the board to appropriate, pursuant to section 5705.38 of the Revised Code, an amount different from that specified in the preliminary plan.

(H) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) or (D) of this section, or from the board of elections of a notice of the results of an election required by division (A) or (B)(1) or (2) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(I) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in that office by law; the exercise by any court in

the county of all powers and duties vested in that court; the exercise by the clerk of the court of common pleas, any clerk of a municipal court having jurisdiction throughout the county, or the clerk of any county court of all powers and duties vested in the clerk by law except, in the case of the clerk of the court of common pleas, the titling of motor vehicles or watercraft pursuant to Chapter 1548. or 4505. of the Revised Code; the exercise by the county coroner of all powers and duties vested in that office by law; making payments to any other public agency or a private, nonprofit agency, the purposes of which in the county include the diversion, adjudication, detention, or rehabilitation of criminals or juvenile offenders; the operation and maintenance of any detention facility, as defined in section 2921.01 of the Revised Code; and the construction, acquisition, equipping, or repair of such a detention facility, including the payment of any debt charges incurred in the issuance of securities pursuant to Chapter 133. of the Revised Code for the purpose of constructing, acquiring, equipping, or repairing such a facility.

Sec. 5739.022. (A) The question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax that was adopted as an emergency measure pursuant to section 5739.021 or 5739.026 of the Revised Code may be initiated by filing with the board of elections of the county not less than ninety days before the general election in any year a petition requesting that an election be held on the question. The question of repealing an increase in the rate of the county permissive tax shall be submitted to the electors as a separate question from the repeal of the tax in effect prior to the increase in the rate. Any petition filed under this section shall be signed by qualified electors residing in the county equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

After determination by it that the petition is valid, the board of elections shall submit the question to the electors of the county at the next general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. The board of elections shall notify the tax commissioner, in writing, of the election upon determining that the petition is valid. Notice of the election shall also be published in a newspaper of general circulation in the district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the purpose, time, and place of the election. The form of the ballot cast

at the election shall be prescribed by the secretary of state; however, the ballot question shall read, "shall the tax (or, increase in the rate of the tax) be retained?

	Yes
	No

"

The question covered by the petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

(B) If a majority of the qualified electors voting on the question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax approve the repeal, the board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. The board of county commissioners shall, on the first day of the calendar quarter following the expiration of sixty-five days after the date the board and the tax commissioner receive the notice, in the case of a repeal of a county permissive tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of a county permissive tax, levy the tax at the rate at which it was imposed immediately prior to the increase in rate and cease to levy the increased rate.

(C) Upon receipt from a board of elections of a notice of the results of an election required by division (B) of this section, the tax commissioner shall provide notice of a tax repeal or rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(D) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (C) of this section.

Sec. 5739.026. (A) A board of county commissioners may levy a tax of one-fourth or one-half of one per cent on every retail sale in the county, except sales of watercraft and outboard motors required to be titled pursuant

to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase an existing rate of one-fourth of one per cent to one-half of one per cent, to pay the expenses of administering the tax and, except as provided in division (A)(6) of this section, for any one or more of the following purposes provided that the aggregate levy for all such purposes does not exceed one-half of one per cent:

(1) To provide additional revenues for the payment of bonds or notes issued in anticipation of bonds issued by a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code and to provide additional operating revenues for the convention facilities authority;

(2) To provide additional revenues for a transit authority operating in the county;

(3) To provide additional revenue for the county's general fund;

(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;

(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements;

(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition.

If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in

divisions (A)(1) to (5) of this section and shall prescribe the method for allocating the revenues from the tax each year in the manner required by division (C) of this section.

(7) To provide additional revenue for the operation or maintenance of a detention facility, as that term is defined under division (F) of section 2921.01 of the Revised Code;

(8) To provide revenue to finance the construction or renovation of a sports facility, but only if the tax is levied for that purpose in the manner prescribed by section 5739.028 of the Revised Code.

As used in division (A)(8) of this section:

(a) "Sports facility" means a facility intended to house major league professional athletic teams.

(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county;

(10) To provide revenue for the provision of ambulance, paramedic, or other emergency medical services.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor

more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks~~, the~~. The second publication ~~being~~ shall be no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), (9), or (10) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the

amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(b) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes described in division (A)(4) or (5) of this section, for as long as such bonds or notes are outstanding, no reduction of the county's or the community improvements board's allocation of the tax shall be made for any year, except to the extent that the reduced county or community improvements board allocation is sufficient to meet the debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit authority are pledged by the authority for the payment of revenue bonds issued under section 306.37 of the Revised Code, for as long as such bonds are outstanding, no reduction of the authority's allocation of tax shall be made for any year, except to the extent that the authority's reduced allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes issued under section 133.60 of the Revised Code, for so long as the bonds or notes are outstanding, no reduction of the county's allocation of the tax shall be made for any year, except to the extent that the reduced county allocation is sufficient to meet the debt service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate of tax shall state the rate of the tax or the rate of the increase; the purpose or purposes for which it is to be levied; the number of years for which it is to be levied or that it is for a continuing period of time; the allocation method required by division (C) of this section; and if required to be submitted to the electors of the county under division (A) of this section, the date of the election at which the proposal shall be submitted to the electors of the county, which

shall be not less than ninety days after the certification of a copy of the resolution to the board of elections and, if the tax is to be levied exclusively for the purpose set forth in division (A)(3) of this section, shall not occur in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. If approved by a majority of the electors, the tax shall become effective on the first day of a calendar quarter next following the sixty-fifth day following the date the board of county commissioners and tax commissioner receive from the board of elections the certification of the results of the election, except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of the tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than ninety days after the resolution is certified to the board of elections and the election is not held in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty-five days from the date the tax commissioner receives notice from the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than ninety days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has

been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(c) A board of county commissioners, by resolution, may reduce the rate of a tax levied exclusively for the purpose set forth in division (A)(3) of this section to a lower rate authorized by this section. Any such reduction shall be made effective on the first day of the calendar quarter next following the sixty-fifth day after the tax commissioner receives a certified copy of the resolution from the board.

(E) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (G) of this section.

(F) The tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.023 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.023 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(G) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty

days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

Sec. 5739.07. (A) When, pursuant to this chapter, a vendor has paid taxes to the treasurer of state or the treasurer of state's agent, or to the tax commissioner or the commissioner's agent, the commissioner shall refund to the vendor the amount of taxes paid if the vendor has refunded to the consumer the full amount of taxes the consumer paid illegally or erroneously or if the vendor has illegally or erroneously billed the consumer but has not collected the taxes from the consumer.

(B) When, pursuant to this chapter, a consumer has paid taxes directly to the treasurer of state or the treasurer of state's agent, or to the tax commissioner or the commissioner's agent, and the payment or assessment was illegal or erroneous, the commissioner shall refund to the consumer the full amount of illegal or erroneous taxes paid.

(C) The commissioner shall refund to the consumer taxes paid illegally or erroneously to a vendor only if:

(1) The commissioner has not refunded the tax to the vendor and the vendor has not refunded the tax to the consumer; or

(2) The consumer has received a refund from a manufacturer or other person, other than the vendor, of the full purchase price, but not the tax, paid to the vendor in settlement of a complaint by the consumer about the property or service purchased.

The commissioner may require the consumer to obtain or the vendor to provide a written statement confirming that the vendor has not refunded the tax to the consumer and has not filed an application for refund of the tax with the commissioner.

(D) ~~An~~ Subject to division (E) of this section, an application for refund shall be filed with the tax commissioner on the form prescribed by the commissioner within four years from the date of the illegal or erroneous payment of the tax, unless the vendor or consumer waives the time limitation under division (A)(3) of section 5739.16 of the Revised Code. If the time limitation is waived, the refund application period shall be extended for the same period as the waiver.

(E) An application for refund shall be filed in accordance with division (D) of this section unless a person is subject to an assessment that is subject to the time limit of division (B) of section 5703.58 of the Revised Code for a tax not reported and paid between the four-year time limit described in division (D) of this section and the seven-year limit described in division (B) of section 5703.58 of the Revised Code, in which case the person may file an application within six months after the date the assessment is issued.

Any refund allowed under this division shall not exceed the amount of the assessment due for the same period.

(F) On the filing of an application for a refund, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify that amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

~~(F)~~(G) When a refund is granted under this section, it shall include interest thereon as provided by section 5739.132 of the Revised Code.

Sec. 5739.101. (A) The legislative authority of a municipal corporation, by ordinance, or of a township, by resolution, may declare the municipal corporation or township to be a resort area for the purposes of this section, if all of the following criteria are met:

(1) According to statistics published by the federal government based on data compiled during the most recent decennial census of the United States, at least sixty-two per cent of total housing units in the municipal corporation or township are classified as "for seasonal, recreational, or occasional use";

(2) Entertainment and recreation facilities are provided within the municipal corporation or township that are primarily intended to provide seasonal leisure time activities for persons other than permanent residents of the municipal corporation or township;

(3) The municipal corporation or township experiences seasonal peaks of employment and demand for government services as a direct result of the seasonal population increase.

(B) For the purpose of providing revenue for its general fund, the legislative authority of a municipal corporation or township, in its ordinance or resolution declaring itself a resort area under this section, may levy a tax on the privilege of engaging in the business of either of the following:

(1) Making sales in the municipal corporation or township, whether wholesale or retail, but including sales of food only to the extent such sales are subject to the tax levied under section 5739.02 of the Revised Code;

(2) Intrastate transportation of passengers or property primarily to or from the municipal corporation or township by a railroad, watercraft, or motor vehicle subject to regulation by the public utilities commission, except not including transportation of passengers as part of a tour or cruise in which the passengers will stay in the municipal corporation or township for no more than one hour.

The tax is imposed upon and shall be paid by the person making the

sales or transporting the passengers or property. The rate of the tax shall be one-half, one, or one and one-half per cent of the person's gross receipts derived from making the sales or transporting the passengers or property to or from the municipal corporation or township.

(C) The tax shall take effect on the first day of the month that begins at least sixty days after the effective date of the ordinance or resolution in which it is levied. The legislative authority shall certify copies of the ordinance or resolution to the tax commissioner and treasurer of state within five days after its adoption. In addition, one time each week during the two weeks following the adoption of the ordinance or resolution, the legislative authority shall cause to be published in a newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, a notice explaining the tax and stating the rate of the tax, the date it will take effect, and that persons subject to the tax must register with the tax commissioner under section 5739.103 of the Revised Code.

(D) No more than once a year, and subject to the rates prescribed in division (B) of this section, the legislative authority of the municipal corporation or township, by ordinance or resolution, may increase or decrease the rate of a tax levied under this section. The legislative authority, by ordinance or resolution, at any time may repeal such a tax. The legislative authority shall certify to the tax commissioner and treasurer of state copies of the ordinance or resolution repealing or changing the rate of the tax within five days after its adoption. In addition, one time each week during the two weeks following the adoption of the ordinance or resolution, the legislative authority shall cause to be published in a newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, notice of the repeal or change.

Sec. 5739.19. The tax commissioner may revoke any retail vendor's license upon ascertaining that the vendor has no need for the license because the vendor is not engaged in making taxable retail sales. Notice of the revocation shall be delivered to the vendor personally or by certified mail~~, return receipt requested~~ or by an alternative delivery service as authorized under section 5703.37 of the Revised Code. The revocation shall be effective on the first day of the month following the expiration of fifteen days after the vendor received the notice of the revocation.

The revocation of the vendor's license shall be stayed if, within fifteen days after receiving notice of the revocation, the vendor objects, in writing, to the revocation. The commissioner shall consider the written objections of the vendor and issue a final determination on the revocation of the vendor's license. The commissioner's final determination may be appealed to the

board of tax appeals pursuant to section 5717.02 of the Revised Code. The revocation shall be effective on the first day of the month following the expiration of all time limits for appeal.

Sec. 5739.30. (A) No person, including any officer, employee, or trustee of a corporation or business trust, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false or fraudulent return, report, or statement, or aid or abet another in the filing of any false or fraudulent return, report, or statement.

(B) If any vendor required to file monthly returns under section 5739.12 of the Revised Code fails, on two consecutive months or on three or more months within a twelve-month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the tax commissioner to file semiannual returns fails on two or more occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the commissioner may do any of the following:

(1) Require the vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one year, as determined by the commissioner from a review of returns or other information pertaining to the vendor, which amount shall in no event be less than one thousand dollars. The security may be in the form of a corporate surety bond, satisfactory to the commissioner, conditioned upon payment of the tax due with the returns from the vendor. The security shall be filed within ten days following the vendor's receipt of the notice from the commissioner of its requirements.

(2) Suspend the license issued to the vendor pursuant to section 5739.17 of the Revised Code. The suspension shall be effective ten days after service of written notice to the vendor of the commissioner's intention to do so. The notice shall be served upon the vendor personally ~~or,~~ by certified mail, or by an alternative delivery service as authorized under section 5703.37 of the Revised Code. On the first day of the suspension, the commissioner shall cause to be posted, at every public entrance of the vendor's premises, a notice identifying the vendor and the location and informing the public that the vendor's license is under suspension and that no retail sales may be transacted at that location. No person, other than the commissioner or the commissioner's agent or employee, shall remove, cover, or deface the posted notice. No license which has been suspended under this section shall be reinstated, and no posted notice shall be removed, until the vendor has filed complete and correct returns for all periods in which no return had been filed and paid the full amount of the tax, penalties, and other charges due on those returns.

A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment with them within the time prescribed in section 5739.12 of the Revised Code.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years

beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for

which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(d) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in

computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any

information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situsedto the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situsedto the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code.

(24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

(25) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007.

For the purposes of division (A)(25) of this section:

(a) "Human organ" means all or any portion of a human liver, pancreas, kidney, intestine, or lung, and any portion of human bone marrow.

(b) "Qualified organ donation expenses" means travel expenses, lodging expenses, and wages and salary forgone by a taxpayer in connection with the taxpayer's donation, while living, of one or more of the taxpayer's human organs to another human being.

(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer's death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's military service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's military service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(26) of this section is not included in a

taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5101.98 of the Revised Code.

(28) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received as a veterans bonus during the taxable year from the Ohio department of veterans services as authorized by Section 2r of Article VIII, Ohio Constitution.

(29) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any loss from wagering transactions that is allowed as an itemized deduction under section 165 of the Internal Revenue Code and that the taxpayer deducted in computing federal taxable income.

(30) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any income derived from providing public services under a contract through a project owned by the state, as described in section 126.604 of the Revised Code or derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator,

receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied

under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable

income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless

of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization

issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012

of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (BB)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in

accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity

directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(EE)(1) For the purposes of division (EE) of this section:

(a) "Qualifying person" means any person other than a qualifying corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending

within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements:

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;

(b) The trust became irrevocable upon the creation of the trust; and

(c) The grantor was domiciled in this state at the time the trust was created.

Sec. 5747.058. (A) A refundable income tax credit granted by the tax credit authority under section 122.17 or division (B)(2) or (3) of section 122.171 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the taxable year. The refundable credit shall not be claimed for any taxable years ending with or following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.171 of the Revised Code.

(B) A nonrefundable income tax credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code.

Sec. 5747.113. (A) Any taxpayer claiming a refund under section 5747.11 of the Revised Code ~~for taxable years ending on or after October 14, 1983,~~ who wishes to contribute any part of the taxpayer's refund to the natural areas and preserves fund created in section 1517.11 of the Revised Code, the nongame and endangered wildlife fund created in section 1531.26 of the Revised Code, the military injury relief fund created in section 5101.98 of the Revised Code, the Ohio historical society income tax contribution fund created in section 149.308 of the Revised Code, or all of those funds~~,~~ may designate on the taxpayer's income tax return the amount that the taxpayer wishes to contribute to the fund or funds. A designated contribution is irrevocable upon the filing of the return and shall be made in the full amount designated if the refund found due the taxpayer upon the initial processing of the taxpayer's return, after any deductions including those required by section 5747.12 of the Revised Code, is greater than or equal to the designated contribution. If the refund due as initially determined is less than the designated contribution, the contribution shall be made in the full amount of the refund. The tax commissioner shall subtract the amount of the contribution from the amount of the refund initially found due the taxpayer and shall certify the difference to the director of budget and management and treasurer of state for payment to the taxpayer in accordance with section 5747.11 of the Revised Code. For the purpose of any subsequent determination of the taxpayer's net tax payment, the contribution shall be considered a part of the refund paid to the taxpayer.

(B) The tax commissioner shall provide a space on the income tax return form in which a taxpayer may indicate that the taxpayer wishes to make a donation in accordance with this section. The tax commissioner shall also print in the instructions accompanying the income tax return form a description of the purposes for which the natural areas and preserves fund, the nongame and endangered wildlife fund, ~~and~~ the military injury relief fund, and the Ohio historical society income tax contribution fund were created and the use of moneys from the income tax refund contribution system established in this section. No person shall designate on the person's income tax return any part of a refund claimed under section 5747.11 of the Revised Code as a contribution to any fund other than the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, or ~~all of those funds~~ the Ohio historical society income

tax contribution fund.

(C) The money collected under the income tax refund contribution system established in this section shall be deposited by the tax commissioner into the natural areas and preserves fund, the nongame and endangered wildlife fund, ~~and~~ the military injury relief fund, and the Ohio historical society income tax contribution fund in the amounts designated on the tax returns.

(D) No later than the thirtieth day of September each year, the tax commissioner shall determine the total amount contributed to each fund under this section during the preceding eight months, any adjustments to prior months, and the cost to the department of taxation of administering the income tax refund contribution system during that eight-month period. The commissioner shall make an additional determination no later than the thirty-first day of January of each year of the total amount contributed to each fund under this section during the preceding four calendar months, any adjustments to prior years made during that four-month period, and the cost to the department of taxation of administering the income tax contribution system during that period. The cost of administering the income tax contribution system shall be certified by the tax commissioner to the director of budget and management, who shall transfer an amount equal to ~~one-third~~ one-fourth of such administrative costs from the natural areas and preserves fund, ~~one-third~~ one-fourth of such costs from the nongame and endangered wildlife fund, ~~and one-third~~ one-fourth of such costs from the military injury relief fund, and one-fourth of such costs from the Ohio historical society income tax contribution fund to the litter control and natural resource tax administration fund, which is hereby created, provided that the moneys that the department receives to pay the cost of administering the income tax refund contribution system in any year shall not exceed two and one-half per cent of the total amount contributed under that system during that year.

(E)(1) The director of natural resources, in January of every odd-numbered year, shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the natural areas and preserves fund and the nongame and endangered wildlife fund. The report shall include the amount of money contributed to each fund in each of the previous five years, the amount of money contributed directly to each fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

(2) The director of job and family services and the director of the Ohio historical society, in January of every odd-numbered year, each shall report

to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the military injury relief fund and the Ohio historical society income tax contribution fund, respectively. The report shall include the amount of money contributed to the fund in each of the previous five years, the amount of money contributed directly to the fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

Sec. 5747.451. (A) The mere retirement from business or voluntary dissolution of a domestic or foreign qualifying entity does not exempt it from the requirements to make reports as required under sections 5747.42 to 5747.44 or to pay the taxes imposed under section 5733.41 or 5747.41 of the Revised Code. If any qualifying entity subject to the taxes imposed under section 5733.41 or 5747.41 of the Revised Code sells its business or stock of merchandise or quits its business, the taxes required to be paid prior to that time, together with any interest or penalty thereon, become due and payable immediately, and the qualifying entity shall make a final return within fifteen days after the date of selling or quitting business. The successor of the qualifying entity shall withhold a sufficient amount of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until the qualifying entity produces a receipt from the tax commissioner showing that the taxes, interest, and penalties have been paid, or a certificate indicating that no taxes are due. If the purchaser of the business or stock of goods fails to withhold purchase money, the purchaser is personally liable for the payment of the taxes, interest, and penalties accrued and unpaid during the operation of the business by the qualifying entity. If the amount of those taxes, interest, and penalty unpaid at the time of the purchase exceeds the total purchase money, the tax commissioner may adjust the qualifying entity's liability for those taxes, interest, and penalty, or adjust the responsibility of the purchaser to pay that liability, in a manner calculated to maximize the collection of those liabilities.

(B) Annually, on the last day of each qualifying taxable year of a qualifying entity, the taxes imposed under section 5733.41 or 5747.41 of the Revised Code, together with any penalties subsequently accruing thereon, become a lien on all property in this state of the qualifying entity, whether such property is employed by the qualifying entity in the prosecution of its business or is in the hands of an assignee, trustee, or receiver for the benefit of the qualifying entity's creditors and investors. The lien shall continue until those taxes, together with any penalties subsequently accruing, are paid.

Upon failure of such a qualifying entity to pay those taxes on the day fixed for payment, the treasurer of state shall thereupon notify the tax commissioner, and the commissioner may file in the office of the county recorder in each county in this state in which the qualifying entity owns or has a beneficial interest in real estate, notice of the lien containing a brief description of such real estate. No fee shall be charged for such a filing. The lien is not valid as against any mortgagee, purchaser, or judgment creditor whose rights have attached prior to the time the notice is so filed in the county in which the real estate which is the subject of such mortgage, purchase, or judgment lien is located. The notice shall be recorded in a book kept by the recorder, called the qualifying entity tax lien record, and indexed under the name of the qualifying entity charged with the tax. When the tax, together with any penalties subsequently accruing thereon, have been paid, the tax commissioner shall furnish to the qualifying entity an acknowledgment of such payment that the qualifying entity may record with the recorder of each county in which notice of such lien has been filed, for which recording the recorder shall charge and receive a fee of two dollars.

(C) In addition to all other remedies for the collection of any taxes or penalties due under law, whenever any taxes, interest, or penalties due from any qualifying entity under section 5733.41 of the Revised Code or this chapter have remained unpaid for a period of ninety days, or whenever any qualifying entity has failed for a period of ninety days to make any report or return required by law, or to pay any penalty for failure to make or file such report or return, the attorney general, upon the request of the tax commissioner, shall file a petition in the court of common pleas in the county of the state in which such qualifying entity has its principal place of business for a judgment for the amount of the taxes, interest, or penalties appearing to be due, the enforcement of any lien in favor of the state, and an injunction to restrain such qualifying entity and its officers, directors, and managing agents from the transaction of any business within this state, other than such acts as are incidental to liquidation or winding up, until the payment of such taxes, interest, and penalties, and the costs of the proceeding fixed by the court, or the making and filing of such report or return.

The petition shall be in the name of the state. Any of the qualifying entities having its principal places of business in the county may be joined in one suit. On the motion of the attorney general, the court of common pleas shall enter an order requiring all defendants to answer by a day certain, and may appoint a special master commissioner to take testimony, with such other power and authority as the court confers, and permitting process to be

served by registered mail and by publication in a newspaper of general circulation ~~published~~ in the county, which publication need not be made more than once, setting forth the name of each delinquent qualifying entity, the matter in which the qualifying entity is delinquent, the names of its officers, directors, and managing agents, if set forth in the petition, and the amount of any taxes, fees, or penalties claimed to be owing by the qualifying entity.

All or any of the trustees or other fiduciaries, officers, directors, investors, beneficiaries, or managing agents of any qualifying entity may be joined as defendants with the qualifying entity.

If it appears to the court upon hearing that any qualifying entity that is a party to the proceeding is indebted to the state for taxes imposed under section 5733.41 or 5747.41 of the Revised Code, or interest or penalties thereon, judgment shall be entered therefor with interest; and if it appears that any qualifying entity has failed to make or file any report or return, a mandatory injunction may be issued against the qualifying entity, its trustees or other fiduciaries, officers, directors, and managing agents, enjoining them from the transaction of any business within this state, other than acts incidental to liquidation or winding up, until the making and filing of all proper reports or returns and until the payment in full of all taxes, interest, and penalties.

If the trustees or other fiduciaries, officers, directors, investors, beneficiaries, or managing agents of a qualifying entity are not made parties in the first instance, and a judgment or an injunction is rendered or issued against the qualifying entity, those officers, directors, investors, or managing agents may be made parties to such proceedings upon the motion of the attorney general, and, upon notice to them of the form and terms of such injunction, they shall be bound thereby as fully as if they had been made parties in the first instance.

In any action authorized by this division, a statement of the tax commissioner, or the secretary of state, when duly certified, shall be prima-facie evidence of the amount of taxes, interest, or penalties due from any qualifying entity, or of the failure of any qualifying entity to file with the commissioner or the secretary of state any report required by law, and any such certificate of the commissioner or the secretary of state may be required in evidence in any such proceeding.

On the application of any defendant and for good cause shown, the court may order a separate hearing of the issues as to any defendant.

The costs of the proceeding shall be apportioned among the parties as the court deems proper.

The court in such proceeding may make, enter, and enforce such other judgments and orders and grant such other relief as is necessary or incidental to the enforcement of the claims and lien of the state.

In the performance of the duties enjoined upon the attorney general by this division, the attorney general may direct any prosecuting attorney to bring an action, as authorized by this division, in the name of the state with respect to any delinquent qualifying entities within the prosecuting attorney's county, and like proceedings and orders shall be had as if such action were instituted by the attorney general.

(D) If any qualifying entity fails to make and file the reports or returns required under this chapter, or to pay the penalties provided by law for failure to make and file such reports or returns for a period of ninety days after the time prescribed by this chapter, the attorney general, on the request of the tax commissioner, shall commence an action in quo warranto in the court of appeals of the county in which that qualifying entity has its principal place of business to forfeit and annul its privileges and franchises. If the court is satisfied that any such qualifying entity is in default, it shall render judgment ousting such qualifying entity from the exercise of its privileges and franchises within this state, and shall otherwise proceed as provided in sections 2733.02 to 2733.39 of the Revised Code.

Sec. 5747.46. As used in sections 5747.46 and 5747.47 of the Revised Code:

(A) "Year's fund balance" means the amount credited to the public library fund during a calendar year.

(B) "Distribution year" means the calendar year during which a year's fund balance is distributed under section 5747.47 of the Revised Code.

(C) "CPI" means the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics.

(D) "Inflation factor" means the quotient obtained by dividing the CPI for May of the year preceding the distribution year by the CPI for May of the second preceding year. If the quotient so obtained is less than one, the inflation factor shall equal one.

(E) "Population" means whichever of the following has most recently been issued, as of the first day of June preceding the distribution year:

(1) The most recent decennial census figures that include population figures for each county in the state;

(2) The most current issue of "Current Population Reports: Local Population Estimates" issued by the United States bureau of the census that contains population estimates for each county in the state and the state.

(F) "County's equalization ratio for a distribution year" means a percentage computed for that county as follows:

(1) Square the per cent that the county's population is of the state's population;

(2) Divide the product so obtained by the per cent that the county's total entitlement for the preceding year is of all counties' total entitlements for the preceding year;

(3) Divide the quotient so obtained by the sum of the quotients so obtained for all counties.

(G) "Total entitlement" means, with respect to a distribution year, the sum of a county's guaranteed share plus its share of the excess. For the 2012 distribution year, "total entitlement" equals the sum of payments made to a county public library fund during that year.

(1) "Guaranteed share" means, for a distribution year, the product obtained by multiplying a county's total entitlement for the preceding distribution year by the ~~inflaction~~ inflation factor. If the sum of the guaranteed shares for all counties exceeds the year's fund balance, the guaranteed shares of all counties shall be reduced by a percentage that will result in the sum of such guaranteed shares being equal to the year's fund balance.

(2) "Share of excess" means, for a distribution year, the product obtained by multiplying a county's equalization ratio by the difference between the year's fund balance and the sum of the guaranteed shares for all counties. If the sum of the guaranteed shares for all counties exceeds the year's fund balance the share of the excess for all counties is zero.

(H) "Net distribution" means the sum of the payments made to a county's public library fund during a distribution year, adjusted as follows:

(1) If the county received an overpayment during the preceding distribution year, add the amount of the overpayment;

(2) If the county received an underpayment during the preceding distribution year, deduct the amount of the underpayment.

(I) "Overpayment" or "underpayment" for a distribution year means the amount by which the net distribution to a county's public library fund during that distribution year exceeded or was less than the county's total entitlement for that year.

All computations made under this section shall be rounded to the nearest one-hundredth of one per cent.

Sec. 5747.51. (A) On or before the twenty-fifth day of July of each year, the tax commissioner shall make and certify to the county auditor of each county an estimate of the amount of the local government fund to be

allocated to the undivided local government fund of each county for the ensuing calendar year ~~and the estimated amount to be received by the undivided local government fund of each county from the taxes levied pursuant to section 5707.03 of the Revised Code for the ensuing calendar year~~.

(B) At each annual regular session of the county budget commission convened pursuant to section 5705.27 of the Revised Code, each auditor shall present to the commission the certificate of the commissioner, the annual tax budget and estimates, and the records showing the action of the commission in its last preceding regular session. ~~The estimates shown on the certificate of the commissioner of the amount to be allocated from the local government fund and the amount to be received from taxes levied pursuant to section 5707.03 of the Revised Code shall be combined into one total comprising the estimate of the undivided local government fund of the county.~~ The commission, after extending to the representatives of each subdivision an opportunity to be heard, under oath administered by any member of the commission, and considering all the facts and information presented to it by the auditor, shall determine the amount of the undivided local government fund needed by and to be apportioned to each subdivision for current operating expenses, as shown in the tax budget of the subdivision. This determination shall be made pursuant to divisions (C) to (I) of this section, unless the commission has provided for a formula pursuant to section 5747.53 of the Revised Code.

Nothing in this section prevents the budget commission, for the purpose of apportioning the undivided local government fund, from inquiring into the claimed needs of any subdivision as stated in its tax budget, or from adjusting claimed needs to reflect actual needs. For the purposes of this section, "current operating expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(C) The commission shall determine the combined total of the estimated expenditures, including transfers, from the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities operated by a subdivision, as shown in the subdivision's tax budget for the ensuing calendar year.

(D) From the combined total of expenditures calculated pursuant to division (C) of this section, the commission shall deduct the following expenditures, if included in these funds in the tax budget:

(1) Expenditures for permanent improvements as defined in division (E) of section 5705.01 of the Revised Code;

(2) In the case of counties and townships, transfers to the road and bridge fund, and in the case of municipalities, transfers to the street construction, maintenance, and repair fund and the state highway improvement fund;

(3) Expenditures for the payment of debt charges;

(4) Expenditures for the payment of judgments.

(E) In addition to the deductions made pursuant to division (D) of this section, revenues accruing to the general fund and any special fund considered under division (C) of this section from the following sources shall be deducted from the combined total of expenditures calculated pursuant to division (C) of this section:

(1) Taxes levied within the ten-mill limitation, as defined in section 5705.02 of the Revised Code;

(2) The budget commission allocation of estimated county public library fund revenues to be distributed pursuant to section 5747.48 of the Revised Code;

(3) Estimated unencumbered balances as shown on the tax budget as of the thirty-first day of December of the current year in the general fund, but not any estimated balance in any special fund considered in division (C) of this section;

(4) Revenue, including transfers, shown in the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities, from all other sources except those that a subdivision receives from an additional tax or service charge voted by its electorate or receives from special assessment or revenue bond collection. For the purposes of this division, where the charter of a municipal corporation prohibits the levy of an income tax, an income tax levied by the legislative authority of such municipal corporation pursuant to an amendment of the charter of that municipal corporation to authorize such a levy represents an additional tax voted by the electorate of that municipal corporation. For the purposes of this division, any measure adopted by a board of county commissioners pursuant to section 322.02, 324.02, 4504.02, or 5739.021 of the Revised Code, including those measures upheld by the electorate in a referendum conducted pursuant to section 322.021, 324.021, 4504.021, or 5739.022 of the Revised Code, shall not be considered an additional tax voted by the electorate.

Subject to division (G) of section 5705.29 of the Revised Code, money

in a reserve balance account established by a county, township, or municipal corporation under section 5705.13 of the Revised Code shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section. Money in a reserve balance account established by a township under section 5705.132 of the Revised Code shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section.

If a county, township, or municipal corporation has created and maintains a nonexpendable trust fund under section 5705.131 of the Revised Code, the principal of the fund, and any additions to the principal arising from sources other than the reinvestment of investment earnings arising from such a fund, shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section. Only investment earnings arising from investment of the principal or investment of such additions to principal may be considered an unencumbered balance or revenue under those divisions.

(F) The total expenditures calculated pursuant to division (C) of this section, less the deductions authorized in divisions (D) and (E) of this section, shall be known as the "relative need" of the subdivision, for the purposes of this section.

(G) The budget commission shall total the relative need of all participating subdivisions in the county, and shall compute a relative need factor by dividing the total estimate of the undivided local government fund by the total relative need of all participating subdivisions.

(H) The relative need of each subdivision shall be multiplied by the relative need factor to determine the proportionate share of the subdivision in the undivided local government fund of the county; provided, that the maximum proportionate share of a county shall not exceed the following maximum percentages of the total estimate of the undivided local government fund governed by the relationship of the percentage of the population of the county that resides within municipal corporations within the county to the total population of the county as reported in the reports on population in Ohio by the department of development as of the twentieth day of July of the year in which the tax budget is filed with the budget commission:

Percentage of municipal population within the county:	Percentage share of the county shall not exceed:
Less than forty-one per cent	Sixty per cent
Forty-one per cent or more but less than eighty-one per cent	Fifty per cent

Eighty-one per cent or more	Thirty per cent

Where the proportionate share of the county exceeds the limitations established in this division, the budget commission shall adjust the proportionate shares determined pursuant to this division so that the proportionate share of the county does not exceed these limitations, and it shall increase the proportionate shares of all other subdivisions on a pro rata basis. In counties having a population of less than one hundred thousand, not less than ten per cent shall be distributed to the townships therein.

(I) The proportionate share of each subdivision in the undivided local government fund determined pursuant to division (H) of this section for any calendar year shall not be less than the product of the average of the percentages of the undivided local government fund of the county as apportioned to that subdivision for the calendar years 1968, 1969, and 1970, multiplied by the total amount of the undivided local government fund of the county apportioned pursuant to former section 5735.23 of the Revised Code for the calendar year 1970. For the purposes of this division, the total apportioned amount for the calendar year 1970 shall be the amount actually allocated to the county in 1970 from the state collected intangible tax as levied by section 5707.03 of the Revised Code and distributed pursuant to section 5725.24 of the Revised Code, plus the amount received by the county in the calendar year 1970 pursuant to division (B)(1) of former section 5739.21 of the Revised Code, and distributed pursuant to former section 5739.22 of the Revised Code. If the total amount of the undivided local government fund for any calendar year is less than the amount of the undivided local government fund apportioned pursuant to former section 5739.23 of the Revised Code for the calendar year 1970, the minimum amount guaranteed to each subdivision for that calendar year pursuant to this division shall be reduced on a basis proportionate to the amount by which the amount of the undivided local government fund for that calendar year is less than the amount of the undivided local government fund apportioned for the calendar year 1970.

(J) On the basis of such apportionment, the county auditor shall compute the percentage share of each such subdivision in the undivided local government fund and shall at the same time certify to the tax commissioner the percentage share of the county as a subdivision. No payment shall be made from the undivided local government fund, except in accordance with such percentage shares.

Within ten days after the budget commission has made its apportionment, whether conducted pursuant to section 5747.51 or 5747.53 of the Revised Code, the auditor shall publish a list of the subdivisions and

the amount each is to receive from the undivided local government fund and the percentage share of each subdivision, in a newspaper or newspapers of countywide circulation, and send a copy of such allocation to the tax commissioner.

The county auditor shall also send by certified mail, return receipt requested, a copy of such allocation to the fiscal officer of each subdivision entitled to participate in the allocation of the undivided local government fund of the county. This copy shall constitute the official notice of the commission action referred to in section 5705.37 of the Revised Code.

All money received into the treasury of a subdivision from the undivided local government fund in a county treasury shall be paid into the general fund and used for the current operating expenses of the subdivision.

If a municipal corporation maintains a municipal university, such municipal university, when the board of trustees so requests the legislative authority of the municipal corporation, shall participate in the money apportioned to such municipal corporation from the total local government fund, however created and constituted, in such amount as requested by the board of trustees, provided such sum does not exceed nine per cent of the total amount paid to the municipal corporation.

If any public official fails to maintain the records required by sections 5747.50 to 5747.55 of the Revised Code or by the rules issued by the tax commissioner, the auditor of state, or the treasurer of state pursuant to such sections, or fails to comply with any law relating to the enforcement of such sections, the local government fund money allocated to the county may be withheld until such time as the public official has complied with such sections or such law or the rules issued pursuant thereto.

Sec. 5747.81. (A) Any term used in this section that is defined in section 122.86 of the Revised Code has the same meaning as defined in that section.

(B) For the purpose of encouraging new capital investment in small businesses in this state and thereby promoting the economic welfare of all Ohioans, a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code for a taxpayer to whom a small business investment certificate was issued under section 122.86 of the Revised Code if the taxpayer did not sell or otherwise dispose of the qualifying investment before the conclusion of the applicable holding period and if the small business enterprise on the basis of which the certificate was issued is included in the register maintained under division (D) of section 122.86 of the Revised Code.

The credit shall be claimed for the taxpayer's taxable year that includes the last day of the holding period of the qualifying investment. If the

certificate was issued to a pass-through entity that made the qualifying investment, a taxpayer that holds a direct or indirect equity interest in the pass-through entity on the last day of the entity's taxable year that includes the last day of the holding period may claim the taxpayer's distributive or proportionate share of the credit for the taxpayer's taxable year that includes the last day of the entity's taxable year.

The credit equals the amount of the taxpayer's qualifying investment as indicated on the certificate multiplied by ten per cent. If a taxpayer claims a credit on the basis of more than one small business investment certificate issued for the same fiscal biennium, including a certificate issued to a pass-through entity in which the taxpayer owns an equity interest, the total amount of credit claimed by the taxpayer on the basis of all such certificates shall not exceed one million dollars. If a taxpayer and the taxpayer's spouse file a joint return under section 5747.08 of the Revised Code, the credit shall be computed on the basis of the total qualifying investments made by both spouses or by any pass-through entities in which either spouse owns an equity interest, but the total amount of credit claimed on the basis of all certificates issued to the spouses or to such pass-through entities for a fiscal biennium shall not exceed two million dollars.

The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due for the taxable year, the excess may be carried forward and applied against the tax due for not more than seven succeeding taxable years, provided that the amount applied to the tax due for any taxable year shall be subtracted from the amount available to carry forward to succeeding years.

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;

(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

(4) The dependent care credit under section 5747.054 of the Revised Code;

(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;

(6) The lump sum retirement income credit under division (D) of section

5747.055 of the Revised Code;

(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;

(8) The low-income credit under section 5747.056 of the Revised Code;

(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

(10) The campaign contribution credit under section 5747.29 of the Revised Code;

(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;

(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;

(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;

(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;

(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;

(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;

(22) The job training credit under section 5747.39 of the Revised Code;

(23) The enterprise zone credit under section 5709.66 of the Revised Code;

(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;

(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

(28) The ~~export sales credit under section 5747.057~~ small business investment credit under section 5747.81 of the Revised Code;

(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;

(30) The enterprise zone credits under section 5709.65 of the Revised Code;

(31) The research and development credit under section 5747.331 of the Revised Code;

(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(33) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(34) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;

(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;

(37) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;

(38) The refundable credit for tax withheld under section 5747.063 of the Revised Code;

(39) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

(40) The refundable motion picture production credit under section 5747.66 of the Revised Code.

(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5748.01. As used in this chapter:

(A) "School district income tax" means an income tax adopted under one of the following:

(1) Former section 5748.03 of the Revised Code as it existed prior to its repeal by Amended Substitute House Bill No. 291 of the 115th general assembly;

(2) Section 5748.03 of the Revised Code as enacted in Substitute Senate Bill No. 28 of the 118th general assembly;

(3) Section 5748.08 of the Revised Code as enacted in Amended Substitute Senate Bill No. 17 of the 122nd general assembly;

(4) Section 5748.021 of the Revised Code;

(5) Section 5748.081 of the Revised Code;

(6) Section 5748.09 of the Revised Code.

(B) "Individual" means an individual subject to the tax levied by section 5747.02 of the Revised Code.

(C) "Estate" means an estate subject to the tax levied by section 5747.02 of the Revised Code.

(D) "Taxable year" means a taxable year as defined in division (M) of section 5747.01 of the Revised Code.

(E) "Taxable income" means:

(1) In the case of an individual, one of the following, as specified in the resolution imposing the tax:

(a) Ohio adjusted gross income for the taxable year as defined in division (A) of section 5747.01 of the Revised Code, less the exemptions provided by section 5747.02 of the Revised Code;

(b) Wages, salaries, tips, and other employee compensation to the extent included in Ohio adjusted gross income as defined in section 5747.01 of the Revised Code, and net earnings from self-employment, as defined in section 1402(a) of the Internal Revenue Code, to the extent included in Ohio adjusted gross income.

(2) In the case of an estate, taxable income for the taxable year as defined in division (S) of section 5747.01 of the Revised Code.

(F) "Resident" of the school district means:

(1) An individual who is a resident of this state as defined in division (I) of section 5747.01 of the Revised Code during all or a portion of the taxable year and who, during all or a portion of such period of state residency, is domiciled in the school district or lives in and maintains a permanent place of abode in the school district;

(2) An estate of a decedent who, at the time of death, was domiciled in the school district.

(G) "School district income" means:

(1) With respect to an individual, the portion of the taxable income of an individual that is received by the individual during the portion of the taxable

year that the individual is a resident of the school district and the school district income tax is in effect in that school district. An individual may have school district income with respect to more than one school district.

(2) With respect to an estate, the taxable income of the estate for the portion of the taxable year that the school district income tax is in effect in that school district.

(H) "Taxpayer" means an individual or estate having school district income upon which a school district income tax is imposed.

(I) "School district purposes" means any of the purposes for which a tax may be levied pursuant to section 5705.21 of the Revised Code, including the combined purposes authorized by section 5705.217 of the Revised Code.

Sec. 5748.02. (A) The board of education of any school district, except a joint vocational school district, may declare, by resolution, the necessity of raising annually a specified amount of money for school district purposes. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. A copy of the resolution shall be certified to the tax commissioner no later than one hundred days prior to the date of the election at which the board intends to propose a levy under this section. Upon receipt of the copy of the resolution, the tax commissioner shall estimate both of the following:

(1) The property tax rate that would have to be imposed in the current year by the district to produce an equivalent amount of money;

(2) The income tax rate that would have had to have been in effect for the current year to produce an equivalent amount of money from a school district income tax.

Within ten days of receiving the copy of the board's resolution, the commissioner shall prepare these estimates and certify them to the board. Upon receipt of the certification, the board may adopt a resolution proposing an income tax under division (B) of this section at the estimated rate contained in the certification rounded to the nearest one-fourth of one per cent. The commissioner's certification applies only to the board's proposal to levy an income tax at the election for which the board requested the certification. If the board intends to submit a proposal to levy an income tax at any other election, it shall request another certification for that election in the manner prescribed in this division.

(B)(1) Upon the receipt of a certification from the tax commissioner under division (A) of this section, a majority of the members of a board of education may adopt a resolution proposing the levy of an annual tax for

school district purposes on school district income. The proposed levy may be for a continuing period of time or for a specified number of years. The resolution shall set forth the purpose for which the tax is to be imposed, the rate of the tax, which shall be the rate set forth in the commissioner's certification rounded to the nearest one-fourth of one per cent, the number of years the tax will be levied or that it will be levied for a continuing period of time, the date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted, and the date of the election at which the proposal shall be submitted to the electors of the district, which shall be on the date of a primary, general, or special election the date of which is consistent with section 3501.01 of the Revised Code. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

If the tax is to be levied for current expenses and permanent improvements, the resolution shall apportion the annual rate of the tax. The apportionment may be the same or different for each year the tax is levied, but the respective portions of the rate actually levied each year for current expenses and for permanent improvements shall be limited by the apportionment.

If the board of education currently imposes an income tax pursuant to this chapter that is due to expire and a question is submitted under this section for a proposed income tax to take effect upon the expiration of the existing tax, the board may specify in the resolution that the proposed tax renews the expiring tax. Two or more expiring income taxes may be renewed under this paragraph if the taxes are due to expire on the same date. If the tax rate being proposed is no higher than the total tax rate imposed by the expiring tax or taxes, the resolution may state that the proposed tax is not an additional income tax.

(2) A board of education adopting a resolution under division (B)(1) of this section proposing a school district income tax for a continuing period of time and limited to the purpose of current expenses may propose in that resolution to reduce the rate or rates of one or more of the school district's property taxes levied for a continuing period of time in excess of the ten-mill limitation for the purpose of current expenses. The reduction in the rate of a property tax may be any amount, expressed in mills per one dollar in valuation, not exceeding the rate at which the tax is authorized to be

levied. The reduction in the rate of a tax shall first take effect for the tax year that includes the day on which the school district income tax first takes effect, and shall continue for each tax year that both the school district income tax and the property tax levy are in effect.

In addition to the matters required to be set forth in the resolution under division (B)(1) of this section, a resolution containing a proposal to reduce the rate of one or more property taxes shall state for each such tax the maximum rate at which it currently may be levied and the maximum rate at which the tax could be levied after the proposed reduction, expressed in mills per one dollar in valuation, and that the tax is levied for a continuing period of time.

If a board of education proposes to reduce the rate of one or more property taxes under division (B)(2) of this section, the board, when it makes the certification required under division (A) of this section, shall designate the specific levy or levies to be reduced, the maximum rate at which each levy currently is authorized to be levied, and the rate by which each levy is proposed to be reduced. The tax commissioner, when making the certification to the board under division (A) of this section, also shall certify the reduction in the total effective tax rate for current expenses for each class of property that would have resulted if the proposed reduction in the rate or rates had been in effect the previous tax year. As used in this paragraph, "effective tax rate" has the same meaning as in section 323.08 of the Revised Code.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least ninety days prior to the election at which the question will appear on the ballot, a copy of the resolution shall be certified to the board of elections of the proper county, which shall submit the proposal to the electors on the date specified in the resolution. The form of the ballot shall be as provided in section 5748.03 of the Revised Code. Publication of notice of the election shall be made in ~~one or more newspapers~~ a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall contain the time and place of the election and the question to be submitted to the electors. The question covered by the resolution shall be submitted as a separate proposition, but may be printed on the same ballot with any other

proposition submitted at the same election, other than the election of officers.

(D) No board of education shall submit the question of a tax on school district income to the electors of the district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

(E)(1) No board of education may submit to the electors of the district the question of a tax on school district income on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code if that tax would be in addition to an existing tax on the taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of that section.

(2) No board of education may submit to the electors of the district the question of a tax on school district income on the taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code if that tax would be in addition to an existing tax on the taxable income of individuals as defined in division (E)(1)(b) of that section.

Sec. 5748.021. A board of education that levies a tax under section 5748.02 of the Revised Code on the school district income of individuals and estates as defined in divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the Revised Code may declare, at any time, by a resolution adopted by a majority of its members, the necessity of raising annually a specified amount of money for school district purposes by replacing the existing tax with a tax on the school district income of individuals as defined in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the Revised Code. The specified amount of money to be raised annually may be the same as, or more or less than, the amount of money raised annually by the existing tax.

The board shall certify a copy of the resolution to the tax commissioner not later than the eighty-fifth day before the date of the election at which the board intends to propose the replacement to the electors of the school district. Not later than the tenth day after receiving the resolution, the tax commissioner shall estimate the tax rate that would be required in the school district annually to raise the amount of money specified in the resolution. The tax commissioner shall certify the estimate to the board.

Upon receipt of the tax commissioner's estimate, the board may propose, by a resolution adopted by a majority of its members, to replace the existing tax on the school district income of individuals and estates as defined in divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the Revised Code with the levy of an annual tax on the school district income of

individuals as defined in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the Revised Code. In the resolution, the board shall specify the rate of the replacement tax, whether the replacement tax is to be levied for a specified number of years or for a continuing time, the specific school district purposes for which the replacement tax is to be levied, the date on which the replacement tax will begin to be levied, the date of the election at which the question of the replacement is to be submitted to the electors of the school district, that the existing tax will cease to be levied and the replacement tax will begin to be levied if the replacement is approved by a majority of the electors voting on the replacement, and that if the replacement is not approved by a majority of the electors voting on the replacement the existing tax will remain in effect under its original authority for the remainder of its previously approved term. The resolution goes into immediate effect upon its adoption. Publication of the resolution is not necessary, and the information that will be provided in the notice of election is sufficient notice. At least seventy-five days before the date of the election at which the question of the replacement will be submitted to the electors of the school district, the board shall certify a copy of the resolution to the board of elections.

The replacement tax shall have the same specific school district purposes as the existing tax, and its rate shall be the same as the tax commissioner's estimate rounded to the nearest one-fourth of one per cent. The replacement tax shall begin to be levied on the first day of January of the year following the year in which the question of the replacement is submitted to and approved by the electors of the school district or on the first day of January of a later year, as specified in the resolution. The date of the election shall be the date of an otherwise scheduled primary, general, or special election.

The board of elections shall make arrangements to submit the question of the replacement to the electors of the school district on the date specified in the resolution. The board of elections shall publish notice of the election on the question of the replacement in one ~~or more newspapers~~ newspaper of general circulation in the school district once a week for four consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall set forth the question to be submitted to the electors and the time and place of the election thereon.

The question shall be submitted to the electors of the school district as a separate proposition, but may be printed on the same ballot with other propositions that are submitted at the same election, other than the election of officers. The form of the ballot shall be substantially as follows:

"Shall the existing tax of ..... (state the rate) on the school district income of individuals and estates imposed by ..... (state the name of the school district) be replaced by a tax of ..... (state the rate) on the earned income of individuals residing in the school district for ..... (state the number of years the tax is to be in effect or that it will be in effect for a continuing time), beginning ..... (state the date the new tax will take effect), for the purpose of ..... (state the specific school district purposes of the tax)? If the new tax is not approved, the existing tax will remain in effect under its original authority, for the remainder of its previously approved term.

	For replacing the existing tax with the new tax
	Against replacing the existing tax with the new tax

"

The board of elections shall conduct and canvass the election in the same manner as regular elections in the school district for the election of county officers. The board shall certify the results of the election to the board of education and to the tax commissioner. If a majority of the electors voting on the question vote in favor of the replacement, the existing tax shall cease to be levied, and the replacement tax shall begin to be levied, on the date specified in the ballot question. If a majority of the electors voting on the question vote against the replacement, the existing tax shall continue to be levied under its original authority, for the remainder of its previously approved term.

A board of education may not submit the question of replacing a tax more than twice in a calendar year. If a board submits the question more than once, one of the elections at which the question is submitted shall be on the date of a general election.

If a board of education later intends to renew a replacement tax levied under this section, it shall repeat the procedure outlined in this section to do so, the replacement tax then being levied being the "existing tax" and the renewed replacement tax being the "replacement tax."

Sec. 5748.04. (A) The question of the repeal of a school district income tax levied for more than five years may be initiated not more than once in any five-year period by filing with the board of elections of the appropriate counties not later than ninety days before the general election in any year after the year in which it is approved by the electors a petition requesting that an election be held on the question. The petition shall be signed by qualified electors residing in the school district levying the income tax equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

The board of elections shall determine whether the petition is valid, and if it so determines, it shall submit the question to the electors of the district at the next general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election~~, and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the purpose, time, and place of the election. The form of the ballot cast at the election shall be as follows:

"Shall the annual income tax of ..... per cent, currently levied on the school district income of individuals and estates by ..... (state the name of the school district) for the purpose of ..... (state purpose of the tax), be repealed?

	For repeal of the income tax
	Against repeal of the income tax

"

(B)(1) If the tax is imposed on taxable income as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax currently is levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and estates."

(2) If the rate of one or more property tax levies was reduced for the duration of the income tax levy pursuant to division (B)(2) of section 5748.02 of the Revised Code, the form of the ballot shall be modified by adding the following language immediately after "repealed": ", and shall the rate of an existing tax on property for the purpose of current expenses, which rate was reduced for the duration of the income tax, be INCREASED from ..... mills to ..... mills per one dollar of valuation beginning in ..... (state the first year for which the rate of the property tax will increase)." In lieu of "for repeal of the income tax" and "against repeal of the income tax," the phrases "for the issue" and "against the issue," respectively, shall be substituted.

(3) If the rate of more than one property tax was reduced for the duration of the income tax, the ballot language shall be modified accordingly to express the rates at which those taxes currently are levied and the rates to which the taxes would be increased.

(C) The question covered by the petition shall be submitted as a separate

proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question vote in favor of it, the result shall be certified immediately after the canvass by the board of elections to the board of education of the school district and the tax commissioner, who shall thereupon, after the current year, cease to levy the tax, except that if notes have been issued pursuant to section 5748.05 of the Revised Code the tax commissioner shall continue to levy and collect under authority of the election authorizing the levy an annual amount, rounded upward to the nearest one-fourth of one per cent, as will be sufficient to pay the debt charges on the notes as they fall due.

(D) If a school district income tax repealed pursuant to this section was approved in conjunction with a reduction in the rate of one or more school district property taxes as provided in division (B)(2) of section 5748.02 of the Revised Code, then each such property tax may be levied after the current year at the rate at which it could be levied prior to the reduction, subject to any adjustments required by the county budget commission pursuant to Chapter 5705. of the Revised Code. Upon the repeal of a school district income tax under this section, the board of education may resume levying a property tax, the rate of which has been reduced pursuant to a question approved under section 5748.02 of the Revised Code, at the rate the board originally was authorized to levy the tax. A reduction in the rate of a property tax under section 5748.02 of the Revised Code is a reduction in the rate at which a board of education may levy that tax only for the period during which a school district income tax is levied prior to any repeal pursuant to this section. The resumption of the authority to levy the tax upon such a repeal does not constitute a tax levied in excess of the one per cent limitation prescribed by Section 2 of Article XII, Ohio Constitution, or in excess of the ten-mill limitation.

(E) This section does not apply to school district income tax levies that are levied for five or fewer years.

Sec. 5748.05. After the approval by the electors of a resolution under section 5748.03 ~~or,~~ 5748.08, or 5748.09 of the Revised Code to impose a school district income tax to provide an increase in current operating revenues or in current revenues for permanent improvements and prior to the time when the first payment to the district from the tax can be made, a board of education may anticipate a fraction of the proceeds of the tax and issue anticipation notes in an amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected for its first year of collection as estimated by the tax commissioner. The anticipation notes are Chapter 133.

securities and shall be issued as provided in section 133.24 of the Revised Code as if property tax anticipation notes. The notes shall have principal payments during each year after their year of issuance over a period not to exceed five years and, if determined by the board of education, during the year of their issuance. The legislation authorizing issuance of the notes may also provide for the annual levy and collection of voted ad valorem property taxes levied for the applicable purpose for which the notes are issued and for the application of the proceeds of the levy to the extent necessary to pay annual debt charges on the notes.

Sec. 5748.08. (A) The board of education of a city, local, or exempted village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that it may be necessary for the school district to do all of the following:

(1) Raise a specified amount of money for school district purposes by levying an annual tax on school district income;

(2) Issue general obligation bonds for permanent improvements, stating in the resolution the necessity and purpose of the bond issue and the amount, approximate date, estimated rate of interest, and maximum number of years over which the principal of the bonds may be paid;

(3) Levy a tax outside the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities;

(4) Submit the question of the school district income tax and bond issue to the electors of the district at a special election.

The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section.

On adoption of the resolution, the board shall certify a copy of it to the tax commissioner and the county auditor no later than one hundred five days prior to the date of the special election at which the board intends to propose the income tax and bond issue. Not later than ten days of receipt of the resolution, the tax commissioner, in the same manner as required by division (A) of section 5748.02 of the Revised Code, shall estimate the rates designated in divisions (A)(1) and (2) of that section and certify them to the board. Not later than ten days of receipt of the resolution, the county auditor shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code.

(B) On receipt of the tax commissioner's and county auditor's

certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may adopt a resolution proposing for a specified number of years or for a continuing period of time the levy of an annual tax for school district purposes on school district income and declaring that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for specified permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay the debt charges on the bonds and any anticipatory securities; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set forth in the tax commissioner's certification rounded to the nearest one-fourth of one per cent;

(2) Whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

(3) The number of years the tax will be levied, or that it will be levied for a continuing period of time;

(4) The date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted;

(5) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least ninety days prior to the election at which the question will appear on the ballot, the board of education shall certify a copy of the resolution, along with copies of the auditor's estimate

and its resolution under division (A) of this section, to the board of elections of the proper county. The board of education shall make the arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers.

The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax, the bond issue, and the levy to pay debt charges on the bonds and any anticipatory securities. The board of elections shall publish the notice of the election in ~~one or more newspapers~~ a newspaper of general circulation in the school district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election ~~and, if~~. If the board of elections operates and maintains a web site, it also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following:

(1) The questions to be submitted to the electors;

(2) The rate of the school district income tax;

(3) The principal amount of the proposed bond issue;

(4) The permanent improvements for which the bonds are to be issued;

(5) The maximum number of years over which the principal of the bonds may be paid;

(6) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;

(7) The time and place of the special election.

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:

"Shall the ..... school district be authorized to do both of the following:

(1) Impose an annual income tax of ..... (state the proposed rate of tax) on the school district income of individuals and of estates, for ..... (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning ..... (state the date the tax would first take effect), for the purpose of ..... (state the purpose of the tax)?

(2) Issue bonds for the purpose of ..... in the principal amount of $....., to be repaid annually over a maximum period of ..... years, and levy a property tax outside the ten-mill limitation estimated by the county auditor to average over the bond repayment period ..... mills for each one dollar of tax valuation, which amounts to ..... (rate expressed in cents or dollars and cents, such as "36 cents" or "$1.41") for each $100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

	FOR THE INCOME TAX AND BOND ISSUE
	AGAINST THE INCOME TAX AND BOND ISSUE

"

(E) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(F) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it, the income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution, and the board of education may proceed with issuance of the bonds and with the levy and collection of the property taxes to pay debt charges on the bonds, at the additional rate or any lesser rate in excess of the ten-mill limitation. Any securities issued by the board of education under this section are Chapter 133. securities, as that term is defined in section 133.01 of the Revised Code.

(G) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(H) The question of repeal of a school district income tax levied for more than five years may be initiated and submitted in accordance with section 5748.04 of the Revised Code.

(I) No board of education shall submit a question under this section to the electors of the school district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

Sec. 5748.081. A board of education of a school district that, under divisions (A)(1), (D)(1), and (E) of section 5748.08 or under section 5748.09 of the Revised Code, levies a tax on the school district income of

individuals and estates as defined in divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the Revised Code may replace that tax with a tax on the school district income of individuals as defined in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the Revised Code by following the procedure outlined in, and subject to the conditions specified in, section 5748.021 of the Revised Code, as if the existing tax levied under section 5748.08 or 5748.09 were levied under section 5748.02 of the Revised Code. The tax commissioner and the board of elections shall perform duties in response to the actions of the board of education under this section as directed in section 5748.021 of the Revised Code.

Sec. 5748.09. (A) The board of education of a city, local, or exempted village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that it may be necessary for the school district to do all of the following:

(1) Raise a specified amount of money for school district purposes by levying an annual tax on school district income;

(2) Levy an additional property tax in excess of the ten-mill limitation for the purpose of providing for the necessary requirements of the district, stating in the resolution the amount of money to be raised each year for such purpose;

(3) Submit the question of the school district income tax and property tax to the electors of the district at a special election.

The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section.

On adoption of the resolution, the board shall certify a copy of it to the tax commissioner and the county auditor not later than one hundred days prior to the date of the special election at which the board intends to propose the income tax and property tax. Not later than ten days after receipt of the resolution, the tax commissioner, in the same manner as required by division (A) of section 5748.02 of the Revised Code, shall estimate the rates designated in divisions (A)(1) and (2) of that section and certify them to the board. Not later than ten days after receipt of the resolution, the county auditor, in the same manner as required by section 5705.195 of the Revised Code, shall make the calculation specified in that section and certify it to the board.

(B) On receipt of the tax commissioner's and county auditor's certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of

two-thirds of all its members, may adopt a resolution declaring that the amount of taxes that can be raised by all tax levies the district is authorized to impose, when combined with state and federal revenues, will be insufficient to provide an adequate amount for the present and future requirements of the school district, and that it is therefore necessary to levy, for a specified number of years or for a continuing period of time, an annual tax for school district purposes on school district income, and to levy, for a specified number of years not exceeding ten or for a continuing period of time, an additional property tax in excess of the ten-mill limitation for the purpose of providing for the necessary requirements of the district, and declaring that the question of the school district income tax and property tax shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set forth in the tax commissioner's certification rounded to the nearest one-fourth of one per cent;

(2) Whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

(3) The number of years the school district income tax will be levied, or that it will be levied for a continuing period of time;

(4) The date on which the school district income tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted;

(5) The amount of money it is necessary to raise for the purpose of providing for the necessary requirements of the district for each year the property tax is to be imposed;

(6) The number of years the property tax will be levied, or that it will be levied for a continuing period of time;

(7) The tax list upon which the property tax shall be first levied, which may be the current year's tax list;

(8) The amount of the average tax levy, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one

dollar of valuation, estimated by the county auditor under division (A) of this section.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least ninety days prior to the election at which the question will appear on the ballot, the board of education shall certify a copy of the resolution, along with copies of the county auditor's certification and the resolution under division (A) of this section, to the board of elections of the proper county. The board of education shall make the arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers.

The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax and the property tax. The board of elections shall publish the notice of the election in a newspaper of general circulation in the school district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. If the board of elections operates and maintains a web site, also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following:

(1) The questions to be submitted to the electors as a single ballot question;

(2) The rate of the school district income tax;

(3) The number of years the school district income tax will be levied or that it will be levied for a continuing period of time;

(4) The annual proceeds of the proposed property tax levy for the purpose of providing for the necessary requirements of the district;

(5) The number of years during which the property tax levy shall be levied, or that it shall be levied for a continuing period of time;

(6) The estimated average additional tax rate of the property tax, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, outside the limitation imposed by Section 2 of Article XII, Ohio Constitution, as certified by the county auditor;

(7) The time and place of the special election.

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:

"Shall the ..... school district be authorized to do both of the following:

(1) Impose an annual income tax of ..... (state the proposed rate of tax) on the school district income of individuals and of estates, for ..... (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning ..... (state the date the tax would first take effect), for the purpose of ..... (state the purpose of the tax)?

(2) Impose a property tax levy outside of the ten-mill limitation for the purpose of providing for the necessary requirements of the district in the sum of ..... (here insert annual amount the levy is to produce), estimated by the county auditor to average ..... (here insert number of mills) mills for each one dollar of valuation, which amounts to ..... (here insert rate expressed in dollars and cents) for each one hundred dollars of valuation, for ..... (state the number of years the tax is to be imposed or that it will be imposed for a continuing period of time), commencing in ..... (first year the tax is to be levied), first due in calendar year ..... (first calendar year in which the tax shall be due)?

	FOR THE INCOME TAX AND PROPERTY TAX
	AGAINST THE INCOME TAX AND PROPERTY TAX

"

If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(E) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it:

(1) The income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution.

(2) The board of education of the school district may make the additional property tax levy necessary to raise the amount specified on the ballot for the purpose of providing for the necessary requirements of the district. The property tax levy shall be included in the next tax budget that is certified to the county budget commission.

(F)(1) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(2) After the approval of a question under this section and prior to the time when the first tax collection from the property tax levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(G)(1) The question of repeal of a school district income tax levied for more than five years may be initiated and submitted in accordance with section 5748.04 of the Revised Code.

(2) A property tax levy for a continuing period of time may be reduced in the manner provided under section 5705.261 of the Revised Code.

(H) No board of education shall submit a question under this section to the electors of the school district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

(I) If the electors of the school district approve a question under this section, and if the last calendar year the school district income tax is in effect and the last calendar year of collection of the property tax are the same, the board of education of the school district may propose to submit under this section the combined question of a school district income tax to take effect upon the expiration of the existing income tax and a property tax to be first collected in the calendar year after the calendar year of last collection of the existing property tax, and specify in the resolutions adopted under this section that the proposed taxes would renew the existing taxes. The form of the ballot on a question submitted to the electors under division (I) of this section shall be as follows:

"Shall the ..... school district be authorized to do both of the following:

(1) Impose an annual income tax of ..... (state the proposed rate of tax) on the school district income of individuals and of estates to renew an income tax expiring at the end of ..... (state the last year the existing

income tax may be levied) for ..... (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning ..... (state the date the tax would first take effect), for the purpose of ..... (state the purpose of the tax)?

(2) Impose a property tax levy renewing an existing levy outside of the ten-mill limitation for the purpose of providing for the necessary requirements of the district in the sum of ..... (here insert annual amount the levy is to produce), estimated by the county auditor to average ..... (here insert number of mills) mills for each one dollar of valuation, which amounts to ..... (here insert rate expressed in dollars and cents) for each one hundred dollars of valuation, for ..... (state the number of years the tax is to be imposed or that it will be imposed for a continuing period of time), commencing in ..... (first year the tax is to be levied), first due in calendar year ..... (first calendar year in which the tax shall be due)?

	FOR THE INCOME TAX AND PROPERTY TAX
	AGAINST THE INCOME TAX AND PROPERTY TAX

"

If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

The question of a renewal levy under this division shall not be placed on the ballot unless the question is submitted on a date on which a special election may be held under section 3501.01 of the Revised Code, except for the first Tuesday after the first Monday in February and August, during the last year the property tax levy to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year.

(J) If the electors of the school district approve a question under this section, the board of education of the school district may propose to renew either or both of the existing taxes as individual ballot questions in accordance with section 5748.02 of the Revised Code for the school district income tax, or section 5705.194 of the Revised Code for the property tax.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

(E) "Excluded person" means any of the following:

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the

gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p);

(6) A bank holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(a);

(7) A savings and loan holding company as defined in the "Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging only in activities or investments permissible for a financial holding company under 12 U.S.C. 1843(k);

(8) A person directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding companies, or savings and loan holding companies described in division (E)(3), (5), (6), or (7) of this section that is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k), except that any such person held pursuant to merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 U.S.C. 1843(k)(4)(I) is not an excluded person, or a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.

For the purposes of division (E)(8) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership

interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization;

(d) In the case of multiple ownership, the ownership interests of more than one person may be aggregated to meet the fifty per cent ownership tests in this division only when each such owner is described in division (E)(3), (5), (6), or (7) of this section and is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k) or is a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.

(9) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(10) A person that solely facilitates or services one or more securitizations or similar transactions for any person described in division (E)(3), (5), (6), (7), (8), or (9) of this section. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(11) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

(12) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F)(2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;

(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;

(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;

(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;

(n) Pension reversions;

(o) Contributions to capital;

(p) Sales or use taxes collected as a vendor or an out-of-state seller on

behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;

(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;

(r) In the case of receipts from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer, all as defined in section 5735.01 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the Internal Revenue Code or Chapter 5735. of the Revised Code;

(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms

used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere. "Further shipping" includes storing and repackaging such property into smaller or larger bundles, so long as such property is not subject to further manufacturing or processing.

(III) "Qualified distribution center" means a warehouse or other similar facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all warehouses or other similar facilities that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center.

(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.

(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.

(VI) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual

application with the commissioner. The application and annual fee shall be filed and paid for each qualified distribution center on or before the first day of September before the qualifying year or within forty-five days after the distribution center opens, whichever is later.

The applicant must substantiate to the commissioner's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty per cent of the cost of the qualified property shipped to a location such that it would be sitused outside this state under the provisions of division (E) of section 5751.033 of the Revised Code. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars during the qualifying period. (For purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.) The commissioner may require the applicant to have an independent certified public accountant certify that the calculation of the minimum thresholds required for a qualified distribution center by the operator of a distribution center has been made in accordance with generally accepted accounting principles. The commissioner shall issue or deny the issuance of a certificate within sixty days after the receipt of the application. A denial is subject to appeal under section 5717.02 of the Revised Code. If the operator files a timely appeal under section 5717.02 of the Revised Code, the operator shall be granted a qualifying certificate, provided that the operator is liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have otherwise not been owed by its suppliers if the qualifying certificate was valid.

(VII) "Ohio delivery percentage" means the proportion of the total property delivered to a destination inside Ohio from the qualified distribution center during the qualifying period compared with total deliveries from such distribution center everywhere during the qualifying period.

(ii) If the distribution center is new and was not open for the entire qualifying period, the operator of the distribution center may request that the commissioner grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty per cent of the qualified property during that year was not shipped to a location such that it would be sitused outside of this state under the provisions of division (E) of section 5751.033 of the Revised Code or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less

than forty million dollars during that year, then the operator of the distribution center shall be liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have not otherwise been owed by its suppliers during the qualifying year if the qualifying certificate was valid. (For purposes of division (F)(2)(z)(ii) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.)

(iii) When filing an application for a qualifying certificate under division (F)(2)(z)(i)(VI) of this section, the operator of a qualified distribution center also shall provide documentation, as the commissioner requires, for the commissioner to ascertain the Ohio delivery percentage. The commissioner, upon issuing the qualifying certificate, also shall certify the Ohio delivery percentage. The operator of the qualified distribution center may appeal the commissioner's certification of the Ohio delivery percentage in the same manner as an appeal is taken from the denial of a qualifying certificate under division (F)(2)(z)(i)(VI) of this section.

Within thirty days after all appeals have been exhausted, the operator of the qualified distribution center shall notify the affected suppliers of qualified property that such suppliers are required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed. The supplier of tangible personal property delivered to the qualified distribution center shall include in its report of taxable gross receipts the receipts from the total sales of property delivered to the qualified distribution center for the calendar quarter or calendar year, whichever the case may be, multiplied by the Ohio delivery percentage for the qualifying year. Nothing in division (F)(2)(z)(iii) of this section shall be construed as imposing liability on the operator of a qualified distribution center for the tax imposed by this chapter arising from any change to the Ohio delivery percentage.

(iv) In the case where the distribution center is new and not open for the entire qualifying period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is

an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F)(2)(z)(iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. A person receiving a qualifying certificate is responsible for paying the tax, interest, and penalty upon amounts claimed as qualifying distribution center receipts that would not otherwise have been owed by the supplier if the qualifying certificate were available when it is later determined that the qualifying certificate should not have been issued because the statutory requirements were in fact not met.

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the commercial activity tax administrative fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this section.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts directly attributed to providing public services pursuant to sections 126.60 to 126.605 of the Revised Code, or any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(gg) Any receipts for which the tax imposed by this chapter is prohibited by the Constitution or laws of the United States or the Constitution of Ohio.

~~(gg)~~(hh)(i) As used in this division:

(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F)(2)(hh)(ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F)(2)(hh)(ii) of this section.

(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.

(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division

(F)(2)(hh) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division (F)(2)(hh) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax commissioner shall conditionally certify the applicant's property. The conditional certification shall expire when all of the applicant's appeals are exhausted. Until final resolution of the appeal, the applicant shall retain the applicant's records in accordance with section 5751.12 of the Revised Code, notwithstanding any time limit on the preservation of records under that section.

(ii) Amounts realized by licensed motor fuel dealers or licensed permissive motor fuel dealers from the exchange of petroleum products, including motor fuel, between such dealers, provided that delivery of the petroleum products occurs at a refinery, terminal, pipeline, or marine vessel and that the exchanging dealers agree neither dealer shall require monetary compensation from the other for the value of the exchanged petroleum products other than such compensation for differences in product location or grade. Division (F)(2)~~(gg)~~(ii) of this section does not apply to amounts realized as a result of differences in location or grade of exchanged petroleum products or from handling, lubricity, dye, or other additive injections fees, pipeline security fees, or similar fees. As used in this division, "motor fuel," "licensed motor fuel dealer," "licensed permissive motor fuel dealer," and "terminal" have the same meanings as in section 5735.01 of the Revised Code.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income

tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

(G) "Taxable gross receipts" means gross receipts situsedto this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

(1) Owns or uses a part or all of its capital in this state;

(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;

(3) Has bright-line presence in this state;

(4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;

(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and

(c) Any amount the person pays for services performed in this state on its behalf by another.

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.

(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.

(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.

(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.

(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.

(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

(1) A person receiving a fee to sell financial instruments;

(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;

(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;

(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;

(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.

(Q) "Received" includes amounts accrued under the accrual method of accounting.

(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.

Sec. 5751.011. (A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements:

(1) The group elects to include all persons, including persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having at least eighty per cent, or having at least fifty per cent, of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners.

A group making its initial election on the basis of the eighty per cent ownership test may change its election so that its consolidated elected taxpayer group is formed on the basis of the fifty per cent ownership test if all of the following are satisfied:

(a) When the initial election was made, the group did not have any persons satisfying the fifty per cent ownership test;

(b) One or more of the persons in the initial group subsequently acquires ownership interests in a person such that the fifty per cent ownership test is satisfied, the eighty per cent ownership test is not satisfied, and the acquired person would be required to be included in a combined taxpayer group under section 5751.012 of the Revised Code;

(c) The group requests the change in a written request to the tax commissioner on or before the due date for filing the first return due under section 5751.051 of the Revised Code after the date of the acquisition;

(d) The group has not previously changed its election.

At the election of the group, all entities that are not incorporated or formed under the laws of a state or of the United States and that meet the consolidated elected ownership test shall either be included in the group or all shall be excluded from the group. If, at the time of registration, the group does not include any such entities that meet the consolidated elected ownership test, the group shall elect to either include or exclude the newly acquired entities before the due date of the first return due after the date of the acquisition.

Each group shall notify the tax commissioner of the foregoing elections before the due date of the return for the period in which the election becomes binding. If fifty per cent of the value of a person's ownership interests is owned or controlled by each of two consolidated elected taxpayer groups formed under the fifty per cent ownership or control test, that person is a member of each group for the purposes of this section, and each group shall include in the group's taxable gross receipts fifty per cent of that person's taxable gross receipts. Otherwise, all of that person's taxable gross receipts shall be included in the taxable gross receipts of the consolidated elected taxpayer group of which the person is a member. In no event shall the ownership or control of fifty per cent of the value of a

person's ownership interests by two otherwise unrelated groups form the basis for consolidating the groups into a single consolidated elected taxpayer group or permit any exclusion under division (C) of this section of taxable gross receipts between members of the two groups. Division (A)(3) of this section applies with respect to the elections described in this division.

(2) The group makes the election to be treated as a consolidated elected taxpayer in the manner prescribed under division (D) of this section.

(3) Subject to review and audit by the tax commissioner, the group agrees that all of the following apply:

(a) The group shall file reports as a single taxpayer for at least the next eight calendar quarters following the election so long as at least two or more of the members of the group meet the requirements of division (A)(1) of this section.

(b) Before the expiration of the eighth such calendar quarter, the group shall notify the commissioner if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the tax commissioner, the election remains in effect for another eight calendar quarters.

(c) If, at any time during any of those eight calendar quarters following the election, a former member of the group no longer meets the requirements under division (A)(1) of this section, that member shall report and pay the tax imposed under this chapter separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(d) The group agrees to the application of division (B) of this section.

(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group.

(C)(1)(a) Members of a consolidated elected taxpayer group shall exclude gross receipts among persons included in the consolidated elected taxpayer group.

(b) Subject to divisions (C)(1)(c) and (C)(2) of this section, nothing in this section shall have the effect of requiring a consolidated elected taxpayer group to include gross receipts received by a person enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code if that person is a member of the group pursuant to the elections made by the group under division (A)(1) of this section.

(c)(i) As used in division (C)(1)(c) of this section, "dealer transfer"

means a transfer of property that satisfies both of the following: (I) the property is directly transferred by any means from one member of the group to another member of the group that is a dealer in intangibles but is not a qualifying dealer as defined in section ~~5725.24~~ 5707.031 of the Revised Code; and (II) the property is subsequently delivered by the dealer in intangibles to a person that is not a member of the group.

(ii) In the event of a dealer transfer, a consolidated elected taxpayer group shall not exclude, under division (C) of this section, gross receipts from the transfer described in division (C)(1)(c)(i)(I) of this section.

(2) Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the federal energy regulatory commission shall be excluded from taxable gross receipts under division (C)(1) of this section if all other requirements of that division are met, even if the receipts are from and to the same member of the group.

(D) To make the election to be a consolidated elected taxpayer, a group of persons shall notify the tax commissioner of the election in the manner prescribed by the commissioner and pay the commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The election shall be made and the fee paid before the beginning of the first calendar quarter to which the election applies. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

The election shall be made on a form prescribed by the tax commissioner for that purpose and shall be signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A)(1) of this section, and the group shall notify the tax commissioner of any additions to the group with the next tax return it files with the commissioner.

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of the Revised Code:

(1) "School district," "joint vocational school district," "local taxing unit," "recognized valuation," "fixed-rate levy," and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code.

(2) "State education aid" for a school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year: division (A) of section 3317.022 of the Revised Code, including the amounts calculated under sections 3317.029 and 3317.0217 of the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (L) and (N) of section 3317.024; section 3317.0216; and any unit payments for gifted student services paid under sections 3317.05, 3317.052, and 3317.053 of the Revised Code; except that, for fiscal years 2008 and 2009, the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be substituted for the amount computed under division (D) of section 3317.022 of the Revised Code, and the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year thereafter~~ 2011, the sum of the amounts computed under former sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 3306.192 of the Revised Code~~.~~;

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(3) "State education aid" for a joint vocational school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code, except that, for fiscal years 2008 and 2009, the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal years 2010 and 2011, the amount paid in accordance with the section of ~~this act~~ H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code.

(5) "Machinery and equipment property tax value loss" means the

amount determined under division (C)(1) of this section.

(6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section.

(7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section.

(8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section.

(9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section.

(10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section.

(11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss.

(12) "Fixed-sum levy loss" means the amount determined under division (E) of this section.

(13) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code.

(14) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code.

(15) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code.

(16) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010.

(17) "Telephone property" means tangible personal property of a telephone, telegraph, or interexchange telecommunications company subject to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004.

(18) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section.

(19) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section.

(20) "Taxes charged and payable" means taxes charged and payable after the reduction required by section 319.301 of the Revised Code but

before the reductions required by sections 319.302 and 323.152 of the Revised Code.

(21) "Median estate tax collections" means, in the case of a municipal corporation to which revenue from the taxes levied in Chapter 5731. of the Revised Code was distributed in each of calendar years 2006, 2007, 2008, and 2009, the median of those distributions. In the case of a municipal corporation to which no distributions were made in one or more of those years, "median estate tax collections" means zero.

(22) "Total resources," in the case of a school district, means the sum of the amounts in divisions (A)(22)(a) to (h) of this section less any reduction required under division (A)(32) of this section.

(a) The state education aid for fiscal year 2010;

(b) The sum of the payments received by the school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code, excluding the portion of such payments attributable to levies for joint vocational school district purposes;

(c) The sum of fixed-sum levy loss payments received by the school district in fiscal year 2010 pursuant to division (E)(1) of section 5727.85 and division (E)(1) of section 5751.21 of the Revised Code for fixed-sum levies imposed for a purpose other than paying debt charges;

(d) Fifty per cent of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008, including taxes charged and payable from emergency levies imposed under section 5709.194 of the Revised Code and excluding taxes levied for joint vocational school district purposes;

(e) Fifty per cent of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009, including taxes charged and payable from emergency levies and excluding taxes levied for joint vocational school district purposes;

(f) The school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009, including taxes charged and payable from emergency levies;

(g) The amount certified for fiscal year 2010 under division (A)(2) of section 3317.08 of the Revised Code;

(h) Distributions received during calendar year 2009 from taxes levied under section 718.09 of the Revised Code.

(23) "Total resources," in the case of a joint vocational school district,

means the sum of amounts in divisions (A)(23)(a) to (g) of this section less any reduction required under division (A)(32) of this section.

(a) The state education aid for fiscal year 2010;

(b) The sum of the payments received by the joint vocational school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code;

(c) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008;

(d) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009;

(e) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2008;

(f) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2009;

(g) The joint vocational school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009.

(24) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A)(24)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for mental health and developmental disability related functions in calendar year 2010 under division (A)(1) of section 5727.86 and division (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for mental health and developmental disability related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(25) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A)(25)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for senior services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(26) "Total resources," in the case of county children's services related functions, means the sum of the amounts in divisions (A)(26)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for children's services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for children's services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(27) "Total resources," in the case of county public health related functions, means the sum of the amounts in divisions (A)(27)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for public health related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for public health related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(28) "Total resources," in the case of all county functions not included in divisions (A)(24) to (27) of this section, means the sum of the amounts in divisions (A)(28)(a) to (d) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for all other purposes in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The county's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised

Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the county for all other purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009, excluding taxes charged and payable for the purpose of paying debt charges;

(d) The sum of the amounts distributed to the county in calendar year 2010 for the taxes levied pursuant to sections 5739.021 and 5741.021 of the Revised Code.

(29) "Total resources," in the case of a municipal corporation, means the sum of the amounts in divisions (A)(29)(a) to (g) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the municipal corporation in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The municipal corporation's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) The sum of the amounts distributed to the municipal corporation in calendar year 2010 pursuant to section 5747.50 of the Revised Code;

(d) With respect to taxes levied by the municipal corporation, the taxes charged and payable against all property on the tax list of real and public utility property for current expenses, defined in division (A)(33) of this section, for tax year 2009;

(e) The amount of admissions tax collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;

(f) The amount of income taxes collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;

(g) The municipal corporation's median estate tax collections.

(30) "Total resources," in the case of a township, means the sum of the amounts in divisions (A)(30)(a) to (c) of this section less any reduction

required under division (A)(32) of this section.

(a) The sum of the payments received by the township in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time, excluding payments received for debt purposes;

(b) The township's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the township, the taxes charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding taxes charged and payable for the purpose of paying debt charges.

(31) "Total resources," in the case of a local taxing unit that is not a county, municipal corporation, or township, means the sum of the amounts in divisions (A)(31)(a) to (e) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the local taxing unit in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The local taxing unit's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the local taxing unit, the taxes charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding taxes charged and payable for the purpose of paying debt charges;

(d) The amount received from the tax commissioner during calendar year 2010 for sales or use taxes authorized under sections 5739.023 and 5741.022 of the Revised Code;

(e) For institutions of higher education receiving tax revenue from a local levy, as identified in section 3358.02 of the Revised Code, the final state share of instruction allocation for fiscal year 2010 as calculated by the board of regents and reported to the state controlling board.

(32) If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "total resources" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payments attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85, division (A)(1) of section 5727.85, divisions (C)(8) and (9) of section 5751.21, or division (A)(1) of section 5751.22 of the Revised Code.

(33) "Municipal current expense property tax levies" means all property tax levies of a municipality, except those with the following levy names: airport resurfacing; bond or any levy name including the word "bond"; capital improvement or any levy name including the word "capital"; debt or any levy name including the word "debt"; equipment or any levy name including the word "equipment," unless the levy is for combined operating and equipment; employee termination fund; fire pension or any levy containing the word "pension," including police pensions; fireman's fund or any practically similar name; sinking fund; road improvements or any levy containing the word "road"; fire truck or apparatus; flood or any levy containing the word "flood"; conservancy district; county health; note retirement; sewage, or any levy containing the words "sewage" or "sewer"; park improvement; parkland acquisition; storm drain; street or any levy name containing the word "street"; lighting, or any levy name containing the word "lighting"; and water.

(34) "Current expense TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the payments received by the school district in fiscal year 2011 pursuant to divisions (C)(10) and (11) of section 5751.21 of the Revised Code to the extent paid for current expense levies. In the case of a municipal corporation, "current expense TPP allocation" means the sum of the payments received by the municipal corporation in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code to the extent paid for municipal current expense property tax levies as defined in division (A)(33) of this section. If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "current expense TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payments attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of

section 5751.22 of the Revised Code.

(35) "TPP allocation" means the sum of payments received by a local taxing unit in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "TPP allocation" used to compute payments to be made under division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payment attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1) of that section.

(36) "Total TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(10) and (11) and (D) of section 5751.21 of the Revised Code. In the case of a local taxing unit, "total TPP allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1), (2), and (3) of section 5751.22 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "total TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payments attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of section 5751.22 of the Revised Code.

(37) "Non-current expense TPP allocation" means the difference of total TPP allocation minus the sum of current expense TPP allocation and the portion of total TPP allocation constituting reimbursement for debt levies, pursuant to division (D) of section 5751.21 of the Revised Code in the case of a school district or joint vocational school district and pursuant to division (A)(3) of section 5751.22 of the Revised Code in the case of a municipal corporation.

(38) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit, "threshold per cent" means two per cent for tax year 2011, four per cent for tax year 2012, and six per cent for tax years 2013 and thereafter.

(B) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. Eighty-five one-hundredths of one per cent of the money credited to that fund shall be credited to the tax reform system

implementation fund, which is hereby created in the state treasury, and shall be used to defray the costs incurred by the department of taxation in administering the tax imposed by this chapter and in implementing tax reform measures. The remainder in the commercial activities tax receipts fund shall be credited for each fiscal year in the following percentages to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages:

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund
2006	67.7%	22.6%	9.7%
2007	0%	70.0%	30.0%
2008	0%	70.0%	30.0%
2009	0%	70.0%	30.0%
2010	0%	70.0%	30.0%
2011	0%	70.0%	30.0%
2012	~~5.3~~ 25.0%	~~70.0~~ 52.5%	~~24.7~~ 22.5%
2013 and thereafter	~~10.6~~ 50.0%	~~70.0~~ 35.0%	~~19.4~~ 15.0%
~~2014~~	~~14.1%~~	~~70.0%~~	~~15.9%~~
~~2015~~	~~17.6%~~	~~70.0%~~%	~~12.4%~~
~~2016~~	~~21.1%~~	~~70.0%~~%	~~8.9%~~
~~2017~~	~~24.6%~~	~~70.0%~~%	~~5.4%~~
~~2018~~	~~28.1%~~	~~70.0%~~%	~~1.9%~~
~~2019 and thereafter~~	~~30%~~	~~70%~~%	~~0%~~

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section, except as provided in division (C)(5) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, thirty-three and eight-tenths per cent;

(b) For tax year 2007, sixty-one and three-tenths per cent;

(c) For tax year 2008, eighty-three per cent;

(d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;

(b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;

(c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;

(d) For tax year 2009 and thereafter a fraction, the numerator of which is seventeen and the denominator of which is twenty-three.

(3) Furniture and fixtures property tax value loss is the taxable value of furniture and fixture property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, twenty-five per cent;

(b) For tax year 2007, fifty per cent;

(c) For tax year 2008, seventy-five per cent;

(d) For tax year 2009 and thereafter, one hundred per cent.

The taxable value of property reported by taxpayers used in divisions (C)(1), (2), and (3) of this section shall be such values as determined to be final by the tax commissioner as of August 31, 2005. Such determinations shall be final except for any correction of a clerical error that was made prior to August 31, 2005, by the tax commissioner.

(4) Telephone property tax value loss is the taxable value of telephone property as taxpayers would have reported that property for tax year 2004 if the assessment rate for all telephone property for that year were twenty-five per cent, multiplied by:

(a) For tax year 2006, zero per cent;

(b) For tax year 2007, zero per cent;

(c) For tax year 2008, zero per cent;

(d) For tax year 2009, sixty per cent;

(e) For tax year 2010, eighty per cent;

(f) For tax year 2011 and thereafter, one hundred per cent.

(5) Division (C)(5) of this section applies to any school district, joint

vocational school district, or local taxing unit in a county in which is located a facility currently or formerly devoted to the enrichment or commercialization of uranium or uranium products, and for which the total taxable value of property listed on the general tax list of personal property for any tax year from tax year 2001 to tax year 2004 was fifty per cent or less of the taxable value of such property listed on the general tax list of personal property for the next preceding tax year.

In computing the fixed-rate levy losses under divisions (D)(1), (2), and (3) of this section for any school district, joint vocational school district, or local taxing unit to which division (C)(5) of this section applies, the taxable value of such property as listed on the general tax list of personal property for tax year 2000 shall be substituted for the taxable value of such property as reported by taxpayers for tax year 2004, in the taxing district containing the uranium facility, if the taxable value listed for tax year 2000 is greater than the taxable value reported by taxpayers for tax year 2004. For the purpose of making the computations under divisions (D)(1), (2), and (3) of this section, the tax year 2000 valuation is to be allocated to machinery and equipment, inventory, and furniture and fixtures property in the same proportions as the tax year 2004 values. For the purpose of the calculations in division (A) of section 5751.21 of the Revised Code, the tax year 2004 taxable values shall be used.

To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004.

(D) Not later than September 15, 2005, the tax commissioner shall determine for each tax year from 2006 through 2009 for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, and for each tax year from 2006 through 2011 its telephone property fixed-rate levy loss. Except as provided in division (F) of this section, such losses are the applicable amounts described in divisions (D)(1), (2), (3), and (4) of this section:

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and

fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss, and, for 2008 through ~~2017~~ 2010, the telephone property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district levies imposed under section 5705.194 or 5705.213 of the Revised Code that are qualifying levies not remaining in effect for the current year. For 2011 through 2017 in the case of school district levies imposed under section 5705.194 or 5705.213 of the Revised Code and for all years after 2010 in the case of other fixed-sum levies, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district levy imposed under section 5705.194 or 5705.213 of the Revised Code remains in effect in a year after 2010 only if, for that year, the board of education levies a school district levy imposed under section 5705.194, 5705.199, 5705.213, or 5705.219 of the Revised Code for an annual sum at least equal to the annual sum levied by the board in tax year 2004 less the amount of the payment certified under this division for 2006.

(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar.

(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2009 under divisions (C)(1), (2), and (3) of this section and for tax year 2011 under division (C)(4) of this section.

(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that

was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions.

If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement to be paid pursuant to division (E) of section 5751.21 or division (A)(3) of section 5751.22 of the Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(F) If a school district levies a tax under section 5705.219 of the Revised Code, the fixed-rate levy loss for qualifying levies, to the extent repealed under that section, shall equal the sum of the following amounts in lieu of the amounts computed for such levies under division (D) of this section:

(1) The sum of the rates of qualifying levies to the extent so repealed multiplied by the sum of the machinery and equipment, inventory, and furniture and fixtures tax value losses for 2009 as determined under that division;

(2) The sum of the rates of qualifying levies to the extent so repealed multiplied by the telephone property tax value loss for 2011 as determined under that division.

The fixed-rate levy losses for qualifying levies to the extent not repealed under section 5705.219 of the Revised Code shall be as determined under division (D) of this section. The revised fixed-rate levy losses determined under this division and division (D) of this section first apply in the year following the first year the district levies the tax under section 5705.219 of the Revised Code.

(G) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, furniture and fixtures, and telephone fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) and (E) of this section

shall separately display the levy loss for each levy eligible for reimbursement.

(H) Not later than October 1, 2005, the tax commissioner shall certify the amount of the fixed-sum levy losses to the county auditor of each county in which a school district, joint vocational school district, or local taxing unit with a fixed-sum levy loss reimbursement has territory.

(I) Not later than the twenty-eighth day of February each year beginning in 2011 and ending in 2014, the tax commissioner shall certify to the department of education for each school district first levying a tax under section 5705.219 of the Revised Code in the preceding year the revised fixed-rate levy losses determined under divisions (D) and (F) of this section.

Sec. 5751.21. (A) Not later than the thirtieth day of July of 2007 through ~~2017~~ 2010, the department of education shall consult with the director of budget and management and determine the following for each school district and each joint vocational school district eligible for payment under division (B) of this section:

(1) The state education aid offset, which, except as provided in division (A)(1)(c) of this section, is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July if the ~~recognized~~ valuation used in the calculation in division (B)(1) of section 3306.13 of the Revised Code as that division existed for fiscal years 2010 and 2011 included the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses for the school district or joint vocational school district for the second preceding tax year, and if taxes charged and payable associated with the tax value losses are accounted for in any state education aid computation dependent on taxes charged and payable.

(c) The state education aid offset for fiscal year 2010 and fiscal year 2011 equals the greater of the state education aid offset calculated for that fiscal year under divisions (A)(1)(a) and (b) of this section and the state education aid offset calculated for fiscal year 2009. For fiscal year 2012 and 2013, the state education aid offset equals the state education aid offset for fiscal year 2011.

(2) ~~The~~ For fiscal years 2008 through 2011, the greater of zero or the

difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, furniture and fixtures fixed-rate levy loss, and telephone property fixed-rate levy loss certified under divisions (G) and (I) of section 5751.20 of the Revised Code for all taxing districts in each school district and joint vocational school district for the second preceding tax year.

By the thirtieth day of July of each such year, the department of education and the director of budget and management shall agree upon the amount to be determined under division (A)(1) of this section.

(B) On or before the thirty-first day of August of ~~each year beginning in~~ 2008, 2009, and 2010, the department of education shall recalculate the offset described under division (A) of this section for the previous fiscal year and recalculate the payments made under division (C) of this section in the preceding fiscal year using the offset calculated under this division. If the payments calculated under this division differ from the payments made under division (C) of this section in the preceding fiscal year, the difference shall either be paid to a school district or recaptured from a school district through an adjustment at the same times during the current fiscal year that the payments under division (C) of this section are made. In August and October of the current fiscal year, the amount of each adjustment shall be three-sevenths of the amount calculated under this division. In May of the current fiscal year, the adjustment shall be one-seventh of the amount calculated under this division.

(C) The department of education shall pay from the school district tangible property tax replacement fund to each school district and joint vocational school district all of the following for fixed-rate levy losses certified under divisions (G) and (I) of section 5751.20 of the Revised Code:

(1) On or before May 31, 2006, one-seventh of the total fixed-rate levy loss for tax year 2006;

(2) On or before August 31, 2006, and October 31, 2006, one-half of six-sevenths of the total fixed-rate levy loss for tax year 2006;

(3) On or before May 31, 2007, one-seventh of the total fixed-rate levy loss for tax year 2007;

(4) On or before August 31, 2007, and October 31, 2007, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss for tax year 2007 and the total fixed-rate levy loss for tax year 2006.

(5) On or before May 31, 2008, fourteen per cent of the amount

determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2008 and the total fixed-rate levy loss for tax year 2006.

(6) On or before August 31, 2008, and October 31, 2008, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2008 and the total fixed-rate levy loss in tax year 2007.

(7) On or before May 31, 2009, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2009 and the total fixed-rate levy loss for tax year 2007.

(8) On or before August 31, 2009, and October 31, 2009, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2009 and the total fixed-rate levy loss in tax year 2008.

(9) On or before May 31, 2010, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss in tax year 2010 and the total fixed-rate levy loss in tax year 2008.

(10) On or before August 31, 2010, and October 31, 2010, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2010 and the telephone property fixed-rate levy loss for tax year 2009.

(11) On or before May 31, 2011, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2009.

(12) ~~On or before August 31, 2011, and October 31, 2011, forty-three per cent of the amount determined under division (A)(2) of this section, but not less than zero, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2010.~~

~~(13) On or before May 31, 2012, fourteen per cent of the amount~~

~~determined under division (A)(2) of this section for fiscal year 2012, but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2010.~~

~~(14) On or before August 31, 2012, October 31, 2012, and May 31, 2013, the amount determined under division (A)(2) of this section but not less than zero, multiplied by one-third.~~

~~(15) On or before August 31, 2013, October 31, 2013, and May 31, 2014, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is nine and the denominator of which is seventeen, but not less than zero, multiplied by one-third.~~

~~(16) On or before August 31, 2014, October 31, 2014, and May 31, 2015, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is seven and the denominator of which is seventeen, but not less than zero, multiplied by one-third.~~

~~(17) On or before August 31, 2015, October 31, 2015, and May 31, 2016, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is five and the denominator of which is seventeen, but not less than zero, multiplied by one-third.~~

~~(18) On or before August 31, 2016, October 31, 2016, and May 31, 2017, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is three and the denominator of which is seventeen, but not less than zero, multiplied by one-third.~~

~~(19) On or before August 31, 2017, October 31, 2017, and May 31, 2018, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is one and the denominator of which is seventeen, but not less than zero, multiplied by one-third~~ For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(12)(a) or (b) and (c) of this section shall be paid on or before the twentieth day of November and the last day of May:

(a) If the ratio of current expense TPP allocation to total resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of current expense TPP allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of current expense TPP allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of non-current expense TPP allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district and joint

vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under divisions (G) and (I) of section 5751.20 of the Revised Code.

~~Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 does not qualify for any reimbursement after the tax year to which it is last applicable.~~

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (C) of this section.

(E)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (E) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the commissioner made such a determination. ~~The~~ On or before the last day of May of the current year, the department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-third of the fixed-sum levy loss so certified ~~for each year~~, plus one-third of the amount certified under division (I) of section 5751.20 of the Revised Code, and on or before the ~~last~~ twentieth day of ~~May, August, and October of the current year~~ November, two-thirds of the fixed-sum levy loss so certified, plus two-thirds of the amount certified under division (I) of section 5751.20 of the Revised Code. Payments under this division of the amounts certified under division (I) of section 5751.20 of the Revised Code shall continue until the levy adopted under section 5705.219 of the Revised Code expires.

(2) Beginning in 2006, by the first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) Beginning in September 2007 and through June ~~2018~~ 2013, the

director of budget and management shall transfer from the school district tangible property tax replacement fund to the general revenue fund each of the following:

(1) On the first day of September, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(2) On the first day of December, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(3) On the first day of March, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(4) On the first day of June, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section.

If, when a transfer is required under division (F)(1), (2), (3), or (4) of this section, there is not sufficient money in the school district tangible property tax replacement fund to make the transfer in the required amount, the director shall transfer the balance in the fund to the general revenue fund and may make additional transfers on later dates as determined by the director in a total amount that does not exceed one-fourth of the amount determined for the fiscal year.

(G) ~~For each of the fiscal years 2006 through 2018, if~~ If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund. ~~For each fiscal year after 2018, at the time payments under division (E) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the amount necessary to make such payments.~~

(H)~~(1)~~ On the fifteenth day of June ~~of 2006 through 2011~~ of each year, the director of budget and management may transfer any balance in the school district tangible property tax replacement fund to the general revenue fund. ~~At the end of fiscal years 2012 through 2018, any balance in the school district tangible property tax replacement fund shall remain in the fund to be used in future fiscal years for school purposes.~~

~~(2) In each fiscal year beginning with fiscal year 2019, all amounts credited to the school district tangible personal property tax replacement fund shall be appropriated for school purposes.~~

(I) If all of the territory of a school district or joint vocational school district is merged with another district, or if a part of the territory of a school

district or joint vocational school district is transferred to an existing or newly created district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For a merger of two or more districts, ~~the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses and~~ the fixed-sum levy losses, total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the successor district shall be ~~equal to~~ the sum of ~~the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses and debt levy losses as determined in section 5751.20 of the Revised Code,~~ such items for each of the districts involved in the merger.

(2) If property is transferred from one district to a previously existing district, the amount of ~~machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses and fixed-rate levy losses~~ total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation that shall be transferred to the recipient district shall be an amount equal to ~~the total machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses~~ total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the transferor district times a fraction, the numerator of which is the ~~value of business tangible personal property on the land being transferred in the most recent year for which data are available~~ number of pupils being transferred to the recipient district, measured, in the case of a school district, by average daily membership as reported under division (A) of section 3317.03 of the Revised Code or, in the case of a joint vocational school district, by formula ADM as reported in division (D) of that section, and the denominator of which is the ~~total value of business tangible personal property in the district from which the land is being transferred in the most recent year for which data are available. For each of the first five years after the property is transferred, but not after fiscal year 2012, if the tax rate in the recipient district is less than the tax rate of the district from which the land was transferred, one-half of the payments arising from the amount of fixed-rate levy losses so transferred to the recipient district shall be paid to the recipient district and one-half of the payments arising from the fixed-rate levy losses so transferred shall be paid to the district from which the land was transferred. Fixed-rate levy losses so transferred shall be computed on the basis of the sum of the rates of fixed-rate qualifying levies of the district from which the land was~~

~~transferred, notwithstanding division (E) of this section~~ average daily membership or formula ADM of the transferor district.

(3) After December 31, ~~2004~~ 2010, if property is transferred from one or more districts to a district that is newly created out of the transferred property, the newly created district shall be deemed not to have any ~~machinery and equipment, inventory, furniture and fixtures, or telephone property fixed-rate levy losses and the districts from which the property was transferred shall have no reduction in their machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses~~ total resources, current expense TPP allocation, total TPP allocation, or non-current expense TPP allocation.

(4) If the recipient district under division (I)(2) of this section or the newly created district under division (I)(3) of this section is assuming debt from one or more of the districts from which the property was transferred and any of the districts losing the property had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy loss reimbursements.

Sec. 5751.22. (A) Not later than January 1, 2006, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), (3), and (4) of this section as this section existed on that date, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the commissioner determined, pursuant to division (E) of section 5751.20 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in division (A)~~(4)~~(3) of this section, for ~~machinery and equipment, inventory, and furniture and fixtures~~ fixed-rate levy losses determined under division (D) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to ~~each of those losses multiplied by~~ the following:

(a) For tax years 2006 through 2010, one hundred per cent of such losses;

(b) For the payment in tax year 2011~~, a fraction, the numerator of which is fourteen and the denominator of which is seventeen;~~

~~(c) For tax year 2012, a fraction, the numerator of which is eleven and the denominator of which is seventeen;~~

~~(d) For tax year 2013, a fraction, the numerator of which is nine and the denominator of which is seventeen;~~

~~(e) For tax year 2014, a fraction, the numerator of which is seven and the denominator of which is seventeen;~~

~~(f) For tax year 2015, a fraction, the numerator of which is five and the denominator of which is seventeen;~~

~~(g) For tax year 2016, a fraction, the numerator of which is three and the denominator of which is seventeen;~~

~~(h) For tax year 2017, a fraction, the numerator of which is one and the denominator of which is seventeen;~~

~~(i) For tax years 2018 and thereafter, no fixed-rate payments shall be made.~~

~~Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 shall not qualify for any reimbursement after the tax year to which it is last applicable.~~

~~(2) Except as provided in division (A)(4) of this section, for telephone property fixed-rate levy losses determined under division (D)(4) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to each of those losses multiplied by the following:~~

~~(a) For tax years 2009 through 2011, one hundred per cent;~~

~~(b) For tax year 2012, seven-eighths;~~

~~(c) For tax year 2013, six-eighths;~~

~~(d) For tax year 2014, five-eighths;~~

~~(e) For tax year 2015, four-eighths;~~

~~(f) For tax year 2016, three-eighths;~~

~~(g) For tax year 2017, two-eighths;~~

~~(h) For tax year 2018, one-eighth;~~

~~(i) For tax years 2019 and thereafter, no fixed-rate payments shall be made~~ to be made on or before the twentieth day of November, the sum of the amount in division (A)(1)(b)(i) or (ii) and division (A)(1)(b)(iii) of this section:

(i) If the ratio of six-sevenths of the TPP allocation to total resources is equal to or less than the threshold per cent, zero;

(ii) If the ratio of six-sevenths of the TPP allocation to total resources is greater than the threshold per cent, the difference of six-sevenths of the TPP allocation minus the product of total resources multiplied by the threshold per cent;

(iii) In the case of a municipal corporation, six-sevenths of the product of the non-current expense TPP allocation multiplied by seventy-five per cent.

(c) For tax years 2012 and thereafter, the sum of the amount in division (A)(1)(c)(i) or (ii) and division (A)(1)(c)(iii) of this section:

(i) If the ratio of TPP allocation to total resources is equal to or less than the threshold per cent, zero;

(ii) If the ratio of TPP allocation to total resources is greater than the threshold per cent, the TPP allocation minus the product of total resources multiplied by the threshold per cent;

(iii) In the case of a municipal corporation, non-current expense TPP allocation multiplied by fifty per cent for tax year 2012 and twenty-five per cent for tax years 2013 and thereafter.

~~Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2011 shall not qualify for any reimbursement after the tax year to which it is last applicable.~~

~~(3)~~(2) For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 and thereafter until the qualifying levy has expired.

~~(4)~~(3) For taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 2005, payments shall be made based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used for taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 2010, as long as ~~the qualifying levy continues~~ such levies continue to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017. For the purposes of this division, taxes levied pursuant to a municipal charter refer to taxes levied pursuant to a provision of a municipal charter that permits the tax to be levied without prior voter approval.

(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units required to be made under division (A) of this section shall be paid from the local government tangible property tax replacement fund to the county undivided income tax fund in the proper county treasury. ~~Beginning in~~ From May 2006 through November 2010, one-seventh of the amount ~~certified~~ determined under that division shall be paid by the last day of May each year, and three-sevenths shall be paid by

the last day of August and October each year. From May 2011 through November 2013, one-seventh of the amount determined under that division shall be paid on or before the last day of May each year, and six-sevenths shall be paid on or before the twentieth day of November each year, except that in November 2011, the payment shall equal one hundred per cent of the amount calculated for that payment. Beginning in May 2014, one-half of the amount determined under that division shall be paid on or before the last day of May each year, and one-half shall be paid on or before the twentieth day of November each year. Within ~~forty-five~~ forty days after receipt of such payments, the county treasurer shall distribute amounts determined under division (A) of this section to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(D) For each of the fiscal years 2006 through ~~2019~~ 2018, if the total amount in the local government tangible property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government tangible property tax replacement fund the difference between the total amount to be paid and the amount in the local government tangible property tax replacement fund. For each fiscal year after ~~2019~~ 2018, at the time payments under division (A)(2) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the amount necessary to make such payments.

(E) On the fifteenth day of June of each year from 2006 through 2018, the director of budget and management may transfer any balance in the local government tangible property tax replacement fund to the general revenue fund.

(F) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this section to each of the local taxing units in proportion to the ~~tax value loss apportioned to~~ square mileage of the merged or annexed territory as a percentage of the total square mileage of the jurisdiction from which the territory originated, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5751.23. (A) As used in this section:

(1) "Administrative fees" means the dollar percentages allowed by the county auditor for services or by the county treasurer as fees, or paid to the credit of the real estate assessment fund, under divisions (A) and (C) of section 319.54 and division (A) of section 321.26 of the Revised Code.

(2) "Administrative fee loss" means a county's loss of administrative fees due to its tax value loss, determined as follows:

(a) For purposes of the determination made under division (B) of this section in the years 2006 through 2010, the administrative fee loss shall be computed by multiplying the amounts determined for all taxing districts in the county under divisions (D) and (E) of section 5751.20 of the Revised Code by nine thousand six hundred fifty-nine ten-thousandths of one per cent if total taxes collected in the county in 2004 exceeded one hundred fifty million dollars, or one and one thousand one hundred fifty-nine ten-thousandths of one per cent if total taxes collected in the county in 2004 were one hundred fifty million dollars or less;

(b) For purposes of the determination under division (B) of this section in the years after 2010, the administrative fee ~~losses shall be determined by multiplying~~ loss equals fourteen-seventeenths of the administrative fee ~~losses~~ loss calculated for 2010 ~~by the fractions in divisions (A)(1)(b) to (i) of section 5751.22 of the Revised Code~~ multiplied by the following percentages: 100% for 2011, 80% for 2012, 60% for 2013, 40% for 2014, 20% for 2015, and 0% for 2016.

(3) "Total taxes collected" means all money collected on any tax duplicate of the county, other than the estate tax duplicates. "Total taxes collected" does not include amounts received pursuant to divisions (F) and (G) of section 321.24 or section 323.156 of the Revised Code.

(B) Not later than December 31, 2005, the tax commissioner shall certify to each county auditor the tax levy losses calculated under divisions (D) and (E) of section 5751.20 of the Revised Code for each school district, joint vocational school district, and local taxing unit in the county. Not later than the thirty-first day of January of 2006 through ~~2017~~ 2015, the county auditor shall determine the administrative fee loss for the county and apportion that loss ratably among the school districts, joint vocational school districts, and local taxing units on the basis of the tax levy losses certified under this division.

(C) On or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2006 through ~~2017~~ 2015, the county treasurer shall deduct one-half of the amount apportioned to each school district, joint vocational school district,

and local taxing unit from the portions of revenue payable to them.

(D) On or before each of the days prescribed for settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2006 through ~~2017~~ 2015, the county auditor shall cause to be deposited an amount equal to one-half of the amount of the administrative fee loss in the same funds as if allowed as administrative fees.

Sec. 5751.50. (A) For tax periods beginning on or after January 1, 2008, a refundable credit granted by the tax credit authority under section 122.17 or division (B)(2) or (3) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax period. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due for a tax period beginning before July 1, 2008. The refundable credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code.

(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. The credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, except to the extent the credit was not applied against such tax.

Sec. 5919.34. (A) As used in this section:

(1) "Academic term" means any one of the following:

(a) Fall term, which consists of fall semester or fall quarter, as appropriate;

(b) Winter term, which consists of winter semester, winter quarter, or spring semester, as appropriate;

(c) Spring term, which consists of spring quarter;

(d) Summer term, which consists of summer semester or summer

quarter, as appropriate.

(2) "Eligible applicant" means any individual to whom all of the following apply:

(a) The individual does not possess a baccalaureate degree.

(b) The individual has enlisted, re-enlisted, or extended current enlistment in the Ohio national guard or is an individual to which division (F) of this section applies.

(c) The individual is actively enrolled as a full-time or part-time student for at least three credit hours of course work in a semester or quarter in a two-year or four-year degree-granting program at ~~an~~ a state institution of higher education or a private institution of higher education, or in a diploma-granting program at ~~an~~ a state or private institution of higher education that is a school of nursing.

(d) The individual has not accumulated ninety-six eligibility units under division (E) of this section.

(3) "~~Institution~~ State institution of higher education" means any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college established under Chapter 3354. of the Revised Code, state community college established under Chapter 3358. of the Revised Code, university branch established under Chapter 3355. of the Revised Code, or technical college established under Chapter 3357. of the Revised Code.

(4) "Private institution of higher education" means an Ohio institution of higher education ~~that is state-assisted,~~ that is nonprofit and has received a certificate of authorization pursuant to Chapter 1713. of the Revised Code, that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or that holds a certificate of registration and program authorization issued by the state board of career colleges and schools pursuant to section 3332.05 of the Revised Code.

~~(4) "State university" has the same meaning as in section 3345.011 of the Revised Code.~~

(5) "Tuition" means the charges imposed to attend an institution of higher education and includes general and instructional fees. "Tuition" does not include laboratory fees, room and board, or other similar fees and charges.

(B) There is hereby created a scholarship program to be known as the Ohio national guard scholarship program.

(C) ~~If the adjutant general estimates that appropriations and any funds in the Ohio national guard scholarship reserve fund are insufficient to pay for~~

~~all scholarships applied for under this section and likely to be used during an academic term, the adjutant general shall promptly inform all applicants not receiving scholarships for that academic term of the next academic term that appropriations will be adequate for the scholarships. Any such eligible applicant may again apply for a scholarship beginning that academic term if the applicant is in compliance with all requirements established by this section and the adjutant general for the program.~~ The adjutant general shall approve scholarships for all eligible applicants. The adjutant general shall process all applications for scholarships for each academic term in the order in which they are received. The scholarships shall be made without regard to financial need. At no time shall one person be placed in priority over another because of sex, race, or religion.

(D)(1) Except as provided in ~~division~~ divisions (I) and (J) of this section, for each academic term that an eligible applicant is approved for a scholarship under this section and either remains a current member in good standing of the Ohio national guard or is eligible for a scholarship under division (F)(1) of this section, the institution of higher education in which the applicant is enrolled shall, if the applicant's enlistment obligation extends beyond the end of that academic term or if division (F)(1) of this section applies, be paid on the applicant's behalf the applicable one of the following amounts:

(a) If the institution is ~~state-assisted~~ a state institution of higher education, an amount equal to one hundred per cent of the institution's tuition charges;

(b) If the institution is a nonprofit private institution or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, an amount equal to one hundred per cent of the average tuition charges of all state universities;

(c) If the institution is an institution that holds a certificate of registration from the state board of career colleges and schools, the lesser of the following:

(i) An amount equal to one hundred per cent of the ~~total instructional and general charges of the institution~~ institution's tuition;

(ii) An amount equal to one hundred per cent of the average tuition charges of all state universities, as that term is defined in section 3345.011 of the Revised Code.

(2) An eligible applicant's scholarship shall not be reduced by the amount of that applicant's benefits under "the Montgomery G.I. Bill Act of 1984," Pub. L. No. 98-525, 98 Stat. 2553 (1984).

~~(3) An eligible non-prior service applicant's scholarship shall be reduced~~

~~by the amount of the applicant's tuition benefits under "The Post-9/11 Veterans Educational Assistance Act of 2008," 110 Pub. L. No. 252, 122 Stat. 2323 (2008). An eligible prior service applicant's scholarship shall be reduced by the amount of the applicant's tuition benefits under "The Post-9/11 Veterans Educational Assistance Act of 2008" unless the applicant qualified for one hundred per cent tuition under that act and transfers the federal benefits under that act's portability provisions.~~

(E) A scholarship recipient under this section shall be entitled to receive scholarships under this section for the number of quarters or semesters it takes the recipient to accumulate ninety-six eligibility units as determined under divisions (E)(1) to (3) of this section.

(1) To determine the maximum number of semesters or quarters for which a recipient is entitled to a scholarship under this section, the adjutant general shall convert a recipient's credit hours of enrollment for each academic term into eligibility units in accordance with the following table:

Number of credit hours of enrollment in an academic term	equals	The following number of eligibility units if a semester	or	The following number of eligibility units if a quarter
12 or more hours		12 units		8 units
9 but less than 12		9 units		6 units
6 but less than 9		6 units		4 units
3 but less than 6		3 units		2 units

(2) A scholarship recipient under this section may continue to apply for scholarships under this section until the recipient has accumulated ninety-six eligibility units.

(3) If a scholarship recipient withdraws from courses prior to the end of an academic term so that the recipient's enrollment for that academic term is less than three credit hours, no scholarship shall be paid on behalf of that person for that academic term. Except as provided in division (F)(3) of this section, if a scholarship has already been paid on behalf of the person for that academic term, the adjutant general shall add to that person's accumulated eligibility units the number of eligibility units for which the scholarship was paid.

(F) This division applies to any eligible applicant called into active duty on or after September 11, 2001. As used in this division, "active duty" means active duty pursuant to an executive order of the president of the

United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(1) For a period of up to five years from when an individual's enlistment obligation in the Ohio national guard ends, an individual to whom this division applies is eligible for scholarships under this section for those academic terms that were missed or could have been missed as a result of the individual's call into active duty. Scholarships shall not be paid for the academic term in which an eligible applicant's enlistment obligation ends unless an applicant is eligible under this division for a scholarship for such academic term due to previous active duty.

(2) When an individual to whom this division applies withdraws or otherwise fails to complete courses, for which scholarships have been awarded under this section, because the individual was called into active duty, the institution of higher education shall grant the individual a leave of absence from the individual's education program and shall not impose any academic penalty for such withdrawal or failure to complete courses. Division (F)(2) of this section applies regardless of whether or not the scholarship amount was paid to the institution of higher education.

(3) If an individual to whom this division applies withdraws or otherwise fails to complete courses because the individual was called into active duty, and if scholarships for those courses have already been paid, either:

(a) The adjutant general shall not add to that person's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid and the institution of higher education shall repay the scholarship amount to the state.

(b) The adjutant general shall add to that individual's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid if the institution of higher education agrees to permit the individual to complete the remainder of the academic courses in which the individual was enrolled at the time the individual was called into active duty.

(4) No individual who is discharged from the Ohio national guard under other than honorable conditions shall be eligible for scholarships under this division.

(G) A scholarship recipient under this section who fails to complete the term of enlistment, re-enlistment, or extension of current enlistment the recipient was serving at the time a scholarship was paid on behalf of the recipient under this section is liable to the state for repayment of a

percentage of all Ohio national guard scholarships paid on behalf of the recipient under this section, plus interest at the rate of ten per cent per annum calculated from the dates the scholarships were paid. This percentage shall equal the percentage of the current term of enlistment, re-enlistment, or extension of enlistment a recipient has not completed as of the date the recipient is discharged from the Ohio national guard.

The attorney general may commence a civil action on behalf of the ~~adjutant general~~ chancellor of the Ohio board of regents to recover the amount of the scholarships and the interest provided for in this division and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. A scholarship recipient is not liable under this division if the recipient's failure to complete the term of enlistment being served at the time a scholarship was paid on behalf of the recipient under this section is due to the recipient's death~~;~~ or discharge from the national guard due to disability~~; or the recipient's enlistment, for a term not less than the recipient's remaining term in the national guard, in the active component of the United States armed forces or the active reserve component of the United States armed forces~~.

(H) On or before the first day of each academic term, the adjutant general shall provide an eligibility roster to the chancellor and to each institution of higher education at which one or more scholarship recipients have applied for enrollment. The institution shall use the roster to certify the actual full-time or part-time enrollment of each scholarship recipient listed as enrolled at the institution and return the roster to the adjutant general and the chancellor. ~~The adjutant general shall report to the chancellor of the Ohio board of regents the number of students in the Ohio national guard scholarship program at each institution of higher education. The~~ Except as provided in division (J) of this section, the chancellor shall provide for payment of the appropriate number and amount of scholarships to each institution of higher education pursuant to division (D) of this section. If an institution of higher education fails to certify the actual enrollment of a scholarship recipient listed as enrolled at the institution within thirty days of the end of an academic term, the institution shall not be eligible to receive payment from the Ohio national guard scholarship program or from the individual enrollee. The adjutant general shall report on a ~~quarterly~~ semi-annual basis to the director of budget and management, the speaker of the house of representatives, ~~and~~ the president of the senate, and the chancellor the number of Ohio national guard scholarship recipients, the size of the scholarship-eligible population, and a projection of the cost of the program for the remainder of the biennium.

(I) The chancellor and the adjutant general may adopt rules pursuant to Chapter 119. of the Revised Code governing the administration and fiscal management of the Ohio national guard scholarship program and the procedure by which the chancellor and the department of the adjutant general may modify the amount of scholarships a member receives based on the amount of other state financial aid a member receives.

(J) The adjutant general, the chancellor, and the director, or their designees, shall jointly estimate the costs of the Ohio national guard scholarship program for each upcoming fiscal biennium, and shall report that estimate prior to the beginning of the fiscal biennium to the chairpersons of the finance committees in the general assembly. During each fiscal year of the biennium, the adjutant general, the chancellor, and the director, or their designees, shall meet regularly to monitor the actual costs of the Ohio national guard scholarship program and update cost projections for the remainder of the biennium as necessary. If the amounts appropriated for the Ohio national guard scholarship program and any funds in the Ohio national guard scholarship reserve fund are not adequate to provide scholarships in the amounts specified in division (D)(1) of this section for all eligible applicants, the chancellor shall do all of the following:

(1) Notify each private institution of higher education, where a scholarship recipient is enrolled, that, by accepting the Ohio national guard scholarship program as payment for all or part of the institution's tuition, the institution agrees that if the chancellor reduces the amount of each scholarship, the institution shall provide each scholarship recipient a grant or tuition waiver in an amount equal to the amount the recipient's scholarship was reduced by the chancellor.

(2) Reduce the amount of each scholarship under division (D)(1)(a) of this section proportionally based on the amount of remaining available funds. Each state institution of higher education shall provide each scholarship recipient under division (D)(1)(a) of this section a grant or tuition waiver in an amount equal to the amount the recipient's scholarship was reduced by the chancellor.

(K) Notwithstanding division (A) of section 127.14 of the Revised Code, the controlling board shall not transfer all or part of any appropriation for the Ohio national guard scholarship program.

Sec. 5919.341. There is hereby created in the state treasury the national guard scholarship reserve fund. Not later than the first day of July of each fiscal year, the chancellor of the Ohio board of regents shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding

fiscal year for purposes of the Ohio national guard scholarship program created under division (B) of section 5919.34 of the Revised Code. Upon receipt of the certification, the director may transfer an amount not exceeding the certified amount from the general revenue fund to the national guard scholarship reserve fund. Moneys in the national guard scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose. Upon request of the ~~adjutant general~~ chancellor, the ~~Ohio board of regents shall~~ director may seek controlling board approval to establish appropriations as necessary.

The director may transfer any unencumbered balance from the national guard scholarship reserve fund to the general revenue fund.

Sec. 6101.16. When it is determined to let the work relating to the improvements for which a conservancy district was established by contract, contracts in amounts to exceed twenty-five thousand dollars shall be advertised after notice calling for bids has been published once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, with the last publication to occur at least eight days prior to the date on which bids will be accepted, in a newspaper of general circulation within the conservancy district where the work is to be done. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board of directors of the conservancy district may let the contract to the lowest responsive and most responsible bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a conservancy district was established, the board of directors of the district may let the contract to the lowest responsive and most responsible bidder who gives a good and approved bond, with ample security, conditioned on the carrying out of the contract. The contract shall be in writing and shall be accompanied by or refer to plans and specifications for the work to be done prepared by the chief engineer. The plans and specifications shall at all times be made and considered a part of the contract. The contract shall be approved by the board and signed by the president of the board and by the contractor and shall be executed in duplicate. In case of sudden emergency when it is necessary in order to protect the district, the advertising of contracts may be waived upon the consent of the board, with the approval of the court or a judge of the court of common pleas of the county in which the office of the district is located.

Sec. 6103.04. (A) Whenever any portion of a county sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed shall remain under the jurisdiction of the board of

county commissioners for purposes of the acquisition and construction of water supply improvements until all of the improvements for the area for which a resolution described in division (A) or (E) of section 6103.05 of the Revised Code has been adopted by the board have been acquired or completed or until the board has abandoned the improvements. The board, unless and until a conveyance is made to a municipal corporation in accordance with division (B) of this section, shall continue to have jurisdiction in the area so incorporated or annexed with respect to the management, maintenance, and operation of all water supply improvements so acquired or completed, or previously acquired or completed, including the right to establish rules and rates and charges for the use of, and connections to, the improvements. The incorporation or annexation of any part of a district shall not affect the legality or enforceability of any public obligations issued or incurred by the county for purposes of this chapter to provide for the payment of the cost of acquisition, construction, maintenance, or operation of any water supply improvements within the area, or the validity of any assessments levied or to be levied upon properties within the area to provide for the payment of the cost of acquisition, construction, maintenance, or operation of the improvements.

(B) ~~Any~~ A board may convey, by mutual agreement, to a municipal corporation any completed water supply facilities acquired or constructed by a county under this chapter for the use of, or service of property located in, any county sewer district, or any part of those facilities~~, that~~ to which any of the following applies:

(1) The facilities are located within ~~a~~ the municipal corporation or within any area that is incorporated as, or annexed to, ~~a~~ the municipal corporation~~, or any part of the~~.

(2) The facilities ~~that~~ provide water for ~~a~~ the municipal corporation or ~~such an area, may be conveyed, by mutual agreement between the board and the municipal corporation, to~~ any area that is located within or that is incorporated as, or annexed to, the municipal corporation ~~on~~.

(3) The facilities are connected to water supply facilities of the municipal corporation.

The conveyance shall be completed with terms and for consideration as may be negotiated. Upon and after the conveyance, the municipal corporation shall manage, maintain, and operate the facilities in accordance with the agreement. The board may retain the right to joint use of all or part of any facilities so conveyed for the benefit of the district. Neither the validity of any assessment levied or to be levied, nor the legality or enforceability of any public obligations issued or incurred, to provide for the

payment of the cost of the acquisition, construction, maintenance, or operation of the facilities or any part of them shall be affected by the conveyance.

Sec. 6103.05. (A) After the establishment of any county sewer district, the board of county commissioners, if a water supply improvement is to be undertaken, may have the county sanitary engineer prepare, or otherwise cause to be prepared, for the district, or revise as needed, a general plan of water supply that is as complete as can be developed at the time. After the general plan, in original or revised form, has been approved by the board, it may adopt a resolution generally describing the water supply improvement that is necessary to be acquired or constructed in accordance with the plan, declaring that the improvement is necessary for the preservation and promotion of the public health and welfare, and determining whether or not special assessments are to be levied and collected to pay any part of the cost of the improvement.

(B) If special assessments are not to be levied and collected to pay any part of the cost of the improvement, the board, in the resolution provided for in division (A) of this section or in a subsequent resolution, including a resolution authorizing the issuance or incurrence of public obligations for the improvement, may authorize the improvement and the expenditure of the funds required for its acquisition or construction and may proceed with the improvement without regard to the procedures otherwise required by divisions (C), (D), and (E) of this section and by sections 6103.06, 6103.07, and 6117.09 to 6117.24 of the Revised Code. Those procedures shall be required only for improvements for which special assessments are to be levied and collected.

(C) If special assessments are to be levied and collected pursuant to a determination made in the resolution provided for in division (A) of this section or in a subsequent resolution, the procedures referred to in division (B) of this section as being required for that purpose shall apply, and the board may have the county sanitary engineer prepare, or otherwise cause to be prepared, detailed plans, specifications, and an estimate of cost for the improvement, together with a tentative assessment of the cost based on the estimate. The tentative assessment shall be for the information of property owners and shall not be levied or certified to the county auditor for collection. The detailed plans, specifications, estimate of cost, and tentative assessment, if approved by the board, shall be carefully preserved in the office of the board or the county sanitary engineer and shall be open to the inspection of all persons interested in the improvement.

(D) After the board's approval of the detailed plans, specifications,

estimate of cost, and tentative assessment, and at least twenty-four days before adopting a resolution pursuant to division (E) of this section, the board, except to the extent that appropriate waivers of notice are obtained from affected owners, shall cause to be sent a notice of its intent to adopt a resolution to each owner of property proposed to be assessed that is listed on the records of the county auditor for current agricultural use value taxation pursuant to section 5713.31 of the Revised Code and that is not located in an agricultural district established under section 929.02 of the Revised Code. The notice shall satisfy all of the following:

(1) Be sent by first class or certified mail;

(2) Specify the proposed date of the adoption of the resolution;

(3) Contain a statement that the improvement will be financed in whole or in part by special assessments and that all properties not located in an agricultural district established pursuant to section 929.02 of the Revised Code may be subject to a special assessment;

(4) Contain a statement that an agricultural district may be established by filing an application with the county auditor.

If it appears, by the return of the mailed notices or by other means, that one or more of the affected owners cannot be found or are not served by the mailed notice, the board shall cause the notice to be published once in a newspaper of general circulation in the county not later than ten days before the adoption of the resolution.

(E) After complying with divisions (A), (C), and (D) of this section, the board may adopt a resolution declaring that the improvement, which shall be described as to its nature and its location, route, and termini, is necessary for the preservation and promotion of the public health and welfare, referring to the plans, specifications, estimate of cost, and tentative assessment, stating the place where they are on file and may be examined, and providing that the entire cost or a lesser designated part of the cost will be specially assessed against the benefited properties within the district and that any balance will be paid by the county at large from other available funds. The resolution also shall contain a description of the boundaries of that part of the district to be assessed and shall designate a time and place for objections to the improvement, to the tentative assessment, or to the boundaries of the assessment district to be heard by the board. The date of that hearing shall be not less than twenty-four days after the date of the first publication of the notice of the hearing required by this division.

The board shall cause a notice of the hearing to be published once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, and on or before

the date of the second publication, it shall cause to be sent by first class or certified mail a copy of the notice to every owner of property to be assessed for the improvement whose address is known.

The notice shall set forth the time and place of the hearing, a summary description of the proposed improvement, including its general route and termini, a summary description of the area constituting the assessment district, and the place where the plans, specifications, estimate of cost, and tentative assessment are on file and may be examined. Each mailed notice also shall include a statement that the property of the addressee will be assessed for the improvement. The notice also shall be sent by first class or certified mail, on or before the date of the second publication, to the clerk, or the official discharging the duties of a clerk, of any municipal corporation any part of which lies within the assessment district and shall state whether or not any property belonging to the municipal corporation is to be assessed and, if so, shall identify that property.

At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all parties whose properties are proposed to be assessed. Written objections to or endorsements of the proposed improvement, its character and termini, the boundaries of the assessment district, or the tentative assessment shall be received by the board for a period of five days after the completion of the hearing, and no action shall be taken by the board in the matter until after that period has elapsed. The minutes of the hearing shall be entered on the journal of the board showing the persons who appear in person or by attorney, and all written objections shall be preserved and filed in the office of the board.

Sec. 6103.06. After the expiration of the period of five days provided in section 6103.05 of the Revised Code for the filing of written objections, the board of county commissioners shall determine whether it will proceed with the construction of the proposed improvement. If it decides to proceed therewith, the board shall ratify or amend the plans for the improvement, the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, and may cause such revision of plans, boundaries, or assessments as is necessary to be made by the county sanitary engineer. If the boundaries of the assessment district are amended so as to include any property not included within the boundaries as established by the resolution of necessity, provided for in section 6103.05 of the Revised Code, the owners of all such property shall be notified by mail if their addresses are known, and notice shall be published once a week for two consecutive weeks in a newspaper of general circulation within the county or as

provided in section 7.16 of the Revised Code, that such amendments have been adopted and that a hearing will be given by the board at a time and place stated in such notice at which all persons interested will be heard by the board. The date of such hearing shall be not less than twenty-four days after the first publication of such notice, and the hearing shall be conducted and records kept in the same manner as the first hearing. Five days shall be allowed for the filing of written objections as provided in section 6103.05 of the Revised Code for the first hearing and after the expiration of such five day period the board shall ratify the plans for the improvement, the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, or shall further amend the same. If the boundaries of the assessment district are amended so as to include any property not included in the assessment district as originally established or previously amended, further notice and hearing shall be given to the owners of such property in the same manner as for the first amendment of such boundaries, and the same procedure shall be repeated until all property owners affected have been given an opportunity to be heard. If the owners of all property added to an assessment district by amendment of the original boundaries thereof waive objection to such amendment in writing, no further notice or hearing shall be given. After the board has ratified the plans for the improvement, the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, either as originally presented or as amended, and if it decides to proceed therewith, the board shall adopt a resolution, to be known as the improvement resolution. Said improvement resolution shall declare the determination of such board to proceed with the construction of the improvement provided for in the resolution of necessity, in accordance with the plans and specification provided for such improvement, as ratified or amended, and whether bonds or certificates of indebtedness shall be issued in anticipation of the collection of special assessments, or that money in the county treasury unappropriated for any other purpose shall be appropriated to pay for said improvement.

Sec. 6103.081. (A) After the establishment of any county sewer district, the board of county commissioners may determine by resolution that it is necessary to provide water supply improvements and to maintain and operate the improvements within the district or a designated portion of the district, that the improvements, which shall be generally described in the resolution, shall be constructed, that funds are required to pay the preliminary costs of the improvements to be incurred prior to the commencement of the proceedings for their construction, and that those

funds shall be provided in accordance with this section.

(B) Prior to the adoption of the resolution, the board shall give notice of its pendency and of the proposed determination of the necessity of the improvements generally described in the resolution. The notice shall set forth a description of the properties to be benefited by the improvements and the time and place of a hearing of objections to and endorsements of the improvements. The notice shall be given either by publication in a newspaper of general circulation in the county once a week for two consecutive weeks, by publication as provided in section 7.16 of the Revised Code, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by ~~both~~ a combination of these manners, the first publication to be made or the mailing to occur at least two weeks prior to the date set for the hearing. At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed and the evidence it considers to be necessary. The board then shall determine the necessity of the proposed improvements and whether the improvements shall be made by the board and, if they are to be made, shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.

(C) In order to obtain funds for the preparation of a general or revised general plan of water supply for the district or part of the district, for the preparation of the detailed plans, specifications, estimate of cost, and tentative assessment for the proposed improvements, and for the cost of financing and legal services incident to the preparation of all of those plans and a plan of financing the proposed improvements, the board may levy upon the properties to be benefited in the district a preliminary assessment apportioned according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine. The assessments shall be in the amount determined to be necessary to obtain funds for the general and detailed plans and the cost of financing and legal services and shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the assessments.

(D) The board shall have power at any time to levy additional assessments according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine for the purposes described in division (C) of this section upon the benefited

properties to complete the payment of the costs described in division (C) of this section or to pay the cost of any additional plans, specifications, estimate of cost, or tentative assessment and the cost of financing and legal services incident to the preparation of those plans and the plan of financing, which additional assessments shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the additional assessments.

(E) Prior to the adoption of a resolution levying assessments under this section, the board shall give notice either by one publication in a newspaper of general circulation in the county, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by both manners, the publication to be made or the mailing to occur at least ten days prior to the date of the meeting at which the resolution shall be taken up for consideration; that notice shall state the time and place of the meeting at which the resolution is to be considered. At the time and place of the meeting, or at any adjournment of the meeting, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions that appear to be necessary or just, and then may adopt a resolution levying upon the properties determined to be benefited the assessments as so corrected and revised.

The assessments levied by the resolution shall be certified to the county auditor for collection in the same manner as taxes in the year or years in which they are payable.

(F) Upon the adoption of the resolution described in division (E) of this section, no further action shall be taken or work done until ten days have elapsed. If, at the expiration of that period, no appeal has been effected by any property owner as provided in this division, the action of the board shall be final. If, at the end of that ten days, any owner of property to be assessed for the improvements has effected an appeal, no further action shall be taken and no work done in connection with the improvements under the resolution until the matters appealed from have been disposed of in court.

Any owner of property to be assessed may appeal as provided and upon the grounds stated in sections 6117.09 to 6117.24 of the Revised Code.

If no appeal has been perfected or if on appeal the resolution of the board is sustained, the board may authorize and enter into contracts to carry out the purpose for which the assessments have been levied without the prior issuance of notes, provided that the payments under those contracts do

not fall due prior to the time by which the assessments are to be collected. The board may issue and sell bonds with a maximum maturity of twenty years in anticipation of the collection of the assessments and may issue notes in anticipation of the issuance of the bonds, which notes and bonds, as public obligations, shall be issued and sold as provided in Chapter 133. of the Revised Code.

Sec. 6103.31. (A) If the board of county commissioners determines by resolution that the best interests of the county and the users of water supply facilities of the county serving a sewer district so require, the board may sell or otherwise dispose of the facilities to another public agency or a person. The resolution declaring the necessity of that disposition shall recite the reasons for the sale or other disposition and shall establish any conditions or terms that the board may impose, including, but not limited to, a minimum sales price if a sale is proposed, a requirement for the submission by bidders of the schedule of water rates and charges initially proposed to be paid by the users of the facilities, and other pertinent conditions or terms relating to the sale or other disposition. The resolution also shall designate a time and place for the hearing of objections to the sale or other disposition by the board. Notice of the adoption of the resolution and the time and place of the hearing shall be published as provided in section 7.16 of the Revised Code, or once a week for two consecutive weeks, in a newspaper of general circulation in the sewer district and in the county. The public hearing on the sale or other disposition shall be held not less than twenty-four days following the date of first publication of the notice. A copy of the notice also shall be sent by first class or certified mail, on or before the date of the second publication, to any public agency within the area served by the facilities. At the public hearing, or at any adjournment of it, of which no further published or mailed notice need be given, the board shall hear all interested parties. A period of five days shall be given following the completion of the hearing for the filing of written objections by any interested persons or public agencies to the sale or other disposition, after which the board shall consider any objections and by resolution determine whether or not to proceed with the sale or other disposition. If the board determines to proceed with the sale or other disposition, it shall receive bids after advertising once a week for four consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code and, subject to the right of the board to reject any or all bids, may make an award to a responsible bidder whose proposal is determined by the board to be in the best interests of the county and the users of the facilities.

(B) A conveyance of water supply facilities by a county to a municipal corporation, in accordance with division (B) of section 6103.04 of the Revised Code, may be made without regard to division (A) of this section.

Sec. 6105.131. The board of directors of a watershed district may designate a specific reach in the channel of any watercourse within the territorial boundaries of the district as a restricted channel, when the construction or alteration of structures or obstructions within such channel will restrict its capacity so as to constitute an unreasonable hazard to the safety of life and property in times of flood, or designate any area outside the banks of a restricted channel as a restricted floodway when such area is reasonably necessary to the efficiency of a restricted channel as a means of carrying off flood waters. Such designation of a restricted channel or restricted floodway shall be made in the following manner:

(A) The board shall adopt a resolution stating its intent to designate a specific reach in a channel of a watercourse as a restricted channel or a specific area as a restricted floodway. Such resolution shall contain a description of the reach of the channel to be designated as a restricted channel or description of the area to be designated as a restricted floodway and the reasons of the board for making such designation.

(B) The board shall cause such resolution to be published as provided in section 7.16 of the Revised Code or once a week for two consecutive weeks in a newspaper of general circulation in the county or counties in which such restricted channel or restricted floodway is located, together with a notice of the time and place where a hearing will be held by the board on the question of designating such channel as a restricted channel or such area as a restricted floodway ~~and~~. The board also shall give not less than ten days notice of said hearing by first class mail to all owners of property within the area proposed to be designated as a restricted floodway. The date of such hearing shall be not less than ten days after the completion of the publication provided for by this division.

(C) The board shall hold a hearing at the time and place designated in the notice published under division (B) of this section at which time indorsements of and objections to the designation of such channel as a restricted channel or such area as a restricted floodway shall be heard.

(D) The board may, after the completion of the hearing under division (C) of this section and after finding that the construction or alteration of structures or obstructions or relocation, alteration, restriction, deposit, or encroachment within the designated reach of such channel will restrict its capacity so as to constitute an unreasonable hazard to the safety of life and property in times of flood, adopt a resolution designating the reach of the

channel described in the resolution of intent adopted under division (A) of this section or any modification thereof as a restricted channel.

(E) In like manner the board may, after completion of a hearing under division (C) of this section and after finding that the construction or alteration of structures or obstructions or change of grade within a designated floodway area will restrict its capacity or efficiency as a means of carrying off flood water so as to constitute an unreasonable hazard to the safety of life and property in times of flood, adopt a resolution designating the area described in the resolution of intent adopted under division (A) of this section, or any modification thereof, as a restricted floodway.

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) of this section, on and after January 1, 1994, no person shall operate or maintain a public water system in this state without a license issued by the director of environmental protection. A person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

(1) If the public water system is a community water system, not later than January 31, 1994;

(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;

(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.

A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.

A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through June 30, ~~2012~~ 2014, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an initial license who is proposing to operate or maintain a new

public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed application and the appropriate license fee for an initial license under division (A) of this section, the director shall issue the license for the public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:

(1) Issue the license renewal for the public water system;

(2) Issue the license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;

(3) Deny the license renewal if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license renewal issued under this section if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such suspensions and revocations.

(D)(1) As used in division (D) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

(F) The environmental protection agency shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 6111.038. There is hereby created in the state treasury the surface water protection fund, consisting of moneys distributed to it. The director of environmental protection shall use moneys in the fund solely for administration and implementation of surface water protection programs, including at least programs required under the "Federal Water Pollution Control Act" and programs necessary to carry out the purposes of this chapter. Those programs shall include at least the development of water quality standards; the development of wasteload allocations; the establishment of water quality-based effluent limits; the monitoring and analysis of chemical, physical, and biological surface water quality; the issuance, modification, and renewal of NPDES permits and permits to install; the ensurance of compliance with permit conditions; the management and oversight of pretreatment programs; the provision of technical assistance to publicly owned treatment works; and the administration of the water pollution control loan fund created in section 6111.036 of the Revised Code.

~~Moneys in the fund shall not be used to meet any state matching requirements that are necessary to obtain federal grants.~~

Sec. 6111.044. Upon receipt of an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit, the director of environmental protection shall determine whether the application is complete and demonstrates that the activities for which the permit, renewal permit, or modification is requested will comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it. If the application demonstrates that the proposed activities will not comply or will pose an unreasonable risk of inducing seismic activity, inducing geologic fracturing, or contamination of an underground source of drinking water, the director shall deny the application. If the application does not make the required demonstrations, the director shall return it to the applicant with an indication of those matters about which a required demonstration was not made. If the director determines that the application makes the required demonstrations, the director shall transmit copies of the application and all of the accompanying maps, data, samples, and information to the chief of the division of ~~mineral~~ oil and gas resources management, the chief of the division of geological survey, ~~and~~ the chief of the division of soil and water resources, and, if the well is or is to be located in a coal bearing

township designated under section 1561.06 of the Revised Code, the chief of the division of mineral resources management in the department of natural resources.

The chief of the division of geological survey shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk of loss or damage to valuable mineral resources. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the geological factors upon which the comments are based, including fractures, faults, earthquake potential, and the porosity and permeability of the injection zone and confining zone, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation of geologic factors and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of ~~mineral~~ oil and gas resources management shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk that waste or contamination of recoverable oil or gas in the earth will occur. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the oil or gas reserves that, in the best professional judgment of the chief, are recoverable and will be adversely affected by the proposed well or injection, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of soil and water resources shall assist the director in determining whether all underground sources of drinking water in the area of review of the proposed well or injection have been identified and correctly delineated in the application. If the application fails to identify or correctly delineate an underground source of drinking water, the chief shall provide written notice of that fact to the director.

The chief of the division of mineral resources management ~~also~~ shall review the application as follows:

If the application concerns the drilling or conversion of a well or the

injection into a well that is not or is not to be located within five thousand feet of the excavation and workings of a mine, the chief of the division of mineral resources management shall note upon the application that it has been examined by the division of mineral resources management, retain a copy of the application and map, and immediately return a copy of the application to the director.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet, but more than five hundred feet from the surface excavations and workings of a mine, the chief of the division of mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. The chief of the division of mineral resources management shall note on the application that the notice has been sent to the owner or lessee of the mine, retain a copy of the application and map, and immediately return a copy of the application to the director with the chief's notation on it.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet of the underground excavations and workings of a mine or within five hundred feet of the surface excavations and workings of a mine, the chief of the division of mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. If the owner or lessee objects to the application, the owner or lessee shall notify the chief of the division of mineral resources management of the objection, giving the reasons, within six days after the receipt of the notice. If the chief of the division of mineral resources management receives no objections from the owner or lessee of the mine within ten days after the receipt of the notice by the owner or lessee, or if in the opinion of the chief of the division of mineral resources management the objections offered by the owner or lessee are not sufficiently well founded, the chief shall retain a copy of the application and map and return a copy of the application to the director with any applicable notes concerning it.

If the chief of the division of mineral resources management receives an objection from the owner or lessee of the mine as to the application, within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is well founded, the chief shall disapprove the application and immediately return it to the director together with the

chief's reasons for the disapproval. The director promptly shall notify the applicant for the permit, renewal permit, or modification of the disapproval. The applicant may appeal the disapproval of the application by the chief of the division of mineral resources management to the reclamation commission created under section 1513.05 of the Revised Code, and the commission shall hear the appeal in accordance with section 1513.13 of the Revised Code. The appeal shall be filed within thirty days from the date the applicant receives notice of the disapproval. No comments concerning or disapproval of an application shall be delayed by the chief of the division of mineral resources management for more than fifteen days from the date of sending of notice to the mine owner or lessee as required by this section.

The director shall not approve an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit for a well that is or is to be located within three hundred feet of any opening of any mine used as a means of ingress, egress, or ventilation for persons employed in the mine, nor within one hundred feet of any building or flammable structure connected with the mine and actually used as a part of the operating equipment of the mine, unless the chief of the division of mineral resources management determines that life or property will not be endangered by drilling and operating the well in that location.

Upon review by the chief of the division of ~~mineral~~ oil and gas resources management, the chief of the division of geological survey, and the chief of the division of soil and water resources, and if the chief of the division of mineral resources management has not disapproved the application, the director shall issue a permit, renewal permit, or modification with any terms and conditions that may be necessary to comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f) as amended, and regulations adopted under it; and this chapter and the rules adopted under it. The director shall not issue a permit, renewal permit, or modification to an applicant if the applicant or persons associated with the applicant have engaged in or are engaging in a substantial violation of this chapter that is endangering or may endanger human health or the environment or if, in the case of an applicant for an injection well drilling permit, the applicant, at the time of applying for the permit, did not hold an injection well operating permit or renewal of an injection well drilling permit and failed to demonstrate sufficient expertise and competency to operate the well in compliance with the applicable provisions of this

chapter.

If the director receives a disapproval from the chief of the division of mineral resources management regarding an application for an injection well drilling or operating permit, renewal permit, or modification, if required, the director shall issue an order denying the application.

The director need not issue a proposed action under section 3745.07 of the Revised Code or hold an adjudication hearing under that section and Chapter 119. of the Revised Code before issuing or denying a permit, renewal permit, or modification of a permit or renewal permit. Before issuing or renewing a permit to drill or operate a class I injection well or a modification of it, the director shall propose the permit, renewal permit, or modification in draft form and shall hold a public hearing to receive public comment on the draft permit, renewal permit, or modification. At least fifteen days before the public hearing on a draft permit, renewal permit, or modification, the director shall publish notice of the date, time, and location of the public hearing in at least one newspaper of general circulation serving the area where the well is or is to be located. The proposing of such a draft permit, renewal permit, or modification does not constitute the issuance of a proposed action under section 3745.07 of the Revised Code, and the holding of the public hearing on such a draft permit, renewal permit, or modification does not constitute the holding of an adjudication hearing under that section and Chapter 119. of the Revised Code. Appeals of orders other than orders of the chief of the division of mineral resources management shall be taken under sections 3745.04 to 3745.08 of the Revised Code.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease after determining that those activities are occurring in violation of law, rule, order, or term or condition of the permit. Upon service of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing and shall remain suspended until the violation is corrected and the order of suspension is lifted. If a violation is the second within a one-year period, the director, after a hearing, may revoke the permit.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease if the director has reasonable cause to believe that the permit would not have been issued if the information available at the time of suspension had been available at the time a determination was made by one of the agencies acting under authority of this section. Upon service

of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing, but a permit may not be suspended for that reason without prior hearing unless immediate suspension is necessary to prevent waste or contamination of oil or gas, comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it, or prevent damage to valuable mineral resources, prevent contamination of an underground source of drinking water, or prevent danger to human life or health. If after a hearing the director determines that the permit would not have been issued if the information available at the time of the hearing had been available at the time a determination was made by one of the agencies acting under authority of this section, the director shall revoke the permit.

When a permit has been revoked, the permit holder or other person responsible for it immediately shall plug the well in the manner required by the director.

The director may issue orders to prevent or require cessation of violations of this section, section 6111.043, 6111.045, 6111.046, or 6111.047 of the Revised Code, rules adopted under any of those sections, and terms or conditions of permits issued under any of them. The orders may require the elimination of conditions caused by the violation.

Sec. 6115.01. As used in sections 6115.01 to 6115.79 of the Revised Code:

(A) "Publication" means once a week for three consecutive weeks in ~~each of two newspapers of different political affiliations, if there are such newspapers, and~~ a newspaper of general circulation in the counties wherein publication is to be made or as provided in section 7.16 of the Revised Code. Publication need not be made on the same day of the week in each of the ~~three~~ weeks; but not less than fourteen days, excluding the day of first publication, shall intervene between the first publication and the last publication. Publication shall be complete on the date of the last publication.

(B) "Person" means person, firm, partnership, association, or corporation, other than county, township, municipal corporation, or other political subdivision.

(C) "Public corporation" means counties, townships, municipal corporations, school districts, road districts, ditch districts, park districts, levee districts, and all other governmental agencies clothed with the power of levying general or special taxes.

(D) "Court" means the court of common pleas in which the petition for the organization of a sanitary district was filed and granted. In the case of a district lying in more than one county, "court" means the court comprised of one judge of the court of common pleas from each county as provided in section 6115.04 of the Revised Code.

(E) "Land" or "property," unless otherwise specified, means real property, as "real property" is used in and defined by the laws of this state, and embraces all railroads, tramroads, roads, electric railroads, street and interurban railroads, streets and street improvements, telephones, telegraph, and transmission lines, gas, sewerage, and water systems, pipelines and rights-of-way of public service corporations, and all other real property whether public or private.

(F) "Board of directors" applies to the duties of one director appointed in accordance with section 6115.10 of the Revised Code in a district lying wholly within one county.

(G) "Biting arthropods" include mosquitoes, ticks, biting flies, or other biting arthropods capable of transmitting disease to humans.

(H) "Bond" or "bonds" means bonds, notes, certificates of indebtedness, certificates of participation, commercial paper, and other instruments in writing, including, unless the context does not admit, bonds or notes issued in anticipation of the issuance of other bonds, issued by a sanitary district to evidence its obligation to repay money borrowed, or to pay interest, by, or to pay at any future time other money obligations of, the sanitary district.

(I) "Financing costs" has the same meaning as in division (K) of section 133.01 of the Revised Code.

Sec. 6115.20. (A) When it is determined to let the work relating to the improvements for which a sanitary district was established by contract, contracts in amounts to exceed ten thousand dollars shall be advertised after notice calling for bids has been published once a week for five consecutive weeks completed on the date of last publication <u>or as provided in section 7.16 of the Revised Code</u>, in ~~at least one~~ <u>a</u> newspaper of general circulation within the sanitary district where the work is to be done. The board of directors of the sanitary district shall let bids as provided in this section or, if applicable, section 9.312 of the Revised Code. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board of directors of the sanitary district shall let the contract to the lowest or best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a sanitary district was established, the board of directors of the sanitary district shall let the contract to the

lowest or best bidder who gives a good and approved bond, with ample security, conditioned on the carrying out of the contract and the payment for all labor and material. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done prepared by the chief engineer. The plans and specifications at all times shall be made and considered a part of the contract. The contract shall be approved by the board and signed by the president of the board and by the contractor and shall be executed in duplicate. In case of emergency the advertising of contracts may be waived upon the consent of the board with the approval of the court or judge in vacation.

(B) In the case of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties, any service to be purchased, including the services of an accountant, architect, attorney at law, physician, or professional engineer, at a cost in excess of ten thousand dollars shall be obtained in the manner provided in sections 153.65 to ~~153.71~~ 153.73 of the Revised Code. For the purposes of the application of those sections to division (B) of this section, all of the following apply:

(1) "Public authority," as used in those sections, shall be deemed to mean a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties;

(2) "Professional design firm," as used in those sections, shall be deemed to mean any person legally engaged in rendering professional design services as defined in division (B)(3) of this section;

(3) "Professional design services," as used in those sections, shall be deemed to mean accounting, architectural, legal, medical, or professional engineering services;

(4) The use of other terms in those sections shall be adapted accordingly, including, without limitation, for the purposes of division (D)~~(2)~~ of section 153.67 of the Revised Code;

(5) Divisions (A) to (C) of section 153.71 of the Revised Code do not apply.

(C) The board of directors of a district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use may contract for, purchase, or otherwise procure for the benefit of employees of the district and pay all or any part of the cost of group insurance policies that may provide benefits, including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, or prescription drugs. Any group insurance policy purchased

under this division shall be purchased from the health care corporation that the board of directors determines offers the most cost-effective group insurance policy.

Sec. 6115.321. (A) The legislative authority of a municipal corporation or the board of township trustees of a township all or part of whose territory is included within the territory of a sanitary district that is established solely for the reduction of biting arthropods pursuant to division (F) of section 6115.04 of the Revised Code may enact an ordinance or adopt a resolution, as applicable, approving the submission to the court of common pleas that established the district a petition to exclude from the district the territory of the municipal corporation or the township, as applicable, that is included in the district. If the legislative authority of a municipal corporation or the board of township trustees of a township enacts such an ordinance or adopts such a resolution, as applicable, the legislative authority or the board may submit to the appropriate court of common pleas a petition that requests the court to exclude the territory of the municipal corporation or the township, as applicable, from the district. Such a petition shall include an explanation of the reasons for the petition to exclude the territory of the municipal corporation or the township, as applicable, from the district.

(B) If a court of common pleas receives a petition from the legislative authority of a municipal corporation or a board of township trustees, as applicable, that requests the court to exclude the territory of the municipal corporation or the township from the applicable sanitary district, the clerk of the court shall notify the legislative authority of each municipal corporation and the board of township trustees of each township all or part of whose territory is included within the territorial boundaries of the district of the receipt of the petition, include a copy of the petition, and include a statement informing the legislative authority or the board of township trustees, as applicable, that the legislative authority or the board may submit to the clerk within thirty days of receipt of the notice written objections concerning the petition in the form of an ordinance enacted by the legislative authority or a resolution adopted by the board, as applicable.

(C) Not sooner than thirty days after the clerk of the court of common pleas notifies legislative authorities of municipal corporations and boards of township trustees in accordance with division (B) of this section, one of the following applies:

(1) The court shall enter a decree excluding from the district the territory of the municipal corporation or the township, as applicable, that is the subject of the petition and create a plan as required by division (D) of this section if the court receives written objections concerning the petition of

exclusion from fewer than sixty per cent of the legislative authorities of municipal corporations and boards of township trustees of townships that were so notified.

(2) The court after a hearing on the petition may enter a decree excluding from the district the territory of the municipal corporation or the township, as applicable, that is the subject of the petition and create a plan as required by division (D) of this section if the court receives written objections concerning the petition of exclusion from sixty per cent or more of the legislative authorities of municipal corporations and boards of township trustees of townships that were so notified.

(D) If a court of common pleas enters a decree in accordance with division (C) of this section excluding from a sanitary district the territory of a municipal corporation or a township, as applicable, the court shall do both of the following:

(1) Establish a plan for the exclusion from the district of the territory that ensures the payment of expenses and indebtedness of the district, and, if necessary because the exclusion effectively dissolves the district, determine the value of the assets of the district and provide for their equitable distribution among the municipal corporations and townships all or part of whose territory is included within the district;

(2) Send a copy of the court's decree and of the plan established under division (D)(1) of this section to the legislative authority of each municipal corporation and the board of township trustees of each township all or part of whose territory is included within the territory of the district and to the county auditor and treasurer of each applicable county.

Sec. 6117.05. (A) Whenever any portion of a sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed shall remain under the jurisdiction of the board of county commissioners for purposes of the acquisition and construction of sanitary and drainage facility and prevention or replacement facility improvements until all of those improvements for the area for which a resolution described in division (A) or (E) of section 6117.06 of the Revised Code has been adopted by the board have been acquired or completed or until the board has abandoned the improvements. The board, unless and until a conveyance is made to a municipal corporation in accordance with division (B) of this section, shall continue to have jurisdiction in the area so incorporated or annexed with respect to the management, maintenance, and operation of all sanitary and drainage facilities and prevention or replacement facilities so acquired or completed, or previously acquired or completed, including the right to establish rules and rates and charges for the

use of, and connections to, the facilities. The incorporation or annexation of any part of a district shall not affect the legality or enforceability of any public obligations issued or incurred by the county for purposes of this chapter to provide for the payment of the cost of acquisition, construction, maintenance, or operation of any sanitary or drainage facilities or prevention or replacement facilities within the area, or the validity of any assessments levied or to be levied upon properties within the area to provide for the payment of the cost of acquisition, construction, maintenance, or operation of the facilities.

(B) ~~Any~~ A board may convey, by mutual agreement, to a municipal corporation any completed sanitary or drainage facilities or prevention or replacement facilities acquired or constructed by a county under this chapter for the use of, or service of property located in, any county sewer district, or any part of those facilities~~, that~~ to which any of the following applies:

(1) The facilities are located within ~~a~~ the municipal corporation or within any area that is incorporated as, or annexed to, ~~a~~ the municipal corporation~~, or any part of the~~.

(2) The facilities ~~that~~ serve ~~a~~ the municipal corporation or ~~such an area, may be conveyed, by mutual agreement between the board and the municipal corporation, to~~ any area that is located within or that is incorporated as, or annexed to, the municipal corporation ~~on~~.

(3) The facilities are connected to facilities of the municipal corporation.

The conveyance shall be completed with terms and for consideration as may be negotiated. Upon and after the conveyance, the municipal corporation shall manage, maintain, and operate the facilities in accordance with the agreement. The board may retain the right to joint use of all or part of any facilities so conveyed for the benefit of the district. Neither the validity of any assessment levied or to be levied, nor the legality or enforceability of any public obligations issued or incurred, to provide for the payment of the cost of the acquisition, construction, maintenance, or operation of the facilities or any part of them, shall be affected by the conveyance.

Sec. 6117.06. (A) After the establishment of any sewer district, the board of county commissioners, if a sanitary or drainage facility or prevention or replacement facility improvement is to be undertaken, may have the county sanitary engineer prepare, or otherwise cause to be prepared, for the district, or revise as needed, a general plan of sewerage or drainage that is as complete in each case as can be developed at the time and that is devised with regard to any existing sanitary or drainage facilities or prevention or replacement facilities in the district and present as well as

prospective needs for additional sanitary or drainage facilities or prevention or replacement facilities in the district. After the general plan, in original or revised form, has been approved by the board, it may adopt a resolution generally describing the improvement that is necessary to be acquired or constructed in accordance with the particular plan, declaring that the improvement is necessary for the preservation and promotion of the public health and welfare, and determining whether or not special assessments are to be levied and collected to pay any part of the cost of the improvement.

(B) If special assessments are not to be levied and collected to pay any part of the cost of the improvement, the board, in the resolution provided for in division (A) of this section or in a subsequent resolution, including a resolution authorizing the issuance or incurrence of public obligations for the improvement, may authorize the improvement and the expenditure of the funds required for its acquisition or construction and may proceed with the improvement without regard to the procedures otherwise required by divisions (C), (D), and (E) of this section and by sections 6117.07 to 6117.24 of the Revised Code. Those procedures are required only for improvements for which special assessments are to be levied and collected.

(C) If special assessments are to be levied and collected pursuant to a determination made in the resolution provided for in division (A) of this section or in a subsequent resolution, the procedures referred to in division (B) of this section as being required for that purpose shall apply, and the board may have the county sanitary engineer prepare, or otherwise cause to be prepared, detailed plans, specifications, and an estimate of cost for the improvement, together with a tentative assessment of the cost based on the estimate. The tentative assessment shall be for the information of property owners and shall not be levied or certified to the county auditor for collection. The detailed plans, specifications, estimate of cost, and tentative assessment, if approved by the board, shall be carefully preserved in the office of the board or the county sanitary engineer and shall be open to the inspection of all persons interested in the improvement.

(D) After the board's approval of the detailed plans, specifications, estimate of cost, and tentative assessment, and at least twenty-four days before adopting a resolution pursuant to division (E) of this section, the board, except to the extent that appropriate waivers of notice are obtained from affected owners, shall cause to be sent a notice of its intent to adopt the resolution to each owner of property proposed to be assessed that is listed on the records of the county auditor for current agricultural use value taxation pursuant to section 5713.31 of the Revised Code and that is not located in an agricultural district established under section 929.02 of the Revised Code.

The notice shall satisfy all of the following:

(1) Be sent by first class or certified mail;

(2) Specify the proposed date of the adoption of the resolution;

(3) Contain a statement that the improvement will be financed in whole or in part by special assessments and that all properties not located in an agricultural district established pursuant to section 929.02 of the Revised Code may be subject to a special assessment;

(4) Contain a statement that an agricultural district may be established by filing an application with the county auditor.

If it appears, by the return of the mailed notices or by other means, that one or more of the affected owners cannot be found or are not served by the mailed notice, the board shall cause the notice to be published once in a newspaper of general circulation in the county not later than ten days before the adoption of the resolution.

(E) After complying with divisions (A), (C), and (D) of this section, the board may adopt a resolution declaring that the improvement, which shall be described as to its nature and its location, route, and termini, is necessary for the preservation and promotion of the public health and welfare, referring to the plans, specifications, estimate of cost, and tentative assessment, stating the place where they are on file and may be examined, and providing that the entire cost or a lesser designated part of the cost will be specially assessed against the benefited properties within the district and that any balance will be paid by the county at large from other available funds. The resolution also shall contain a description of the boundaries of that part of the district to be assessed and shall designate a time and place for objections to the improvement, to the tentative assessment, or to the boundaries of the assessment district to be heard by the board. The date of that hearing shall be not less than twenty-four days after the date of the first publication of the notice of the hearing required by this division.

The board shall cause a notice of the hearing to be published once a week for two consecutive weeks in a newspaper of general circulation in the county~~, and on~~ or as provided in section 7.16 of the Revised Code. On or before the date of the second publication, ~~it~~ the board shall cause to be sent by first class or certified mail a copy of the notice to every owner of property to be assessed for the improvement whose address is known.

The notice shall set forth the time and place of the hearing, a summary description of the proposed improvement, including its general route and termini, a summary description of the area constituting the assessment district, and the place where the plans, specifications, estimate of cost, and tentative assessment are on file and may be examined. Each mailed notice

also shall include a statement that the property of the addressee will be assessed for the improvement. The notice also shall be sent by first class or certified mail, on or before the date of the second publication, to the clerk, or to the official discharging the duties of a clerk, of any municipal corporation any part of which lies within the assessment district and shall state whether or not any property belonging to the municipal corporation is to be assessed and, if so, shall identify that property.

At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all parties whose properties are proposed to be assessed. Written objections to or endorsements of the proposed improvement, its character and termini, the boundaries of the assessment district, or the tentative assessment shall be received by the board for a period of five days after the completion of the hearing, and no action shall be taken by the board in the matter until after that period has elapsed. The minutes of the hearing shall be entered on the journal of the board, showing the persons who appear in person or by attorney, and all written objections shall be preserved and filed in the office of the board.

Sec. 6117.07. After the expiration of the period of five days provided for in section 6117.06 of the Revised Code for the filing of written objections, the board of county commissioners shall determine whether or not it will proceed with the construction of the improvement mentioned in such section. Notice of the time and place of each meeting of the board of county commissioners, at which the resolution to proceed with the construction of such improvement will be considered, shall be given in writing to all persons who filed written objections as provided in section 6117.06 of the Revised Code. Such notice shall contain the following language in addition to the time and place of the meeting of the board: "any person, firm, or corporation desiring to appeal from the final order or judgment of the board upon any of the questions mentioned in section 6117.09 of the Revised Code shall, on or before the date of the passage of the improvement resolution, give notice in writing of an intention to appeal, specifying therein the matters to be appealed from." If it decides to proceed therewith, the board shall ratify or amend the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, and may cause such revision of plans, boundaries, or assessments as the board considers necessary to be made by the county sanitary engineer. If the boundaries of the assessment district are amended so as to include any property not included within the boundaries as established by the resolution of necessity provided for in section 6117.06 of

the Revised Code, the owners of all such property shall be notified by mail if their addresses are known, and notice shall be published once a week for two consecutive weeks in a newspaper of general circulation within the county or as provided in section 7.16 of the Revised Code that such amendments have been adopted and that a hearing will be given by the board at a time and place stated in such notice, at which all persons interested will be heard by the board. The date of such hearing shall be not less than twenty-four days after the first publication of such notice, and the hearing shall be conducted and records kept in the same manner as the first hearing. Five days shall be allowed for the filing of written objections as provided in such section for the first hearing.

After the expiration of such five day period, the board shall ratify the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, or shall further amend the same. If the boundaries of the assessment district are amended so as to include any property not included in the assessment district as originally established or previously amended, further notice and hearing shall be given to the owners of such property in the same manner as for the first amendment of such boundaries, and the same procedure shall be repeated until all property owners affected have been given an opportunity to be heard. If the owners of all property added to an assessment district by amendment of the original boundaries thereof waive objection to such amendment in writing, no further notice or hearing shall be given.

After the board has ratified the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, either as originally presented or as amended, and if it decides to proceed therewith, the board shall adopt a resolution to be known as the improvement resolution. Said improvement resolution shall declare the determination of such board to proceed with the construction of the improvement provided for in the resolution of necessity, in accordance with the plans and specifications provided for such improvement as ratified or amended, and whether bonds or certificates of indebtedness shall be issued in anticipation of the collection of special assessments, as provided in section 6117.08 to 6117.45, inclusive, of the Revised Code, or that money in the county treasury unappropriated for any other purpose shall be appropriated to pay for said improvement.

Sec. 6117.251. (A) After the establishment of any county sewer district, the board of county commissioners may determine by resolution that it is necessary to provide sanitary or drainage facility improvements or prevention or replacement facility improvements and to maintain and

operate the improvements within the district or a designated portion of the district, that the improvements, which shall be generally described in the resolution, shall be constructed, that funds are required to pay the preliminary costs of the improvements to be incurred prior to the commencement of the proceedings for their construction, and that those funds shall be provided in accordance with this section.

(B) Prior to the adoption of the resolution, the board shall give notice of its pendency and of the proposed determination of the necessity of the improvements generally described in the resolution. The notice shall set forth a description of the properties to be benefited by the improvements and the time and place of a hearing of objections to and endorsements of the improvements. The notice shall be given ~~either~~ by publication in a newspaper of general circulation in the county once a week for two consecutive weeks, ~~or~~ by publication as provided in section 7.16 of the Revised Code, by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by ~~both~~ a combination of these manners, the first publication to be made or the mailing to occur at least two weeks prior to the date set for the hearing. At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed and the evidence it considers to be necessary. The board then shall determine the necessity of the proposed improvements and whether the improvements shall be made by the board and, if they are to be made, shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.

(C) In order to obtain funds for the preparation of a general or revised general plan of sewerage or drainage for the district or part of the district, for the preparation of the detailed plans, specifications, estimate of cost, and tentative assessment for the proposed improvements, and for the cost of financing and legal services incident to the preparation of all of those plans and a plan of financing the proposed improvements, the board may levy upon the properties to be benefited in the district a preliminary assessment apportioned according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine. The assessments shall be in the amount determined to be necessary to obtain funds for the general and detailed plans and the cost of financing and legal services and shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of

the assessments.

(D) The board shall have power at any time to levy additional assessments according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine for the purposes described in division (C) of this section upon the benefited properties to complete the payment of the costs described in division (C) of this section or to pay the cost of any additional plans, specifications, estimate of cost, or tentative assessment and the cost of financing and legal services incident to the preparation of those plans and the plan of financing, which additional assessments shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the additional assessments.

(E) Prior to the adoption of a resolution levying assessments under this section, the board shall give notice either by one publication in a newspaper of general circulation in the county, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by both manners, the publication to be made or the mailing to occur at least ten days prior to the date of the meeting at which the resolution shall be taken up for consideration; that notice shall state the time and place of the meeting at which the resolution is to be considered. At the time and place of the meeting, or at any adjournment of the meeting, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions that appear to be necessary or just, and then may adopt a resolution levying upon the properties determined to be benefited the assessments as so corrected and revised.

The assessments levied by the resolution shall be certified to the county auditor for collection in the same manner as taxes in the year or years in which they are payable.

(F) Upon the adoption of the resolution described in division (E) of this section, no further action shall be taken or work done until ten days have elapsed. If, at the expiration of that period, no appeal has been effected by any property owner as provided in this division, the action of the board shall be final. If, at the end of that ten days, any owner of property to be assessed for the improvements has effected an appeal, no further action shall be taken and no work done in connection with the improvements under the resolution until the matters appealed from have been disposed of in court.

Any owner of property to be assessed may appeal as provided and upon

the grounds stated in sections 6117.09 to 6117.24 of the Revised Code.

If no appeal has been perfected or if on appeal the resolution of the board is sustained, the board may authorize and enter into contracts to carry out the purposes for which the assessments have been levied without the prior issuance of notes, provided that the payments under those contracts do not fall due prior to the time by which the assessments are to be collected. The board may issue and sell bonds with a maximum maturity of twenty years in anticipation of the collection of the assessments and may issue notes in anticipation of the issuance of the bonds, which notes and bonds, as public obligations, shall be issued and sold as provided in Chapter 133. of the Revised Code.

Sec. 6117.49. (A) If the board of county commissioners determines by resolution that the best interests of the county and those served by the sanitary or drainage facilities or the prevention or replacement facilities of a county sewer district so require, the board may sell or otherwise dispose of the facilities to another public agency or a person. The resolution declaring the necessity of that disposition shall recite the reasons for the sale or other disposition and shall establish any conditions or terms that the board may impose, including, but not limited to, a minimum sales price if a sale is proposed, a requirement for the submission by bidders of the schedule of rates and charges initially proposed to be paid for the services of the facilities, and other pertinent conditions or terms relating to the sale or other disposition. The resolution also shall designate a time and place for the hearing of objections to the sale or other disposition by the board. Notice of the adoption of the resolution and the time and place of the hearing shall be published as provided in section 7.16 of the Revised Code or once a week for two consecutive weeks, in a newspaper of general circulation in the sewer district and in the county. The public hearing on the sale or other disposition shall be held not less than twenty-four days following the date of first publication of the notice. A copy of the notice also shall be sent by first class or certified mail, on or before the date of the second publication, to any public agency within the area served by the facilities. At the public hearing, or at any adjournment of it, of which no further published or mailed notice need be given, the board shall hear all interested parties. A period of five days shall be given following the completion of the hearing for the filing of written objections by any interested persons or public agencies to the sale or other disposition, after which the board shall consider any objections and by resolution determine whether or not to proceed with the sale or other disposition. If the board determines to proceed with the sale or other disposition, it shall receive bids after advertising once a week for four

consecutive weeks or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in the county and, subject to the right of the board to reject any or all bids, may make an award to a responsible bidder whose proposal is determined by the board to be in the best interests of the county and those served by the facilities.

(B) A conveyance of sanitary or drainage facilities or of prevention or replacement facilities by a county to a municipal corporation in accordance with division (B) of section 6117.05 of the Revised Code may be made without regard to division (A) of this section.

Sec. 6119.061. (A) Whenever any portion of a regional water and sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed shall remain under the jurisdiction of the district for purposes of the acquisition, construction, or operation of a water resource project until the water resource project has been acquired or completed or until the project is abandoned by the district. The board of trustees of the district, unless and until a conveyance is made to a municipal corporation in accordance with division (B) of this section, shall continue to have jurisdiction in the area so incorporated or annexed with respect to the management, maintenance, and operation of all water resource projects so acquired or completed or previously acquired or completed, including the right to establish rules and rates and charges for the use of, and connections to, the projects. The incorporation or annexation of any part of a district shall not affect the legality or enforceability of any public obligations issued or incurred by the district for purposes of this chapter to provide for the payment of the cost of acquisition, construction, maintenance, or operation of any water resource project or the validity of any assessments levied or to be levied on properties within the area to provide for the payment of the cost of acquisition, construction, maintenance, or operation of the project.

(B) The board of trustees of a regional water and sewer district may convey, by mutual agreement, to a municipal corporation any completed water resource project acquired or constructed under this chapter for the use of, or service of property located in, the regional water and sewer district, or any part of that project to which any of the following applies:

(1) The project is located within the municipal corporation or within any area that is incorporated as, or annexed to, the municipal corporation.

(2) The project serves the municipal corporation or any area that is located within or that is incorporated as, or annexed to, the municipal corporation.

(3) The project is connected to water supply or sanitary, drainage, prevention, or replacement facilities of the municipal corporation.

The conveyance shall be completed with terms and for consideration as may be negotiated. Upon and after the conveyance, the municipal corporation shall manage, maintain, and operate the water resource project in accordance with the agreement. The board of trustees may retain the right to the joint use of all or part of any project so conveyed for the benefit of the district. Neither the validity of any assessment levied or to be levied, nor the legality or enforceability of any public obligations issued or incurred, to provide for the payment of the cost of the acquisition, construction, maintenance, or operation of the project or any part of the project shall be affected by the conveyance.

Sec. 6119.10. The board of trustees of a regional water and sewer district or any officer or employee designated by the board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed twenty-five thousand dollars. When an expenditure, other than for the acquisition of real estate and interests in real estate, the discharge of noncontractual claims, personal services, the joint use of facilities or the exercise of powers with other political subdivisions, or the product or services of public utilities, exceeds twenty-five thousand dollars, the expenditures shall be made only after a notice calling for bids has been published ~~not less than~~ two consecutive weeks in ~~at least~~ one newspaper ~~having a~~ of general circulation within the district or as provided in section 7.16 of the Revised Code. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board may let the contract to the lowest and best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a regional water and sewer district was established, the board of trustees of the regional water and sewer district may let the contract to the lowest or best bidder who gives a good and approved bond with ample security conditioned on the carrying out of the contract. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered part of the contract. The contract shall be approved by the board and signed by its president or other duly authorized officer and by the contractor. In case of a real and present emergency, the board of trustees of the district, by two-thirds vote of all members, may authorize the president or other duly authorized officer to enter into a contract for work to be done or for the purchase of supplies or materials without formal bidding or advertising. All contracts shall have

attached the certificate required by section 5705.41 of the Revised Code duly executed by the secretary of the board of trustees of the district. The district may make improvements by force account or direct labor, provided that, if the estimated cost of supplies or material for any such improvement exceeds twenty-five thousand dollars, bids shall be received as provided in this section. For the purposes of the competitive bidding requirements of this section, the board shall not sever a contract for supplies or materials and labor into separate contracts for labor, supplies, or materials if the contracts are in fact a part of a single contract required to be bid competitively under this section.

Sec. 6119.18. The board of trustees of a regional water and sewer district, by a vote of two-thirds of all its members, may declare by resolution that it is necessary to levy a tax in excess of the ten-mill limitation for the purpose of providing funds to pay current expenses of the district or for the purpose of paying any portion of the cost of one or more water resource projects or parts thereof or for both of such purposes, and that the question of such tax levy shall be submitted to the electors of the district at a general or primary election. Such resolution shall conform to the requirements of section 5705.19 of the Revised Code, except as otherwise permitted by this section and except that such levy may be for a period not longer than ten years. The resolution shall go into immediate effect upon its passage and no publication of the resolution is necessary other than that provided for in the notice of election. A copy of such resolution shall, immediately after its passage, be certified to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code, and such section shall govern the arrangements for the submission of such question and other matters with respect to such election to which such section refers. Publication of the notice of that election shall be made in one ~~or more newspapers having a~~ newspaper of general circulation in the district once a week for two consecutive weeks prior to the election, ~~and, if~~ or as provided in section 7.16 of the Revised Code. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election.

If a majority of the electors voting on the question vote in favor thereof, the board may make the necessary levy within the district at the additional rate or at any lesser rate on the tax list and duplicate for the purpose or purposes stated in the resolution.

The taxes realized from such levy shall be collected at the same time and in the same manner as other taxes on such tax list and duplicate and such taxes, when collected, shall be paid to the district and deposited by it in

a special fund which shall be established by the district for all revenues derived from such levy and for the proceeds of anticipation notes which shall be deposited in such fund.

After the approval of such levy, the district may anticipate a fraction of the proceeds of such levy and, from time to time, during the life of such levy, issue anticipation notes in an amount not exceeding fifty per cent of the estimated proceeds of such levy to be collected in each year up to a period of five years after the date of issuance of such notes, less an amount equal to the proceeds of such levy previously obligated for each year by the issuance of anticipation notes, provided that the total amount maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of such levy for that year. Each issue of notes shall be sold as provided in Chapter 133. of the Revised Code, and shall, except for such limitation that the total amount of such notes maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of such levy for that year, mature serially in substantially equal installments during each year over a period not to exceed five years after their issuance.

Sec. 6119.22. When a plan of sewerage devised in accordance with section 6119.19 of the Revised Code has been prepared, the board of trustees of the regional water and sewer district shall give at least ten days' notice in one newspaper of general circulation in such area or give notice as provided in section 7.16 of the Revised Code, stating that such plans have been prepared and are filed in the office of the secretary of the board for examination and inspection by the parties interested.

Any objection to such plan shall then be made to the board and it may amend or correct such plan, and shall thereupon file it as amended, or if no amendments are made, it shall file the original plan in the office of the secretary.

Sec. 6119.25. When the board of trustees of a regional water and sewer district deems it necessary to construct all or a part of the sewers provided for in the plan devised in accordance with section 6119.19 of the Revised Code, the board shall declare by resolution the necessity thereof. Such resolution shall contain a declaration of the necessity of such improvement, a statement of the districts, areas, or parts thereof proposed to be constructed, the character of the materials to be used, a reference to the plans and specifications, where they are on file, and the mode of payment therefor, and shall publish the resolution once a week for not less than two nor more than four consecutive weeks in one newspaper of general circulation in the area or as provided in section 7.16 of the Revised Code.

Sec. 6119.58. In order to obtain funds for the preparation of plans,

specifications, estimates of cost, tentative assessments, and a plan of financing for any water resource project or part thereof, the board of trustees of a regional water and sewer district may levy upon the property in such district to be benefited by such project assessments apportioned in accordance with one or more of the methods set forth in section 6119.42 of the Revised Code. The aggregate of such assessments shall not exceed the amount determined by the board of trustees to be necessary for such purpose, including costs of financing, legal services, and other incidental costs, and shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

If the board of trustees proposes to obtain funds in accordance with this section, it shall determine by resolution that it is necessary to construct the water resource project and to maintain and operate the same on behalf of the district.

Prior to the adoption of the resolution making such determination, the board of trustees shall give notice of the pendency thereof and of the proposed determination of the necessity of the construction of such project therein generally described, and such notice shall set forth a description of the properties to be benefited by such project and the time and place of a hearing of objections to, and endorsements of, such project. Such notice shall be given by publication in ~~at least~~ one newspaper ~~having a~~ of general circulation in the district once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, the first publication to be at least two weeks prior to the date set for the hearing, provided that the board of trustees may give, or cause to be given, such alternative or further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all owners whose properties are proposed to be assessed and such other evidence as is considered to be necessary, and may then adopt its resolution determining that the proposed project is necessary and should be undertaken by the district. In such resolution, the board of trustees shall direct the preparation of the estimated assessments upon the benefited properties and by whom they shall be prepared.

After such assessments have been prepared and filed in the office of the secretary of the board of trustees and prior to the adoption of the resolution levying such assessments, the board of trustees shall give notice of the pendency of such resolution and of the proposed determination to levy such assessments, and such notice shall set forth the time and place of a hearing

of objections to such assessments. Such notice shall be given by publication once in ~~at least~~ one newspaper ~~having a~~ of general circulation in the district, such publication to be made at least ten days prior to the date set for the hearing, provided that the board of trustees may give or cause to be given, such alternative of further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions in the estimated assessments that appear to be necessary or just, and may then adopt a resolution levying upon the properties determined to be benefited the assessments as originally prepared or as so corrected and revised.

The board of trustees shall have the power at any time to levy additional assessments upon such properties to complete the payment of the costs for which the original assessments were levied or to provide funds for any additional plans, specifications, estimates of cost, tentative assessments, and other incidental costs, provided that the board shall first have held a hearing on objections to such additional assessments in the same manner as required by this section with respect to such original assessments. Such additional assessments shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

The board of trustees may authorize contracts to carry out the purposes for which such assessments have been levied without the prior issuance of water resource revenue notes and bonds, provided that the payments to be made by the district do not fall due prior to the times when such assessments shall be collected.

SECTION 101.02. That existing sections 7.10, 7.11, 7.12, 9.06, 9.231, 9.24, 9.33, 9.331, 9.332, 9.333, 9.82, 9.823, 9.833, 9.90, 9.901, 101.532, 101.82, 102.02, 105.41, 107.09, 109.36, 109.43, 109.57, 109.572, 109.64, 109.71, 109.801, 111.12, 111.16, 111.18, 117.101, 117.13, 118.023, 118.04, 118.05, 118.06, 118.12, 118.17, 118.99, 119.032, 120.40, 121.03, 121.04, 121.22, 121.37, 121.40, 121.401, 121.402, 121.403, 121.404, 122.121, 122.171, 122.76, 122.861, 123.01, 123.011, 123.10, 124.09, 124.23, 124.231, 124.24, 124.25, 124.26, 124.27, 124.31, 124.34, 124.393, 124.85, 125.021, 125.15, 125.18, 125.28, 125.89, 126.11, 126.12, 126.21, 126.24, 126.45, 126.46, 126.50, 127.14, 127.16, 131.02, 131.23, 131.44, 131.51, 133.01, 133.06, 133.09, 133.18, 133.20, 133.55, 135.05, 135.61, 135.65,

135.66, 145.27, 145.56, 149.01, 149.091, 149.11, 149.311, 149.351, 149.38, 149.39, 149.41, 149.411, 149.412, 149.42, 149.43, 153.01, 153.02, 153.03, 153.07, 153.08, 153.50, 153.51, 153.52, 153.54, 153.56, 153.581, 153.65, 153.66, 153.67, 153.69, 153.70, 153.71, 153.80, 154.02, 154.07, 154.11, 166.02, 173.14, 173.21, 173.26, 173.35, 173.351, 173.36, 173.391, 173.40, 173.401, 173.403, 173.404, 173.42, 173.45, 173.46, 173.47, 173.48, 173.501, 183.30, 183.51, 185.01, 185.03, 185.06, 185.10, 187.01, 187.02, 187.03, 187.09, 301.02, 301.15, 301.28, 305.171, 306.35, 306.43, 306.70, 307.022, 307.041, 307.10, 307.12, 307.676, 307.70, 307.79, 307.791, 307.80, 307.801, 307.802, 307.803, 307.806, 307.81, 307.82, 307.83, 307.84, 307.842, 307.843, 307.846, 307.86, 308.13, 311.29, 311.31, 317.20, 319.11, 319.301, 319.54, 321.18, 321.261, 322.02, 322.021, 323.08, 323.73, 323.75, 324.02, 324.021, 325.20, 340.02, 340.03, 340.05, 340.091, 340.11, 341.192, 343.08, 345.03, 349.03, 501.07, 503.05, 503.162, 503.41, 504.02, 504.03, 504.12, 504.16, 504.21, 505.101, 505.105, 505.106, 505.107, 505.108, 505.109, 505.17, 505.172, 505.24, 505.264, 505.267, 505.28, 505.373, 505.43, 505.48, 505.481, 505.482, 505.49, 505.491, 505.492, 505.493, 505.494, 505.495, 505.50, 505.51, 505.511, 505.52, 505.53, 505.54, 505.541, 505.55, 505.60, 505.601, 505.603, 505.61, 505.67, 505.73, 507.09, 509.15, 511.01, 511.12, 511.23, 511.235, 511.236, 511.25, 511.28, 511.34, 513.14, 515.01, 515.04, 515.07, 517.06, 517.12, 517.22, 521.03, 521.05, 705.16, 709.43, 709.44, 711.35, 715.011, 715.47, 718.01, 718.09, 718.10, 719.012, 719.05, 721.03, 721.15, 721.20, 723.07, 727.011, 727.012, 727.08, 727.14, 727.46, 729.08, 729.11, 731.14, 731.141, 731.20, 731.21, 731.211, 731.22, 731.23, 731.24, 731.25, 735.05, 735.20, 737.022, 737.04, 737.041, 737.32, 737.40, 742.41, 745.07, 747.05, 747.11, 747.12, 755.16, 755.29, 755.41, 755.42, 755.43, 759.47, 901.09, 924.52, 927.69, 951.11, 955.011, 955.012, 1309.528, 1327.46, 1327.50, 1327.51, 1327.511, 1327.54, 1327.57, 1327.62, 1327.99, 1329.04, 1329.42, 1332.24, 1345.52, 1345.73, 1501.01, 1501.022, 1501.40, 1503.05, 1503.141, 1505.01, 1505.04, 1505.06, 1505.09, 1505.11, 1505.99, 1506.21, 1509.01, 1509.02, 1509.021, 1509.03, 1509.04, 1509.041, 1509.05, 1509.06, 1509.061, 1509.062, 1509.07, 1509.071, 1509.072, 1509.073, 1509.08, 1509.09, 1509.10, 1509.11, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, 1509.181, 1509.19, 1509.21, 1509.22, 1509.221, 1509.222, 1509.223, 1509.224, 1509.225, 1509.226, 1509.23, 1509.24, 1509.25, 1509.26, 1509.27, 1509.28, 1509.29, 1509.31, 1509.32, 1509.33, 1509.34, 1509.36, 1509.38, 1509.40, 1509.50, 1510.01, 1510.08, 1515.08, 1515.14, 1515.24, 1517.02, 1517.03, 1531.04, 1533.10, 1533.11, 1533.111, 1533.32, 1533.731, 1533.83, 1541.03, 1541.05,

1545.071, 1545.09, 1545.12, 1545.131, 1545.132, 1547.01, 1547.30, 1547.301, 1547.302, 1547.303, 1547.304, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1561.06, 1561.12, 1561.13, 1561.35, 1561.49, 1563.06, 1563.24, 1563.28, 1571.01, 1571.02, 1571.03, 1571.04, 1571.05, 1571.06, 1571.08, 1571.09, 1571.10, 1571.11, 1571.14, 1571.16, 1571.18, 1571.99, 1701.07, 1702.01, 1702.59, 1703.031, 1703.07, 1705.01, 1707.11, 1707.17, 1711.05, 1711.07, 1711.18, 1711.30, 1728.06, 1728.07, 1751.01, 1751.04, 1751.11, 1751.111, 1751.12, 1751.13, 1751.15, 1751.17, 1751.20, 1751.31, 1751.34, 1751.60, 1761.04, 1776.83, 1785.06, 1901.02, 1901.06, 1901.261, 1901.262, 1901.41, 1907.13, 1907.261, 1907.262, 1907.53, 2105.09, 2117.25, 2151.011, 2151.3515, 2151.412, 2151.421, 2151.424, 2151.541, 2152.72, 2301.01, 2301.031, 2303.201, 2305.232, 2317.02, 2317.422, 2329.26, 2335.05, 2335.06, 2501.02, 2503.01, 2744.05, 2901.01, 2903.33, 2917.40, 2919.271, 2929.71, 2935.01, 2935.03, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2945.402, 2949.14, 2981.11, 2981.12, 2981.13, 3109.16, 3111.04, 3113.06, 3119.54, 3121.48, 3123.44, 3123.45, 3123.55, 3123.56, 3123.58, 3123.59, 3123.63, 3301.07, 3301.071, 3301.079, 3301.0710, 3301.0711, 3301.0712, 3301.0714, 3301.16, 3301.162, 3301.70, 3301.921, 3302.02, 3302.031, 3302.032, 3302.04, 3302.05, 3302.07, 3304.181, 3304.182, 3305.08, 3306.12, 3307.20, 3307.31, 3307.41, 3307.64, 3309.22, 3309.41, 3309.48, 3309.51, 3309.66, 3310.02, 3310.03, 3310.05, 3310.08, 3310.41, 3311.05, 3311.054, 3311.056, 3311.06, 3311.19, 3311.21, 3311.213, 3311.214, 3311.29, 3311.50, 3311.52, 3311.53, 3311.73, 3311.76, 3313.29, 3313.372, 3313.41, 3313.46, 3313.482, 3313.533, 3313.55, 3313.603, 3313.61, 3313.611, 3313.612, 3313.614, 3313.64, 3313.642, 3313.6410, 3313.65, 3313.75, 3313.816, 3313.842, 3313.843, 3313.845, 3313.911, 3313.97, 3313.975, 3313.978, 3313.981, 3314.012, 3314.013, 3314.015, 3314.02, 3314.021, 3314.023, 3314.03, 3314.05, 3314.051, 3314.07, 3314.08, 3314.087, 3314.088, 3314.091, 3314.10, 3314.13, 3314.19, 3314.20, 3314.22, 3314.35, 3314.36, 3315.01, 3316.041, 3316.06, 3316.08, 3316.20, 3317.01, 3317.013, 3317.014, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.03, 3317.031, 3317.05, 3317.051, 3317.053, 3317.06, 3317.061, 3317.07, 3317.08, 3317.081, 3317.082, 3317.09, 3317.11, 3317.12, 3317.14, 3317.16, 3317.18, 3317.19, 3317.20, 3317.201, 3318.011, 3318.032, 3318.034, 3318.05, 3318.051, 3318.08, 3318.12, 3318.31, 3318.36, 3318.37, 3318.38, 3318.41, 3318.44, 3319.02, 3319.08, 3319.081, 3319.11, 3319.111, 3319.141, 3319.17, 3319.18, 3319.19, 3319.227, 3319.26, 3319.31, 3319.311, 3319.39,

3319.57, 3319.71, 3323.09, 3323.091, 3323.14, 3323.142, 3323.31, 3324.05, 3325.08, 3326.11, 3326.33, 3326.39, 3327.02, 3327.04, 3327.05, 3329.08, 3331.01, 3333.03, 3333.043, 3333.31, 3333.66, 3333.81, 3333.82, 3333.83, 3333.84, 3333.85, 3333.87, 3333.90, 3334.19, 3345.061, 3345.14, 3349.29, 3353.04, 3354.12, 3354.16, 3355.09, 3357.16, 3365.01, 3365.08, 3375.41, 3381.11, 3501.03, 3501.17, 3505.13, 3506.05, 3701.021, 3701.023, 3701.07, 3701.61, 3701.74, 3701.83, 3702.52, 3702.57, 3702.59, 3704.06, 3704.14, 3705.24, 3709.09, 3709.092, 3709.21, 3717.53, 3719.141, 3719.41, 3721.01, 3721.011, 3721.02, 3721.022, 3721.04, 3721.16, 3721.50, 3721.51, 3721.511, 3721.512, 3721.513, 3721.52, 3721.53, 3721.55, 3721.561, 3721.58, 3722.01, 3722.011, 3722.02, 3722.021, 3722.022, 3722.03, 3722.04, 3722.041, 3722.05, 3722.06, 3722.07, 3722.08, 3722.09, 3722.10, 3722.11, 3722.12, 3722.13, 3722.14, 3722.15, 3722.151, 3722.16, 3722.17, 3722.18, 3733.41, 3733.99, 3734.02, 3734.05, 3734.06, 3734.18, 3734.19, 3734.20, 3734.21, 3734.22, 3734.23, 3734.24, 3734.25, 3734.26, 3734.27, 3734.28, 3734.282, 3734.57, 3734.85, 3734.901, 3735.36, 3735.66, 3737.73, 3737.83, 3737.841, 3737.87, 3737.88, 3743.06, 3743.19, 3743.52, 3743.53, 3743.54, 3743.64, 3745.015, 3745.11, 3746.02, 3750.081, 3767.32, 3769.08, 3769.20, 3769.26, 3770.03, 3770.05, 3772.032, 3772.062, 3781.183, 3791.043, 3793.04, 3793.06, 3793.21, 3901.3814, 3903.01, 3923.28, 3923.281, 3923.30, 3924.10, 3937.41, 3963.01, 3963.11, 4113.11, 4113.61, 4115.03, 4115.033, 4115.034, 4115.04, 4115.05, 4115.10, 4115.101, 4115.13, 4115.16, 4116.01, 4117.01, 4117.03, 4121.03, 4121.12, 4121.121, 4121.125, 4121.128, 4121.44, 4123.27, 4123.341, 4123.342, 4123.35, 4131.03, 4141.08, 4141.11, 4141.33, 4301.12, 4301.43, 4301.62, 4301.80, 4301.81, 4503.06, 4503.235, 4503.70, 4503.93, 4504.02, 4504.021, 4504.15, 4504.16, 4504.18, 4505.181, 4506.071, 4507.111, 4507.164, 4511.191, 4511.193, 4513.39, 4513.60, 4513.61, 4513.62, 4513.63, 4513.64, 4513.66, 4517.01, 4517.02, 4517.04, 4517.09, 4517.10, 4517.12, 4517.13, 4517.14, 4517.23, 4517.24, 4517.44, 4549.17, 4582.12, 4582.31, 4585.10, 4705.021, 4709.13, 4725.34, 4725.48, 4725.50, 4725.52, 4725.57, 4729.52, 4729.552, 4731.054, 4731.15, 4731.16, 4731.17, 4731.171, 4731.19, 4731.222, 4731.65, 4731.71, 4733.15, 4733.151, 4735.01, 4735.02, 4735.03, 4735.05, 4735.052, 4735.06, 4735.07, 4735.09, 4735.10, 4735.13, 4735.14, 4735.141, 4735.142, 4735.15, 4735.16, 4735.17, 4735.18, 4735.181, 4735.182, 4735.19, 4735.20, 4735.21, 4735.211, 4735.32, 4735.55, 4735.58, 4735.59, 4735.62, 4735.68, 4735.71, 4735.74, 4736.12, 4740.14, 4757.31, 4776.01, 4906.01, 4911.02, 4927.17, 4928.20, 4929.26, 4929.27, 4931.40, 4931.51, 4931.52, 4931.53, 5101.16, 5101.181, 5101.182, 5101.183, 5101.244,

5101.26, 5101.27, 5101.271, 5101.272, 5101.28, 5101.30, 5101.341, 5101.342, 5101.35, 5101.37, 5101.46, 5101.47, 5101.571, 5101.573, 5101.58, 5101.60, 5101.61, 5101.98, 5104.01, 5104.011, 5104.012, 5104.013, 5104.03, 5104.04, 5104.05, 5104.13, 5104.30, 5104.32, 5104.34, 5104.341, 5104.35, 5104.37, 5104.38, 5104.39, 5104.42, 5104.43, 5104.99, 5111.011, 5111.012, 5111.013, 5111.0112, 5111.0116, 5111.021, 5111.023, 5111.025, 5111.031, 5111.06, 5111.061, 5111.113, 5111.13, 5111.14, 5111.151, 5111.16, 5111.17, 5111.172, 5111.20, 5111.21, 5111.211, 5111.22, 5111.221, 5111.222, 5111.23, 5111.231, 5111.232, 5111.235, 5111.24, 5111.241, 5111.244, 5111.25, 5111.251, 5111.254, 5111.255, 5111.258, 5111.261, 5111.262, 5111.27, 5111.28, 5111.29, 5111.291, 5111.33, 5111.35, 5111.52, 5111.54, 5111.62, 5111.65, 5111.66, 5111.67, 5111.671, 5111.672, 5111.68, 5111.681, 5111.687, 5111.689, 5111.85, 5111.871, 5111.872, 5111.873, 5111.874, 5111.877, 5111.88, 5111.89, 5111.891, 5111.892, 5111.894, 5111.911, 5111.912, 5111.913, 5111.94, 5111.941, 5111.97, 5112.30, 5112.31, 5112.37, 5112.371, 5112.39, 5112.40, 5112.41, 5112.46, 5112.99, 5119.01, 5119.02, 5119.06, 5119.18, 5119.22, 5119.61, 5119.611, 5119.612, 5119.613, 5119.62, 5119.621, 5119.99, 5120.105, 5120.135, 5120.17, 5120.22, 5120.28, 5120.29, 5122.01, 5122.15, 5122.21, 5122.31, 5123.01, 5123.0412, 5123.0413, 5123.0417, 5123.051, 5123.171, 5123.18, 5123.19, 5123.191, 5123.194, 5123.352, 5123.42, 5123.45, 5123.60, 5126.01, 5126.029, 5126.04, 5126.042, 5126.05, 5126.054, 5126.0510, 5126.0511, 5126.0512, 5126.08, 5126.11, 5126.12, 5126.24, 5126.41, 5126.42, 5139.11, 5139.43, 5310.35, 5501.44, 5501.73, 5502.52, 5502.522, 5502.61, 5502.68, 5505.04, 5505.22, 5525.04, 5540.01, 5540.03, 5540.031, 5540.05, 5543.10, 5549.21, 5552.06, 5553.05, 5553.19, 5553.23, 5553.42, 5555.07, 5555.27, 5555.42, 5559.06, 5559.10, 5559.12, 5561.04, 5561.08, 5571.011, 5573.02, 5573.10, 5575.01, 5575.02, 5591.15, 5593.08, 5701.13, 5703.05, 5703.056, 5703.37, 5703.57, 5703.58, 5705.01, 5705.14, 5705.16, 5705.19, 5705.191, 5705.194, 5705.196, 5705.21, 5705.211, 5705.214, 5705.218, 5705.25, 5705.251, 5705.261, 5705.29, 5705.314, 5705.392, 5705.412, 5705.71, 5707.031, 5709.07, 5709.084, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.82, 5709.83, 5713.01, 5715.17, 5715.23, 5715.26, 5719.04, 5721.01, 5721.03, 5721.04, 5721.18, 5721.19, 5721.30, 5721.31, 5721.32, 5721.37, 5721.38, 5721.42, 5722.13, 5723.05, 5723.18, 5725.151, 5725.24, 5725.98, 5727.57, 5727.75, 5727.84, 5727.85, 5727.86, 5729.98, 5731.02, 5731.19, 5731.21, 5731.39, 5733.0610, 5733.23, 5733.351, 5739.01, 5739.02, 5739.021, 5739.022, 5739.026, 5739.07, 5739.101, 5739.19, 5739.30, 5747.01,

5747.058, 5747.113, 5747.451, 5747.46, 5747.51, 5747.98, 5748.01, 5748.02, 5748.021, 5748.04, 5748.05, 5748.08, 5748.081, 5751.01, 5751.011, 5751.20, 5751.21, 5751.22, 5751.23, 5751.50, 5919.34, 5919.341, 6101.16, 6103.04, 6103.05, 6103.06, 6103.081, 6103.31, 6105.131, 6109.21, 6111.038, 6111.044, 6115.01, 6115.20, 6117.05, 6117.06, 6117.07, 6117.251, 6117.49, 6119.10, 6119.18, 6119.22, 6119.25, and 6119.58 of the Revised Code are hereby repealed.

SECTION 105.01. That sections 7.14, 122.0818, 122.452, 126.04, 126.501, 126.502, 126.507, 165.031, 179.01, 179.02, 179.03, 179.04, 340.08, 701.04, 1501.031, 1551.13, 3123.52, 3123.61, 3123.612, 3123.613, 3123.614, 3301.82, 3301.922, 3306.01, 3306.011, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3306.11, 3306.13, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.29, 3306.291, 3306.292, 3306.50, 3306.51, 3306.52, 3306.53, 3306.54, 3306.55, 3306.56, 3306.57, 3306.58, 3306.59, 3311.059, 3313.674, 3314.014, 3314.016, 3314.017, 3314.025, 3314.082, 3314.085, 3314.11, 3314.111, 3317.011, 3317.016, 3317.017, 3317.0216, 3317.04, 3317.17, 3319.112, 3319.62, 3329.16, 3335.45, 3349.242, 3706.042, 3721.56, 3722.99, 3733.21, 3733.22, 3733.23, 3733.24, 3733.25, 3733.26, 3733.27, 3733.28, 3733.29, 3733.30, 3923.90, 3923.91, 4115.032, 4121.75, 4121.76, 4121.77, 4121.78, 4121.79, 4582.37, 4731.18, 4981.23, 5101.5211, 5101.5212, 5101.5213, 5101.5214, 5101.5215, 5101.5216, 5111.243, 5111.34, 5111.861, 5111.893, 5111.971, 5122.36, 5123.172, 5123.181, 5123.193, 5123.211, 5126.18, and 5126.19 of the Revised Code are hereby repealed.

SECTION 120.20. That sections 3721.16, 5111.709, 5119.221, 5122.01, 5122.02, 5122.27, 5122.271, 5122.29, 5122.31, 5122.32, 5123.092, 5123.19, 5123.191, 5123.35, 5123.60, 5123.61, 5123.63, 5123.64, 5123.69, 5123.701, 5123.86, 5123.99, and 5126.33 be amended; that section 5123.60 (5123.601) be amended for the purpose of adopting a new section number as indicated in parentheses; and that new sections 5123.60 and 5123.602 of the Revised Code be enacted to read as follows:

Sec. 3721.16. For each resident of a home, notice of a proposed transfer or discharge shall be in accordance with this section.

(A)(1) The administrator of a home shall notify a resident in writing,

and the resident's sponsor in writing by certified mail, return receipt requested, in advance of any proposed transfer or discharge from the home. The administrator shall send a copy of the notice to the state department of health. The notice shall be provided at least thirty days in advance of the proposed transfer or discharge, unless any of the following applies:

(a) The resident's health has improved sufficiently to allow a more immediate discharge or transfer to a less skilled level of care;

(b) The resident has resided in the home less than thirty days;

(c) An emergency arises in which the safety of individuals in the home is endangered;

(d) An emergency arises in which the health of individuals in the home would otherwise be endangered;

(e) An emergency arises in which the resident's urgent medical needs necessitate a more immediate transfer or discharge.

In any of the circumstances described in divisions (A)(1)(a) to (e) of this section, the notice shall be provided as many days in advance of the proposed transfer or discharge as is practicable.

(2) The notice required under division (A)(1) of this section shall include all of the following:

(a) The reasons for the proposed transfer or discharge;

(b) The proposed date the resident is to be transferred or discharged;

(c) Subject to division (A)(3) of this section, a proposed location to which the resident may relocate and a notice that the resident and resident's sponsor may choose another location to which the resident will relocate;

(d) Notice of the right of the resident and the resident's sponsor to an impartial hearing at the home on the proposed transfer or discharge, and of the manner in which and the time within which the resident or sponsor may request a hearing pursuant to section 3721.161 of the Revised Code;

(e) A statement that the resident will not be transferred or discharged before the date specified in the notice unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date;

(f) The address of the legal services office of the department of health;

(g) The name, address, and telephone number of a representative of the state long-term care ombudsperson program and, if the resident or patient has a developmental disability or mental illness, the name, address, and telephone number of the Ohio ~~legal rights service~~ protection and advocacy system.

(3) The proposed location to which a resident may relocate as specified pursuant to division (A)(2)(c) of this section in the proposed transfer or

discharge notice shall be capable of meeting the resident's health-care and safety needs. The proposed location for relocation need not have accepted the resident at the time the notice is issued to the resident and resident's sponsor.

(B) No home shall transfer or discharge a resident before the date specified in the notice required by division (A) of this section unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date.

(C) Transfer or discharge actions shall be documented in the resident's medical record by the home if there is a medical basis for the action.

(D) A resident or resident's sponsor may challenge a transfer or discharge by requesting an impartial hearing pursuant to section 3721.161 of the Revised Code, unless the transfer or discharge is required because of one of the following reasons:

(1) The home's license has been revoked under this chapter;

(2) The home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62, or section 5155.31 of the Revised Code;

(3) The resident is a recipient of medicaid and the home's participation in the medicaid program has been involuntarily terminated or denied by the federal government;

(4) The resident is a beneficiary under the medicare program and the home's certification under the medicare program has been involuntarily terminated or denied by the federal government.

(E) If a resident is transferred or discharged pursuant to this section, the home from which the resident is being transferred or discharged shall provide the resident with adequate preparation prior to the transfer or discharge to ensure a safe and orderly transfer or discharge from the home, and the home or alternative setting to which the resident is to be transferred or discharged shall have accepted the resident for transfer or discharge.

(F) At the time of a transfer or discharge of a resident who is a recipient of medicaid from a home to a hospital or for therapeutic leave, the home shall provide notice in writing to the resident and in writing by certified mail, return receipt requested, to the resident's sponsor, specifying the number of days, if any, during which the resident will be permitted under the medicaid program to return and resume residence in the home and specifying the medicaid program's coverage of the days during which the resident is absent from the home. An individual who is absent from a home for more than the number of days specified in the notice and continues to require the services provided by the facility shall be given priority for the first available bed in a semi-private room.

Sec. 5111.709. (A) There is hereby created the medicaid buy-in advisory council. The council shall consist of all of the following:

(1) The following voting members:

(a) The executive director of assistive technology of Ohio or the executive director's designee;

(b) The director of the axis center for public awareness of people with disabilities or the director's designee;

(c) The executive director of the cerebral palsy association of Ohio or the executive director's designee;

(d) The chief executive officer of Ohio advocates for mental health or the chief executive officer's designee;

(e) The state director of the Ohio chapter of AARP or the state director's designee;

(f) The director of the Ohio developmental disabilities council created under section 5123.35 of the Revised Code or the director's designee;

(g) The executive director of the governor's council on people with disabilities created under section 3303.41 of the Revised Code or the executive director's designee;

(h) ~~The administrator of the legal rights service created under section 5123.60 of the Revised Code or the administrator's designee;~~

~~(i)~~ The chairperson of the Ohio Olmstead task force or the chairperson's designee;

~~(j)~~(i) The executive director of the Ohio statewide independent living council or the executive director's designee;

~~(k)~~(j) The president of the Ohio chapter of the national multiple sclerosis society or the president's designee;

~~(l)~~(k) The executive director of the arc of Ohio or the executive director's designee;

~~(m)~~(l) The executive director of the commission on minority health or the executive director's designee;

~~(n)~~(m) The executive director of the brain injury association of Ohio or the executive director's designee;

~~(o)~~(n) The executive officer of any other advocacy organization who volunteers to serve on the council, or such an executive officer's designee, if the other voting members, at a meeting called by the chairperson elected under division (C) of this section, determine it is appropriate for the advocacy organization to be represented on the council;

~~(p)~~(o) One or more participants who volunteer to serve on the council and are selected by the other voting members at a meeting the chairperson calls after the medicaid buy-in for workers with disabilities program is

implemented.

(2) The following non-voting members:

(a) The director of job and family services or the director's designee;

(b) The administrator of the rehabilitation services commission or the administrator's designee;

(c) The director of alcohol and drug addiction services or the director's designee;

(d) The director of developmental disabilities or the director's designee;

(e) The director of mental health or the director's designee;

(f) The executive officer of any other government entity, or the executive officer's designee, if the voting members, at a meeting called by the chairperson, determine it is appropriate for the government entity to be represented on the council.

(B) All members of the medicaid buy-in advisory council shall serve without compensation or reimbursement, except as serving on the council is considered part of their usual job duties.

(C) The voting members of the medicaid buy-in advisory council shall elect one of the members of the council to serve as the council's chairperson for a two-year term. The chairperson may be re-elected to successive terms.

(D) The department of job and family services shall provide the Ohio medicaid buy-in advisory council with accommodations for the council to hold its meetings and shall provide the council with other administrative assistance the council needs to perform its duties.

Sec. 5119.221. (A) Upon petition by the director of mental health, the court of common pleas or the probate court may appoint a receiver to take possession of and operate a residential facility licensed pursuant to section 5119.22 of the Revised Code, when conditions existing at the residential facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents.

Petitions filed pursuant to this section shall include:

(1) A description of the specific conditions existing at the residential facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the residential facility as a pattern or

practice; and

(5) The name and address of the person holding the license for the residential facility.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility of the filing. The department shall send notice of the filing to the following, as appropriate: the ~~legal rights service created pursuant to~~ Ohio protection and advocacy system as defined in section 5123.60 of the Revised Code; facility owner; facility operator; board of alcohol, drug addiction, and mental health services; board of health; department of developmental disabilities; department of job and family services; facility residents; and residents' families and guardians. The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action.

Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of mental health and appropriate persons of this action.

In setting forth the powers of the receiver, the court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver and shall require regular and detailed reports.

(C) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility;

(2) Circumstances no longer exist at the residential facility which present a substantial risk of physical or mental harm to residents, and there is no deficiency in the residential facility that is likely to create a future risk of harm.

Notwithstanding division (C)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the

department of mental health.

(D) Except for the department of mental health or appropriate board of alcohol, drug addiction, and mental health services, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of the department of mental health shall maintain a list of the names of such persons. The department of mental health, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Before entering upon the duties of receiver, the receiver must be sworn to perform the duties faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(1) Under the control of the appointing court, a receiver may do the following:

(a) Bring and defend actions in the appointee's name as receiver;

(b) Take and keep possession of property.

(2) The court shall authorize the receiver to do the following:

(a) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(b) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession, but, in the case of a rental agreement only to the extent of payments that are for the use of the property during the period of the receivership, or, in the case of a purchase agreement, only to the extent that payments come due during the period of the receivership;

(c) If transfer of residents is necessary, provide for the orderly transfer of residents by:

(i) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;

(ii) Providing for the transportation of residents' belongings and records;

(iii) Helping to locate alternative placements and develop plans for transfer;

(iv) Encouraging residents or guardians to participate in transfer planning except when an emergency exists and immediate transfer is necessary.

(d) Make periodic reports on the status of the residential facility to the court; the appropriate state agencies; and the board of alcohol, drug addiction, and mental health services. Each report shall be made available to residents, their guardians, and families.

(e) Compromise demands or claims; and

(f) Generally do such acts respecting the residential facility as the court authorizes.

Notwithstanding any other provision of law, contracts which are necessary to carry out the powers and duties of the receiver need not be competitively bid.

Sec. 5122.01. As used in this chapter and Chapter 5119. of the Revised Code:

(A) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(B) "Mentally ill person subject to hospitalization by court order" means a mentally ill person who, because of the person's illness:

(1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

(2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

(3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; or

(4) Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter, who is under observation or receiving treatment in such place.

(2) "Patient" does not include a person admitted to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to patient, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(D) "Licensed physician" means a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of the person's official duties.

(E) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American medical association, the committee on post-graduate education of the American osteopathic association, or the American osteopathic board of neurology and psychiatry, or who on July 1, 1989, has been recognized as a psychiatrist by the Ohio state medical association or the Ohio osteopathic association on the basis of formal training and five or more years of medical practice limited to psychiatry.

(F) "Hospital" means a hospital or inpatient unit licensed by the department of mental health under section 5119.20 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.

(G) "Public hospital" means a facility that is tax-supported and under the jurisdiction of the department of mental health.

(H) "Community mental health agency" means an agency that provides community mental health services that are certified by the director of mental health under section 5119.611 of the Revised Code.

(I) "Licensed clinical psychologist" means a person who holds a current valid psychologist license issued under section 4732.12 or 4732.15 of the Revised Code, and in addition, meets either of the following criteria:

(1) Meets the educational requirements set forth in division (B) of section 4732.10 of the Revised Code and has a minimum of two years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, at least one year of which shall be a predoctoral internship, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under the supervision of a psychologist who is licensed or who holds a diploma issued by the American board of professional psychology, or whose qualifications are substantially similar to those required for licensure by the state board of psychology when the

supervision has occurred prior to enactment of laws governing the practice of psychology;

(2) Meets the educational requirements set forth in division (B) of section 4732.15 of the Revised Code and has a minimum of four years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under supervision, as set forth in division (I)(1) of this section.

(J) "Health officer" means any public health physician; public health nurse; or other person authorized by or designated by a city health district; a general health district; or a board of alcohol, drug addiction, and mental health services to perform the duties of a health officer under this chapter.

(K) "Chief clinical officer" means the medical director of a hospital, or a community mental health agency, or a board of alcohol, drug addiction, and mental health services, or, if there is no medical director, the licensed physician responsible for the treatment a hospital or community mental health agency provides. The chief clinical officer may delegate to the attending physician responsible for a patient's care the duties imposed on the chief clinical officer by this chapter. Within a community mental health agency, the chief clinical officer shall be designated by the governing body of the agency and shall be a licensed physician or licensed clinical psychologist who supervises diagnostic and treatment services. A licensed physician or licensed clinical psychologist designated by the chief clinical officer may perform the duties and accept the responsibilities of the chief clinical officer in the chief clinical officer's absence.

(L) "Working day" or "court day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday.

(M) "Indigent" means unable without deprivation of satisfaction of basic needs to provide for the payment of an attorney and other necessary expenses of legal representation, including expert testimony.

(N) "Respondent" means the person whose detention, commitment, hospitalization, continued hospitalization or commitment, or discharge is being sought in any proceeding under this chapter.

(O) ~~"Legal rights service" means the service established under~~ "Ohio protection and advocacy system" has the same meaning as in section 5123.60 of the Revised Code.

(P) "Independent expert evaluation" means an evaluation conducted by a licensed clinical psychologist, psychiatrist, or licensed physician who has been selected by the respondent or the respondent's counsel and who

consents to conducting the evaluation.

(Q) "Court" means the probate division of the court of common pleas.

(R) "Expunge" means:

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;

(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;

(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;

(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.

(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:

(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed.

When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(T) "Admission" to a hospital or other place means that a patient is accepted for and stays at least one night at the hospital or other place.

(U) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(V) "Treatment plan" means a written statement of reasonable objectives and goals for an individual established by the treatment team, with specific criteria to evaluate progress towards achieving those objectives. The active participation of the patient in establishing the objectives and goals shall be documented. The treatment plan shall be based

on patient needs and include services to be provided to the patient while the patient is hospitalized and after the patient is discharged. The treatment plan shall address services to be provided upon discharge, including but not limited to housing, financial, and vocational services.

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

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

Sec. 5122.02. (A) Except as provided in division (D) of this section, any person who is eighteen years of age or older and who is, appears to be, or believes self to be mentally ill may make written application for voluntary admission to the chief medical officer of a hospital.

(B) Except as provided in division (D) of this section, the application also may be made on behalf of a minor by a parent, a guardian of the person, or the person with custody of the minor, and on behalf of an adult incompetent person by the guardian or the person with custody of the incompetent person.

Any person whose admission is applied for under division (A) or (B) of this section may be admitted for observation, diagnosis, care, or treatment, in any hospital unless the chief clinical officer finds that hospitalization is inappropriate, and except that, in the case of a public hospital, no person shall be admitted without the authorization of the board of the person's county of residence.

(C) If a minor or person adjudicated incompetent due to mental illness whose voluntary admission is applied for under division (B) of this section is admitted, the court shall determine, upon petition by ~~the legal rights service,~~ private or otherwise appointed counsel, a relative, or one acting as next friend, whether the admission or continued hospitalization is in the best interest of the minor or incompetent.

The chief clinical officer shall discharge any voluntary patient who has recovered or whose hospitalization the officer determines to be no longer advisable and may discharge any voluntary patient who refuses to accept treatment consistent with the written treatment plan required by section 5122.27 of the Revised Code.

(D) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily admit ~~himself or herself~~ the person or be voluntarily admitted to a hospital pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

Sec. 5122.27. The chief clinical officer of the hospital or ~~his~~ the chief clinical officer's designee shall assure that all patients hospitalized or committed pursuant to this chapter shall:

(A) Receive, within twenty days of their admission sufficient professional care to assure that an evaluation of current status, differential diagnosis, probable prognosis, and description of the current treatment plan is stated on the official chart;

(B) Have a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals which shall be provided, upon request of the patient or patient's counsel, to the patient's counsel and to any private physician or licensed clinical psychologist designated by the patient or ~~his~~ the patient's counsel or to the ~~legal rights service~~ Ohio protection and advocacy system;

(C) Receive treatment consistent with the treatment plan. The department of mental health shall set standards for treatment provided to such patients, consistent wherever possible with standards set by the joint commission on accreditation of healthcare organizations.

(D) Receive periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed ninety days;

(E) Be provided with adequate medical treatment for physical disease or injury;

(F) Receive humane care and treatment, including without limitation, the following:

(1) The least restrictive environment consistent with the treatment plan;

(2) The necessary facilities and personnel required by the treatment plan;

(3) A humane psychological and physical environment;

(4) The right to obtain current information concerning ~~his~~ the patient's treatment program and expectations in terms that ~~he~~ the patient can reasonably understand;

(5) Participation in programs designed to afford ~~him~~ the patient substantial opportunity to acquire skills to facilitate ~~his~~ return to the community or to terminate an involuntary commitment;

(6) The right to be free from unnecessary or excessive medication;

(7) Freedom from restraints or isolation unless it is stated in a written order by the chief clinical officer or ~~his~~ the chief clinical officer's designee, or the patient's individual physician or psychologist in a private or general hospital.

~~(G) Be notified of their rights under the law within twenty-four hours of admission, according to rules established by the legal rights service.~~

If the chief clinical officer of the hospital is unable to provide the treatment required by divisions (C), (E), and (F) of this section for any patient hospitalized pursuant to Chapter 5122. of the Revised Code, ~~he~~ the chief clinical officer shall immediately notify the patient, the court, the ~~legal rights service~~ Ohio protection and advocacy system, the director of mental health, and the patient's counsel and legal guardian, if known. If within ten days after receipt of such notification by the director, ~~he~~ the director is unable to effect a transfer of the patient, pursuant to section 5122.20 of the Revised Code, to a hospital, community mental health agency, or other medical facility where treatment is available, or has not received an order of the court to the contrary, the involuntary commitment of any patient hospitalized pursuant to Chapter 5122. of the Revised Code and defined as a mentally ill person subject to hospitalization by court order under division (B)(4) of section 5122.01 of the Revised Code shall automatically be terminated.

Sec. 5122.271. (A) Except as provided in divisions (C), (D), and (E) of this section, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for a patient's care shall provide all information, including expected physical and medical consequences, necessary to enable any patient of a hospital for the mentally ill to give a fully informed, intelligent, and knowing consent, the opportunity to consult with independent specialists and counsel, and the right to refuse consent for any of the following:

(1) Surgery;

(2) Convulsive therapy;

(3) Major aversive interventions;

(4) Sterilizations;

(5) Any unusually hazardous treatment procedures;

(6) Psycho-surgery.

(B) No patient shall be subjected to any of the procedures listed in divisions (A)(4) to (6) of this section until both the patient's informed, intelligent, and knowing consent and the approval of the court have been obtained, except that court approval is not required for a legally competent and voluntary patient in a nonpublic hospital.

(C) If, after providing the information required under division (A) of this section to the patient, the chief clinical officer or attending physician concludes that a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the patient's natural or court-appointed guardian, who may give an informed,

intelligent, and knowing written consent.

If a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section and has no guardian, the information, the recommendation of the chief clinical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in which the hospital is located, which may approve the surgery. Before approving the surgery, the court shall notify the ~~legal rights service~~ Ohio protection and advocacy system created by section 5123.60 of the Revised Code, and shall notify the patient of the rights to consult with counsel, to have counsel appointed by the court if the patient is indigent, and to contest the recommendation of the chief clinical officer.

(D) If, in a medical emergency, and after providing the information required under division (A) of this section to the patient, it is the judgment of one licensed physician that delay in obtaining surgery would create a grave danger to the health of the patient, it may be administered without the consent of the patient or the patient's guardian if the necessary information is provided to the patient's spouse or next of kin to enable that person to give informed, intelligent, and knowing written consent. If no spouse or next of kin can reasonably be contacted, or if the spouse or next of kin is contacted, but refuses to consent, the surgery may be performed upon the written authorization of the chief clinical officer or, in a nonpublic hospital, upon the written authorization of the attending physician responsible for the patient's care, and after the approval of the court has been obtained. However, if delay in obtaining court approval would create a grave danger to the life of the patient, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for the patient's care may authorize surgery, in writing, without court approval. If the surgery is authorized without court approval, the chief clinical officer or the attending physician who made the authorization and the physician who performed the surgery shall each execute an affidavit describing the circumstances constituting the emergency and warranting the surgery and the circumstances warranting their not obtaining prior court approval. The affidavit shall be filed with the court with which the request for prior approval would have been filed within five court days after the surgery, and a copy of the affidavit shall be placed in the patient's file and be given to the guardian, spouse, or next of kin of the patient, to the hospital at which the surgery was performed, and to the ~~legal rights service created by~~ Ohio protection and advocacy system as defined in section 5123.60 of the Revised Code.

(E) Major aversive interventions shall not be used unless a patient

continues to engage in behavior destructive to self or others after other forms of therapy have been attempted. Major aversive interventions may be applied if approved by the director of mental health. ~~The director of the legal rights service created by section 5123.60 of the Revised Code shall be notified of any proposed major aversive intervention prior to review by the director of mental health.~~ Major aversive interventions shall not be applied to a voluntary patient without the informed, intelligent, and knowing written consent of the patient or the patient's guardian.

(F) Unless there is substantial risk of physical harm to self or others, or other than under division (D) of this section, this chapter does not authorize any form of compulsory medical, psychological, or psychiatric treatment of any patient who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing without specific court authorization.

(G) For purposes of this section, "convulsive therapy" does not include defibrillation.

Sec. 5122.29. All patients hospitalized or committed pursuant to this chapter have the following rights:

(A) The right to a written list of all rights enumerated in this chapter, to that person, ~~his~~ that person's legal guardian, and ~~his~~ that person's counsel. If the person is unable to read, the list shall be read and explained to ~~him~~ the person.

(B) The right at all times to be treated with consideration and respect for ~~his~~ the patient's privacy and dignity, including without limitation, the following:

(1) At the time a person is taken into custody for diagnosis, detention, or treatment under Chapter 5122. of the Revised Code, the person taking ~~him~~ that person into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by that person;

(2) A person who is committed, voluntarily or involuntarily, shall be given reasonable protection from assault or battery by any other person.

(C) The right to communicate freely with and be visited at reasonable times by ~~his~~ the patient's private counsel or personnel of the ~~legal rights service~~ Ohio protection and advocacy system and, unless prior court restriction has been obtained, to communicate freely with and be visited at reasonable times by ~~his~~ the patient's personal physician or psychologist.

(D) The right to communicate freely with others, unless specifically restricted in the patient's treatment plan for clear treatment reasons, including without limitation the following:

(1) To receive visitors at reasonable times;

(2) To have reasonable access to telephones to make and receive confidential calls, including a reasonable number of free calls if unable to pay for them and assistance in calling if requested and needed.

(E) The right to have ready access to letter writing materials, including a reasonable number of stamps without cost if unable to pay for them, and to mail and receive unopened correspondence and assistance in writing if requested and needed.

(F) The right to the following personal privileges consistent with health and safety:

(1) To wear ~~his~~ the patient's own clothes and maintain ~~his~~ the patient's own personal effects;

(2) To be provided an adequate allowance for or allotment of neat, clean, and seasonable clothing if unable to provide ~~his~~ the patient's own;

(3) To maintain ~~his~~ the patient's personal appearance according to ~~his~~ the patient's own personal taste, including head and body hair;

(4) To keep and use personal possessions, including toilet articles;

(5) To have access to individual storage space for ~~his~~ the patient's private use;

(6) To keep and spend a reasonable sum of ~~his~~ the patient's own money for expenses and small purchases;

(7) To receive and possess reading materials without censorship, except when the materials create a clear and present danger to the safety of persons in the facility.

(G) The right to reasonable privacy, including both periods of privacy and places of privacy.

(H) The right to free exercise of religious worship within the facility, including a right to services and sacred texts that are within the reasonable capacity of the facility to supply, provided that no patient shall be coerced into engaging in any religious activities.

(I) The right to social interaction with members of either sex, subject to adequate supervision, unless such social interaction is specifically withheld under a patient's written treatment plan for clear treatment reasons.

As used in this section, "clear treatment reasons" means that permitting the patient to communicate freely with others will present a substantial risk of physical harm to the patient or others or will substantially preclude effective treatment of the patient. If a right provided under this section is restricted or withheld for clear treatment reasons, the patient's written treatment plan shall specify the treatment designed to eliminate the restriction or withholding of the right at the earliest possible time.

Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter or section ~~5123.60~~ 5123.601 of the Revised Code;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department, other institutions and facilities within the department, hospitals licensed by the department under section 5119.20 of the Revised Code, and community mental health agencies may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient;

(8) That a patient's family member who is involved in the provision,

planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health agencies may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other agencies in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

(13) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's

medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), (7), and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5122.32. (A) As used in this section:

(1) "Quality assurance committee" means a committee that is appointed in the central office of the department of mental health by the director of mental health, a committee of a hospital or community setting program, a committee established pursuant to section 5119.47 of the Revised Code of the department of mental health appointed by the managing officer of the hospital or program, or a duly authorized subcommittee of a committee of that nature and that is designated to carry out quality assurance program activities.

(2) "Quality assurance program" means a comprehensive program within the department of mental health to systematically review and improve the quality of medical and mental health services within the department and its hospitals and community setting programs, the safety and security of persons receiving medical and mental health services within the department and its hospitals and community setting programs, and the efficiency and effectiveness of the utilization of staff and resources in the delivery of medical and mental health services within the department and its hospitals and community setting programs. "Quality assurance program" includes the central office quality assurance committees, morbidity and mortality review committees, quality assurance programs of community setting programs, quality assurance committees of hospitals operated by the department of mental health, and the office of licensure and certification of the department.

(3) "Quality assurance program activities" include collecting or

compiling information and reports required by a quality assurance committee, receiving, reviewing, or implementing the recommendations made by a quality assurance committee, and credentialing, privileging, infection control, tissue review, peer review, utilization review including access to patient care records, patient care assessment records, and medical and mental health records, medical and mental health resource management, mortality and morbidity review, and identification and prevention of medical or mental health incidents and risks, whether performed by a quality assurance committee or by persons who are directed by a quality assurance committee.

(4) "Quality assurance records" means the proceedings, discussion, records, findings, recommendations, evaluations, opinions, minutes, reports, and other documents or actions that emanate from quality assurance committees, quality assurance programs, or quality assurance program activities. "Quality assurance records" does not include aggregate statistical information that does not disclose the identity of persons receiving or providing medical or mental health services in department of mental health institutions.

(B)(1) Except as provided in division (E) of this section, quality assurance records are confidential and are not public records under section 149.43 of the Revised Code, and shall be used only in the course of the proper functions of a quality assurance program.

(2) Except as provided in division (E) of this section, no person who possesses or has access to quality assurance records and who knows that the records are quality assurance records shall willfully disclose the contents of the records to any person or entity.

(C)(1) Except as provided in division (E) of this section, no quality assurance record shall be subject to discovery in, and is not admissible in evidence, in any judicial or administrative proceeding.

(2) Except as provided in division (E) of this section, no member of a quality assurance committee or a person who is performing a function that is part of a quality assurance program shall be permitted or required to testify in a judicial or administrative proceeding with respect to quality assurance records or with respect to any finding, recommendation, evaluation, opinion, or other action taken by the committee, member, or person.

(3) Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or admission in evidence in a judicial or administrative proceeding merely because they were presented to a quality assurance committee. No person testifying before a quality assurance committee or person who is a member

of a quality assurance committee shall be prevented from testifying as to matters within the person's knowledge, but the witness cannot be asked about the witness' testimony before the quality assurance committee or about an opinion formed by the person as a result of the quality assurance committee proceedings.

(D)(1) A person who, without malice and in the reasonable belief that the information is warranted by the facts known to the person, provides information to a person engaged in quality assurance program activities is not liable for damages in a civil action for injury, death, or loss to person or property to any person as a result of providing the information.

(2) A member of a quality assurance committee, a person engaged in quality assurance program activities, and an employee of the department of mental health shall not be liable in damages in a civil action for injury, death, or loss to person or property to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of the quality assurance program.

(3) Nothing in this section shall relieve any institution or individual from liability arising from the treatment of a patient.

(E) Quality assurance records may be disclosed, and testimony may be provided concerning quality assurance records, only to the following persons or entities:

(1) Persons who are employed or retained by the department of mental health and who have authority to evaluate or implement the recommendations of a state-operated hospital, community setting program, or central office quality assurance committee;

(2) Public or private agencies or organizations if needed to perform a licensing or accreditation function related to department of mental health hospitals or community setting programs, or to perform monitoring of a hospital or program of that nature as required by law.

(F) A disclosure of quality assurance records pursuant to division (E) of this section does not otherwise waive the confidential and privileged status of the disclosed quality assurance records.

(G) Nothing in this section shall limit the access of the ~~legal rights service~~ Ohio protection and advocacy system to records or personnel as ~~set forth in sections 5123.60 to 5123.604~~ required under section 5123.601 of the Revised Code. Nothing in this section shall limit the admissibility of documentary or testimonial evidence in an action brought by the ~~legal rights service~~ Ohio protection and advocacy system in its own name or on behalf of a client.

Sec. 5123.092. (A) There is hereby established at each institution and

branch institution under the control of the department of developmental disabilities a citizen's advisory council consisting of thirteen members. At least seven of the members shall be persons who are not providers of mental retardation services. Each council shall include parents or other relatives of residents of institutions under the control of the department, community leaders, professional persons in relevant fields, and persons who have an interest in or knowledge of mental retardation. The managing officer of the institution shall be a nonvoting member of the council.

(B) The director of developmental disabilities shall be the appointing authority for the voting members of each citizen's advisory council. Each time the term of a voting member expires, the remaining members of the council shall recommend to the director one or more persons to serve on the council. The director may accept a nominee of the council or reject the nominee or nominees. If the director rejects the nominee or nominees, the remaining members of the advisory council shall further recommend to the director one or more other persons to serve on the advisory council. This procedure shall continue until a member is appointed to the advisory council.

Each advisory council shall elect from its appointed members a chairperson, vice-chairperson, and a secretary to serve for terms of one year. Advisory council officers shall not serve for more than two consecutive terms in the same office. A majority of the advisory council members constitutes a quorum.

(C) Terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term which it succeeds. No member shall serve more than two consecutive terms, except that any former member may be appointed if one year or longer has elapsed since the member served two consecutive terms. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any vacancy shall be filled in the same manner in which the original appointment was made, and the appointee to a vacancy in an unexpired term shall serve the balance of the term of the original appointee. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) Members shall be expected to attend all meetings of the advisory council. Unexcused absence from two successive regularly scheduled meetings shall be considered prima-facie evidence of intent not to continue as a member. The chairperson of the board shall, after a member has been absent for two successive regularly scheduled meetings, direct a letter to the

member asking if the member wishes to remain in membership. If an affirmative reply is received, the member shall be retained as a member except that, if, after having expressed a desire to remain a member, the member then misses a third successive regularly scheduled meeting without being excused, the chairperson shall terminate the member's membership.

(E) A citizen's advisory council shall meet six times annually, or more frequently if three council members request the chairperson to call a meeting. The council shall keep minutes of each meeting and shall submit them to the managing officer of the institution with which the council is associated~~,~~ and the department of developmental disabilities~~, and the legal rights service~~.

(F) Members of citizen's advisory councils shall receive no compensation for their services, except that they shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties by the institution with which they are associated from funds allocated to it, provided that reimbursement for those expenses shall not exceed limits imposed upon the department of developmental disabilities by administrative rules regulating travel within this state.

(G) The councils shall have reasonable access to all patient treatment and living areas and records of the institution, except those records of a strictly personal or confidential nature. The councils shall have access to a patient's personal records with the consent of the patient or the patient's legal guardian or, if the patient is a minor, with the consent of the parent or legal guardian of the patient.

(H) As used in this section, "branch institution" means a facility that is located apart from an institution and is under the control of the managing officer of the institution.

Sec. 5123.19. (A) As used in this section and in sections 5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the

mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(4) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(5) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, 5119.73, 5103.03, or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.

(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a

license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. The county board shall send a copy of the letter to each of the following:

(a) Each resident who receives services from the licensee;

(b) The guardian of each resident who receives services from the licensee if the resident has a guardian;

(c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to

residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a

license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, including intermediate care facilities for the mentally retarded. The rules for intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed.

A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.193 or 5123.197 of the Revised Code.

(K) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for

development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(L) A county board of developmental disabilities~~, the legal rights service,~~ and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the

director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(P) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(R) Divisions (O) and (P) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically

permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a

residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.191. (A) The court of common pleas or a judge thereof in the judge's county, or the probate court, may appoint a receiver to take possession of and operate a residential facility licensed by the department of developmental disabilities, in causes pending in such courts respectively, when conditions existing at the facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents. Conditions at the facility that may present such risk of harm include, but are not limited to, instances when any of the following occur:

(1) The residential facility is in violation of state or federal law or regulations.

(2) The facility has had its license revoked or procedures for revocation have been initiated, or the facility is closing or intends to cease operations.

(3) Arrangements for relocating residents need to be made.

(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility.

(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility and the department of developmental disabilities of the filing. The court shall order the department to notify the ~~legal rights service,~~ facility owner, facility operator, county board of developmental disabilities, facility residents, and residents' parents and guardians of the filing of the petition.

The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of developmental disabilities and appropriate persons of this action.

(C) A residential facility for which a receiver has been named is deemed to be in compliance with section 5123.19 and Chapter 3721. of the Revised Code for the duration of the receivership.

(D) When the operating revenue of a residential facility in receivership is insufficient to meet its operating expenses, including the cost of bringing the facility into compliance with state or federal laws or regulations, the

court may order the state to provide necessary funding, except as provided in division (K) of this section. The state shall provide such funding, subject to the approval of the controlling board. The court may also order the appropriate authorities to expedite all inspections necessary for the issuance of licenses or the certification of a facility, and order a facility to be closed if it determines that reasonable efforts cannot bring the facility into substantial compliance with the law.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver it has appointed and shall require regular and detailed reports. The receivership shall be reviewed at least every sixty days.

(F) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility.

(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm.

Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of developmental disabilities.

(G) The department of developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a resident's guardian or relative~~,~~ or a county board of developmental disabilities~~, or the legal rights service~~, petition the court to appoint a receiver to take possession of and operate a residential facility. When the department has been requested to file a petition by any of the parties listed above, it shall, within forty-eight hours of such request, either file such a petition or notify the requesting party of its decision not to file. If the department refuses to file, the requesting party may file a petition with the court requesting the appointment of a receiver to take possession of and operate a residential facility.

Petitions filed pursuant to this division shall include the following:

(1) A description of the specific conditions existing at the facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the facility as a pattern or practice;

(5) The name and address of the person holding the license for the facility and the address of the department of developmental disabilities.

The court may award to an operator appropriate costs and expenses, including reasonable attorney's fees, if it determines that a petitioner has initiated a proceeding in bad faith or merely for the purpose of harassing or embarrassing the operator.

(H) Except for the department of developmental disabilities or a county board of developmental disabilities, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of developmental disabilities or the director's designee shall maintain a list of the names of such persons. The director shall, in accordance with Chapter 119. of the Revised Code, establish standards for evaluating persons desiring to be included on such a list.

(I) Before a receiver enters upon the duties of that person, the receiver must be sworn to perform the duties of receiver faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(J) Under the control of the appointing court, a receiver may bring and defend actions in the receiver's own name as receiver and take and keep possession of property.

The court shall authorize the receiver to do the following:

(1) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession and continues to use, subject to the following conditions:

(a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership;

(b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership.

(3) If transfer of residents is necessary, provide for the orderly transfer of residents by doing the following:

(a) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;

(b) Providing for the transportation of residents' belongings and records;

(c) Helping to locate alternative placements and develop discharge plans;

(d) Preparing residents for the trauma of discharge;

(e) Permitting residents or guardians to participate in transfer or discharge planning except when an emergency exists and immediate transfer is necessary.

(4) Make periodic reports on the status of the residential program to the appropriate state agency, county board of developmental disabilities, parents, guardians, and residents;

(5) Compromise demands or claims;

(6) Generally do such acts respecting the residential facility as the court authorizes.

(K) Neither the receiver nor the department of developmental disabilities is liable for debts incurred by the owner or operator of a residential facility for which a receiver has been appointed.

(L) The department of developmental disabilities may contract for the operation of a residential facility in receivership. The department shall establish the conditions of a contract. Notwithstanding any other provision of law, contracts that are necessary to carry out the powers and duties of the receiver need not be competitively bid.

(M) The department of developmental disabilities, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Sec. 5123.35. (A) There is hereby created the Ohio developmental disabilities council, which shall serve as an advocate for all persons with developmental disabilities. The council shall act in accordance with the "Developmental Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 (1984), 42 U.S.C. 6001, as amended. The governor shall appoint the members of the council in accordance with 42 U.S.C. 6024.

(B) The Ohio developmental disabilities council shall develop the state plan required by federal law as a condition of receiving federal assistance

under 42 U.S.C. 6021 to 6030. The department of developmental disabilities, as the state agency selected by the governor for purposes of receiving the federal assistance, shall receive, account for, and disburse funds based on the state plan and shall provide assurances and other administrative support services required as a condition of receiving the federal assistance.

(C) The federal funds may be disbursed through grants to or contracts with persons and government agencies for the provision of necessary or useful goods and services for developmentally disabled persons. The Ohio developmental disabilities council may award the grants or enter into the contracts.

(D) The Ohio developmental disabilities council may award grants to or enter into contracts with a member of the council or an entity that the member represents if all of the following apply:

(1) The member serves on the council as a representative of one of the principal state agencies concerned with services for persons with developmental disabilities as specified in 42 U.S.C. 6024(b)(3), a representative of a university affiliated program as defined in 42 U.S.C. 6001(18), or a representative of the ~~legal rights service created under~~ Ohio protection and advocacy system, as defined in section 5123.60 of the Revised Code.

(2) The council determines that the member or the entity the member represents is capable of providing the goods or services specified under the terms of the grant or contract.

(3) The member has not taken part in any discussion or vote of the council related to awarding the grant or entering into the contract, including service as a member of a review panel established by the council to award grants or enter into contracts or to make recommendations with regard to awarding grants or entering into contracts.

(E) A member of the Ohio developmental disabilities council is not in violation of Chapter 102. or section 2921.42 of the Revised Code with regard to receiving a grant or entering into a contract under this section if the requirements of division (D) of this section have been met.

Sec. 5123.60. (A) As used in this section and section 5123.601 of the Revised Code, "Ohio protection and advocacy system" means the nonprofit entity designated by the governor in accordance with H.B. 153 of the 129th general assembly to serve as the state's protection and advocacy system and client assistance program.

(B) The Ohio protection and advocacy system shall provide both of the following:

(1) Advocacy services for people with disabilities, as provided under section 101 of the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," 114 Stat. 1678 (2000), 42 U.S.C. 15001;

(2) A client assistance program, as provided under section 112 of the "Workforce Investment Act of 1998," 112 Stat. 1163 (1998), 29 U.S.C. 732, as amended.

(C) The Ohio protection and advocacy system may establish any guidelines necessary for its operation.

Sec. ~~5123.60~~ 5123.601. (A) ~~A legal rights service is hereby created and established to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented by the service pursuant to division (L) of this section; to receive and act upon complaints concerning institutional and hospital practices and conditions of institutions for mentally retarded or developmentally disabled persons and hospitals for the mentally ill; and to assure that all persons detained, hospitalized, discharged, or institutionalized, and all persons whose detention, hospitalization, discharge, or institutionalization is sought or has been sought under this chapter or Chapter 5122. of the Revised Code are fully informed of their rights and adequately represented by counsel in proceedings under this chapter or Chapter 5122. of the Revised Code and in any proceedings to secure the rights of those persons. Notwithstanding the definitions of "mentally retarded person" and "developmentally disabled person" in section 5123.01 of the Revised Code, the legal rights service shall determine who is a mentally retarded or developmentally disabled person for purposes of this section and sections 5123.601 to 5123.604 of the Revised Code.~~

~~(B)(1) In regard to those persons detained, hospitalized, or institutionalized under Chapter 5122. of the Revised Code, the legal rights service shall undertake formal representation only of those persons who are involuntarily detained, hospitalized, or institutionalized pursuant to sections 5122.10 to 5122.15 of the Revised Code, and those voluntarily detained, hospitalized, or institutionalized who are minors, who have been adjudicated incompetent, who have been detained, hospitalized, or institutionalized in a public hospital, or who have requested representation by the legal rights service.~~

~~(2) If a person referred to in division (A) of this section voluntarily requests in writing that the legal rights service terminate participation in the person's case, such involvement shall cease.~~

~~(3) Persons described in divisions (A) and (B)(1) of this section who are represented by the legal rights service are clients of the legal rights service.~~

~~(C) Any person voluntarily hospitalized or institutionalized in a public hospital under division (A) of section 5122.02 of the Revised Code, after being fully informed of the person's rights under division (A) of this section, may, by written request, waive assistance by the legal rights service if the waiver is knowingly and intelligently made, without duress or coercion.~~

~~The waiver may be rescinded at any time by the voluntary patient or resident, or by the voluntary patient's or resident's legal guardian.~~

~~(D)(1) The legal rights service commission is hereby created for the purposes of appointing an administrator of the legal rights service, advising the administrator, assisting the administrator in developing a budget, advising the administrator in establishing and annually reviewing a strategic plan, creating a procedure for filing and determination of grievances against the legal rights service, and establishing general policy guidelines, including guidelines for the commencement of litigation, for the legal rights service. The commission may adopt rules to carry these purposes into effect and may receive and act upon appeals of personnel decisions by the administrator.~~

~~(2) The commission shall consist of seven members. One member, who shall serve as chairperson, shall be appointed by the chief justice of the supreme court, three members shall be appointed by the speaker of the house of representatives, and three members shall be appointed by the president of the senate. At least two members shall have experience in the field of developmental disabilities, and at least two members shall have experience in the field of mental health. No member shall be a provider or related to a provider of services to mentally retarded, developmentally disabled, or mentally ill persons.~~

~~(3) Terms of office of the members of the commission shall be for three years, each term ending on the same day of the month of the year as did the term which it succeeds. Each member shall serve subsequent to the expiration of the member's term until a successor is appointed and qualifies, or until sixty days has elapsed, whichever occurs first. No member shall serve more than two consecutive terms.~~

~~All vacancies in the membership of the commission shall be filled in the manner prescribed for regular appointments to the commission and shall be limited to the unexpired terms.~~

~~(4) The commission shall meet at least four times each year. Members shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.~~

~~(5) The administrator of the legal rights service shall serve at the pleasure of the commission.~~

~~The administrator shall be an attorney admitted to practice law in this~~

~~state. The salary of the administrator shall be established in accordance with section 124.14 of the Revised Code.~~

~~(E) The legal rights service shall be completely independent of the department of mental health and the department of developmental disabilities and, notwithstanding section 109.02 of the Revised Code, shall also be independent of the office of the attorney general.~~ The ~~administrator of the legal rights service,~~ Ohio protection and advocacy system staff, and attorneys designated by the ~~administrator~~ system to represent persons detained, hospitalized, or institutionalized under this chapter or Chapter 5122. of the Revised Code shall have ready access to all of the following:

(1) During normal business hours and at other reasonable times, all records, except records of community residential facilities and records of contract agencies of county boards of developmental disabilities and boards of alcohol, drug addiction, and mental health services, relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the ~~legal rights service~~ Ohio protection and advocacy system, including those who may be represented pursuant to division ~~(L)~~(D) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; boards of alcohol, drug addiction, and mental health services; county boards of developmental disabilities; and any other entity providing services to persons who may be represented by the ~~service~~ Ohio protection and advocacy system pursuant to division ~~(L)~~(D) of this section;

(2) Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the ~~service~~ Ohio protection and advocacy system pursuant to division ~~(L)~~(D) of this section, any other entity that provides services to those persons;

(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the ~~service~~ Ohio protection and advocacy system pursuant to division ~~(L)~~(D) of this section.

(5) Records of a community residential facility, a contract agency of a board of alcohol, drug addiction, and mental health services, or a contract

agency of a county board of developmental disabilities with one of the following consents:

(a) The consent of the person, including when the person is a minor or has been adjudicated incompetent;

(b) The consent of the person's guardian of the person, if any, or the parent if the person is a minor;

(c) No consent, if the person is unable to consent for any reason, and the guardian of the person, if any, or the parent of the minor, has refused to consent or has not responded to a request for consent and either of the following has occurred:

(i) A complaint regarding the person has been received by the ~~legal rights service~~ Ohio protection and advocacy system;

(ii) The ~~legal rights service~~ Ohio protection and advocacy system has determined that there is probable cause to believe that such person has been subjected to abuse or neglect.

~~(F) The administrator of the legal rights service shall do the following:~~

~~(1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;~~

~~(2) Adopt and promulgate rules that are not in conflict with rules adopted by the commission and prescribe duties for the efficient conduct of the business and general administration of the legal rights service;~~

~~(3) Appoint and discharge employees, and hire experts, consultants, advisors, or other professionally qualified persons as the administrator considers necessary to carry out the duties of the legal rights service;~~

~~(4) Apply for and accept grants of funds, and accept charitable gifts and bequests;~~

~~(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator.~~

~~(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service;~~

~~(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of representatives, the director of mental health, and the director of developmental disabilities, and make the report available to the public;~~

~~(8) Upon request of the commission or of the chairperson of the commission, report to the commission on specific litigation issues or activities.~~

~~(G)(1) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section.~~

~~(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section.~~

~~(3) The administrator may not pursue a class action lawsuit under division (G)(2) of this section when attempts at administrative resolution of a complaint prove unsatisfactory under that division unless both of the following have first occurred:~~

~~(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit;~~

~~(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained.~~

~~(4) If compensation for the work of attorneys employed by the legal rights service or another agency or political subdivision of the state is awarded to the service in a class action lawsuit pursued by the service, the compensation shall be limited to the actual hourly rate of pay for that legal work.~~

~~(5)~~(B) All records received or maintained by the ~~legal rights service~~ Ohio protection and advocacy system in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the ~~legal rights service~~ Ohio protection and advocacy system or, subject to any privilege, a guardian of the person or parent of the minor. ~~Subject to division (G)(7) of this section, relationships~~ Relationships between personnel and the agents of the ~~legal rights service~~ Ohio protection and advocacy system and its clients shall be fiduciary relationships, and all communications shall be privileged as if between attorney and client.

~~(6) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal~~

~~guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.~~

~~(H)~~(C) The ~~legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission,~~ Ohio protection and advocacy system may compel by subpoena the appearance and sworn testimony of any person the ~~administrator~~ Ohio protection and advocacy system reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. On the refusal of any person to produce or authenticate any requested documents, the ~~legal rights service~~ Ohio protection and advocacy system may apply to the Franklin county court of common pleas to compel the production or authentication of requested documents. If the court finds that failure to produce or authenticate any requested documents was improper, the court may hold the person in contempt as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

~~(I) The legal rights service may conduct public hearings.~~

~~(J) The legal rights service may request from any governmental agency any cooperation, assistance, services, or data that will enable it to perform its duties.~~

~~(K) In any malpractice action filed against the administrator of the legal rights service, a member of the staff of the legal rights service, or an attorney designated by the administrator to perform legal services under division (E) of this section, the state shall, when the administrator, member, or attorney has acted in good faith and in the scope of employment, indemnify the administrator, member, or attorney for any judgment awarded or amount negotiated in settlement, and for any court costs or legal fees incurred in defense of the claim.~~

~~This division does not limit or waive, and shall not be construed to limit or waive, any defense that is available to the legal rights service, its administrator or employees, persons under a personal services contract with it, or persons designated under division (E) of this section, including, but not limited to, any defense available under section 9.86 of the Revised Code.~~

~~(L)~~(D) In addition to providing services to mentally ill, mentally retarded, or developmentally disabled persons, when a grant authorizing the provision of services to other individuals is accepted ~~pursuant to division (F)(4) of this section~~ by the Ohio protection and advocacy system, the ~~legal rights service and its ombudsperson section~~ Ohio protection and advocacy

system may provide advocacy ~~or ombudsperson services~~ to those other individuals and exercise any other authority granted by this section ~~or sections 5123.601 to 5123.604 of the Revised Code~~ on behalf of those individuals. Determinations of whether an individual is eligible for services under this division shall be made by the ~~legal rights service~~ Ohio protection and advocacy system.

Sec. 5123.602. If compensation for the work of attorneys employed by the Ohio protection and advocacy system or an agency or political subdivision of the state is awarded to the system in a class action lawsuit pursued by the system, the compensation shall be limited to the actual hourly rate of pay for that legal work.

Sec. 5123.61. (A) As used in this section:

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff.

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.

(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.

(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that person, shall immediately report or cause reports to be made of such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of developmental disabilities. If the report concerns a resident of a facility operated by the department of developmental disabilities the report shall be made either to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse licensed under Chapter 4723. of the Revised Code, employee of an ambulatory health facility as defined in section 5101.61 of the Revised Code, employee of a home health agency, employee of an adult care facility licensed under Chapter 3722. of the Revised Code, or employee of a community mental health facility;

(b) Any school teacher or school authority, social worker, psychologist, attorney, peace officer, coroner, or residents' rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A clergyman who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability, while acting in an official or professional capacity in that position, or a person who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability and who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3)(a) The reporting requirements of this division do not apply to ~~members of the legal rights service commission or to~~ employees of the ~~legal rights service~~ Ohio protection and advocacy system.

(b) An attorney or physician is not required to make a report pursuant to division (C)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding,

except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (C)(1) of this section, if both of the following apply:

(i) The client or patient, at the time of the communication, is a person with mental retardation or a developmental disability.

(ii) The attorney or physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(4) Any person who fails to make a report required under division (C) of this section and who is an MR/DD employee, as defined in section 5123.50 of the Revised Code, shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by MR/DD employees established under section 5123.52 of the Revised Code.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the person with mental retardation or a developmental disability and the person's custodian, if known;

(2) The age of the person with mental retardation or a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that a person with mental retardation or a developmental disability has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect may report or cause a report to be made of that belief to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or the county board of developmental disabilities. If the person is a resident of a facility operated by the department of

developmental disabilities, the report shall be made to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(G)(1) Upon the receipt of a report concerning the possible abuse or neglect of a person with mental retardation or a developmental disability, the law enforcement agency shall inform the county board of developmental disabilities or, if the person is a resident of a facility operated by the department of developmental disabilities, the director of the department or the director's designee.

(2) On receipt of a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the department of developmental disabilities shall notify the law enforcement agency.

(3) When a county board of developmental disabilities receives a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the superintendent of the board or an individual the superintendent designates under division (H) of this section shall notify the law enforcement agency. The superintendent or individual shall notify the department of developmental disabilities when it receives any report under this section.

(4) When a county board of developmental disabilities receives a report under this section and believes that the degree of risk to the person is such that the report is an emergency, the superintendent of the board or an employee of the board the superintendent designates shall attempt a face-to-face contact with the person with mental retardation or a developmental disability who allegedly is the victim within one hour of the board's receipt of the report.

(H) The superintendent of the board may designate an individual to be responsible for notifying the law enforcement agency and the department when the county board receives a report under this section.

(I) An adult with mental retardation or a developmental disability about whom a report is made may be removed from the adult's place of residence only by law enforcement officers who consider that the adult's immediate removal is essential to protect the adult from further injury or abuse or in accordance with the order of a court made pursuant to section 5126.33 of the Revised Code.

(J) A law enforcement agency shall investigate each report of abuse or neglect it receives under this section. In addition, the department, in cooperation with law enforcement officials, shall investigate each report

regarding a resident of a facility operated by the department to determine the circumstances surrounding the injury, the cause of the injury, and the person responsible. The investigation shall be in accordance with the memorandum of understanding prepared under section 5126.058 of the Revised Code. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning an adult with mental retardation or a developmental disability or other principals in the case. If the department finds that the report involves action or inaction that may constitute a crime under federal law or the law of this state, it shall submit a report of its investigation, in writing, to the law enforcement agency. If the person with mental retardation or a developmental disability is an adult, with the consent of the adult, the department shall provide such protective services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the person is an adult and is not a resident of a facility operated by the department, the county board of developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the Revised Code and the law enforcement agency shall make the written report of its findings to the county board.

(K) Any person or any hospital, institution, school, health department, or agency participating in the making of reports pursuant to this section, any person participating as a witness in an administrative or judicial proceeding resulting from the reports, or any person or governmental entity that discharges responsibilities under sections 5126.31 to 5126.33 of the Revised Code shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions except liability for perjury, unless the person or governmental entity has acted in bad faith or with malicious purpose.

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, reduce pay or benefits, terminate work privileges, or take any other action detrimental to an employee or retaliate against an employee as a result of the employee's having made a report under this section. This division does not preclude an employer or person with authority from taking action with regard to an employee who has made a report under this section if there is another reasonable basis for the action.

(M) Reports made under this section are not public records as defined in section 149.43 of the Revised Code. Information contained in the reports on request shall be made available to the person who is the subject of the

report, to the person's legal counsel, and to agencies authorized to receive information in the report by the department or by a county board of developmental disabilities.

(N) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding the injuries or physical neglect of a person with mental retardation or a developmental disability or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.

Sec. 5123.63. Every state agency, county board of developmental disabilities, or political subdivision that provides services, either directly or through a contract, to persons with mental retardation or a developmental disability shall give each provider a copy of the list of rights contained in section 5123.62 of the Revised Code. Each public and private provider of services shall carry out the requirements of this section in addition to any other posting or notification requirements imposed by local, state, or federal law or rules.

The provider shall make copies of the list of rights and shall be responsible for an initial distribution of the list to each individual receiving services from the provider. If the individual is unable to read the list, the provider shall communicate the contents of the list to the individual to the extent practicable in a manner that the individual understands. The individual receiving services or the parent, guardian, or advocate of the individual shall sign an acknowledgement of receipt of a copy of the list of rights, and a copy of the signed acknowledgement shall be placed in the individual's file. The provider shall also be responsible for answering any questions and giving any explanations necessary to assist the individual to understand the rights enumerated. Instruction in these rights shall be documented.

Each provider shall make available to all persons receiving services and all employees and visitors a copy of the list of rights and the addresses and telephone numbers of the ~~legal rights service~~ Ohio protection and advocacy system, the department of developmental disabilities, and the county board of developmental disabilities of the county in which the provider provides services.

Sec. 5123.64. (A) Every provider of services to persons with mental retardation or a developmental disability shall establish policies and programs to ensure that all staff members are familiar with the rights enumerated in section 5123.62 of the Revised Code and observe those rights in their contacts with persons receiving services. Any policy, procedure, or rule of the provider that conflicts with any of the rights enumerated shall be

null and void. Every provider shall establish written procedures for resolving complaints of violations of those rights. A copy of the procedures shall be provided to any person receiving services or to any parent, guardian, or advocate of a person receiving services.

(B) Any person with mental retardation or a developmental disability who believes that the person's rights as enumerated in section 5123.62 of the Revised Code have been violated may:

(1) Bring the violation to the attention of the provider for resolution;

(2) Report the violation to the department of developmental disabilities, the ~~ombudsperson section of the legal rights service~~ Ohio protection and advocacy system, or the appropriate county board of developmental disabilities;

(3) Take any other appropriate action to ensure compliance with sections ~~5123.60~~ 5123.61 to 5123.64 of the Revised Code, including the filing of a legal action to enforce rights or to recover damages for violation of rights.

Sec. 5123.69. (A) Except as provided in division ~~(E)~~(D) of this section, any person who is eighteen years of age or older and who is or believes self to be mentally retarded may make written application to the managing officer of any institution for voluntary admission. Except as provided in division ~~(E)~~(D) of this section, the application may be made on behalf of a minor by a parent or guardian, and on behalf of an adult adjudicated mentally incompetent by a guardian.

(B) The managing officer of an institution, with the concurrence of the chief program director, may admit a person applying pursuant to this section only after a comprehensive evaluation has been made of the person and only if the comprehensive evaluation concludes that the person is mentally retarded and would benefit significantly from admission.

(C) ~~If application for voluntary admission of a minor or of a person adjudicated mentally incompetent is made by the parent or guardian of the minor or by the guardian of an incompetent and the minor or incompetent is admitted, the probate division of the court of common pleas shall determine, upon petition by the legal rights service, whether the voluntary admission or continued institutionalization is in the best interest of the minor or incompetent.~~

~~(D)~~ The managing officer shall discharge any voluntary resident if, in the judgment of the chief program director, the results of a comprehensive examination indicate that institutionalization no longer is advisable. In light of the results of the comprehensive evaluation, the managing officer also may discharge any voluntary resident if, in the judgment of the chief

program director, the discharge would contribute to the most effective use of the institution in the habilitation and care of the mentally retarded.

~~(E)~~(D) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily commit self pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

Sec. 5123.701. (A) Except as provided in division ~~(E)~~(D) of this section, any person in the community who is eighteen years of age or older and who is or believes self to be mentally retarded may make written application to the managing officer of any institution for temporary admission for short-term care. The application may be made on behalf of a minor by a parent or guardian, and on behalf of an adult adjudicated mentally incompetent by a guardian.

(B) For purposes of this section, short-term care shall be defined to mean appropriate services provided to a person with mental retardation for no more than fourteen consecutive days and for no more than forty-two days in a fiscal year. When circumstances warrant, the fourteen-day period may be extended at the discretion of the managing officer. Short-term care is provided in a developmental center to meet the family's or caretaker's needs for separation from the person with mental retardation.

(C) The managing officer of an institution, with the concurrence of the chief program director, may admit a person for short-term care only after a medical examination has been made of the person and only if the managing officer concludes that the person is mentally retarded.

(D) ~~If application for admission for short-term care of a minor or of a person adjudicated mentally incompetent is made by the minor's parent or guardian or by the incompetent's guardian and the minor or incompetent is admitted, the probate division of the court of common pleas shall determine, upon petition by the legal rights service, whether the admission for short-term care is in the best interest of the minor or the incompetent.~~

~~(E)~~ A person who is found not guilty by reason of insanity shall not admit self to an institution for short-term care unless a hearing was held regarding the person pursuant to division (A) of section 2945.40 of the Revised Code and either of the following applies:

(1) The person was found at the hearing not to be a mentally retarded person subject to institutionalization by court order;

(2) The person was found at the hearing to be a mentally retarded person subject to institutionalization by court order, was involuntarily committed,

and was finally discharged.

~~(F)~~(E) The mentally retarded person, liable relatives, and guardians of mentally retarded persons admitted for respite care shall pay support charges in accordance with sections 5121.01 to 5121.21 of the Revised Code.

~~(G)~~(F) At the conclusion of each period of short-term care, the person shall return to the person's family or caretaker. Under no circumstances shall a person admitted for short-term care according to this section remain in the institution after the period of short-term care unless the person is admitted according to section 5123.70, sections 5123.71 to 5123.76, or section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.

Sec. 5123.86. (A) Except as provided in divisions (C), (D), (E), and (F) of this section, the chief medical officer shall provide all information, including expected physical and medical consequences, necessary to enable any resident of an institution for the mentally retarded to give a fully informed, intelligent, and knowing consent if any of the following procedures are proposed:

(1) Surgery;

(2) Convulsive therapy;

(3) Major aversive interventions;

(4) Sterilization;

(5) Experimental procedures;

(6) Any unusual or hazardous treatment procedures.

(B) No resident shall be subjected to any of the procedures listed in division (A)(4), (5), or (6) of this section without the resident's informed consent.

(C) If a resident is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the resident's natural or court-appointed guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, who may give the informed, intelligent, and knowing written consent for surgery. Consent for surgery shall not be provided by a guardian who is an officer or employee of the department of mental health or the department of developmental disabilities.

If a resident is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section and has no guardian, then the information, the recommendation of the chief medical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in

which the institution is located, which may approve the surgery. Before approving the surgery, the court shall notify the ~~legal rights service~~ Ohio protection and advocacy system created by section 5123.60 of the Revised Code, and shall notify the resident of the resident's rights to consult with counsel, to have counsel appointed by the court if the resident is indigent, and to contest the recommendation of the chief medical officer.

(D) If, in the judgment of two licensed physicians, delay in obtaining consent for surgery would create a grave danger to the health of a resident, emergency surgery may be performed without the consent of the resident if the necessary information is provided to the resident's guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, or to the resident's spouse or next of kin to enable that person or agency to give an informed, intelligent, and knowing written consent.

If the guardian, spouse, or next of kin cannot be contacted through exercise of reasonable diligence, or if the guardian, spouse, or next of kin is contacted, but refuses to consent, then the emergency surgery may be performed upon the written authorization of the chief medical officer and after court approval has been obtained. However, if delay in obtaining court approval would create a grave danger to the life of the resident, the chief medical officer may authorize surgery, in writing, without court approval. If the surgery is authorized without court approval, the chief medical officer who made the authorization and the physician who performed the surgery shall each execute an affidavit describing the circumstances constituting the emergency and warranting the surgery and the circumstances warranting their not obtaining prior court approval. The affidavit shall be filed with the court with which the request for prior approval would have been filed within five court days after the surgery, and a copy of the affidavit shall be placed in the resident's file and shall be given to the guardian, spouse, or next of kin of the resident, to the hospital at which the surgery was performed, and to the ~~legal rights service~~ Ohio protection and advocacy system created by section 5123.60 of the Revised Code.

(E)(1) If it is the judgment of two licensed physicians, as described in division (E)(2) of this section, that a medical emergency exists and delay in obtaining convulsive therapy creates a grave danger to the life of a resident who is both mentally retarded and mentally ill, convulsive therapy may be administered without the consent of the resident if the resident is physically or mentally unable to receive the information required for convulsive therapy and if the necessary information is provided to the resident's natural

or court-appointed guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, or to the resident's spouse or next of kin to enable that person or agency to give an informed, intelligent, and knowing written consent. If neither the resident's guardian, spouse, nor next of kin can be contacted through exercise of reasonable diligence, or if the guardian, spouse, or next of kin is contacted, but refuses to consent, then convulsive therapy may be performed upon the written authorization of the chief medical officer and after court approval has been obtained.

(2) The two licensed physicians referred to in division (E)(1) of this section shall not be associated with each other in the practice of medicine or surgery by means of a partnership or corporate arrangement, other business arrangement, or employment. At least one of the physicians shall be a psychiatrist as defined in division (E) of section 5122.01 of the Revised Code.

(F) Major aversive interventions shall not be used unless a resident continues to engage in behavior destructive to self or others after other forms of therapy have been attempted. ~~The director of the legal rights service created by section 5123.60 of the Revised Code shall be notified of any proposed major aversive intervention.~~ Major aversive interventions shall not be applied to a voluntary resident without the informed, intelligent, and knowing written consent of the resident or the resident's guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code.

(G)(1) This chapter does not authorize any form of compulsory medical or psychiatric treatment of any resident who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing.

(2) For purposes of this section, "convulsive therapy" does not include defibrillation.

Sec. 5123.99. (A) Whoever violates section 5123.16 or 5123.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (C), (E), or (G)(3) of section 5123.61 of the Revised Code is guilty of a misdemeanor of the fourth degree or, if the abuse or neglect constitutes a felony, a misdemeanor of the second degree. In addition to any other sanction or penalty authorized or required by law, if a person who is convicted of or pleads guilty to a violation of division (C), (E), or (G)(3) of section 5123.61 of the Revised Code is an MR/DD

employee, as defined in section 5123.50 of the Revised Code, the offender shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by MR/DD employees established under section 5123.52 of the Revised Code.

~~(C) Whoever violates division (A) of section 5123.604 of the Revised Code is guilty of a misdemeanor of the second degree.~~

~~(D) Whoever violates division (B) of section 5123.604 of the Revised Code shall be fined not more than one thousand dollars. Each violation constitutes a separate offense.~~

Sec. 5126.33. (A) A county board of developmental disabilities may file a complaint with the probate court of the county in which an adult with mental retardation or a developmental disability resides for an order authorizing the board to arrange services described in division (C) of section 5126.31 of the Revised Code for that adult if the adult is eligible to receive services or support under section 5126.041 of the Revised Code and the board has been unable to secure consent. The complaint shall include:

(1) The name, age, and address of the adult;

(2) Facts describing the nature of the abuse, neglect, or exploitation and supporting the board's belief that services are needed;

(3) The types of services proposed by the board, as set forth in the protective service plan described in division (J) of section 5126.30 of the Revised Code and filed with the complaint;

(4) Facts showing the board's attempts to obtain the consent of the adult or the adult's guardian to the services.

(B) The board shall give the adult notice of the filing of the complaint and in simple and clear language shall inform the adult of the adult's rights in the hearing under division (C) of this section and explain the consequences of a court order. This notice shall be personally served upon all parties, and also shall be given to the adult's legal counsel, if any~~, and the legal rights service~~. The notice shall be given at least twenty-four hours prior to the hearing, although the court may waive this requirement upon a showing that there is a substantial risk that the adult will suffer immediate physical harm in the twenty-four hour period and that the board has made reasonable attempts to give the notice required by this division.

(C) Upon the filing of a complaint for an order under this section, the court shall hold a hearing at least twenty-four hours and no later than seventy-two hours after the notice under division (B) of this section has been given unless the court has waived the notice. All parties shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses. The Ohio Rules of Evidence shall apply to a

hearing conducted pursuant to this division. The adult shall be represented by counsel unless the court finds that the adult has made a voluntary, informed, and knowing waiver of the right to counsel. If the adult is indigent, the court shall appoint counsel to represent the adult. The board shall be represented by the county prosecutor or an attorney designated by the board.

(D)(1) The court shall issue an order authorizing the board to arrange the protective services if it finds, on the basis of clear and convincing evidence, all of the following:

(a) The adult has been abused, neglected, or exploited;

(b) The adult is incapacitated;

(c) There is a substantial risk to the adult of immediate physical harm or death;

(d) The adult is in need of the services;

(e) No person authorized by law or court order to give consent for the adult is available or willing to consent to the services.

(2) The board shall develop a detailed protective service plan describing the services that the board will provide, or arrange for the provision of, to the adult to prevent further abuse, neglect, or exploitation. The board shall submit the plan to the court for approval. The protective service plan may be changed only by court order.

(3) In formulating the order, the court shall consider the individual protective service plan and shall specifically designate the services that are necessary to deal with the abuse, neglect, or exploitation or condition resulting from abuse, neglect, or exploitation and that are available locally, and authorize the board to arrange for these services only. The court shall limit the provision of these services to a period not exceeding six months, renewable for an additional six-month period on a showing by the board that continuation of the order is necessary.

(E) If the court finds that all other options for meeting the adult's needs have been exhausted, it may order that the adult be removed from the adult's place of residence and placed in another residential setting. Before issuing that order, the court shall consider the adult's choice of residence and shall determine that the new residential setting is the least restrictive alternative available for meeting the adult's needs and is a place where the adult can obtain the necessary requirements for daily living in safety. The court shall not order an adult to a hospital or public hospital as defined in section 5122.01 or a state institution as defined in section 5123.01 of the Revised Code.

(F) The court shall not authorize a change in an adult's placement

ordered under division (E) of this section unless it finds compelling reasons to justify a change. The parties to whom notice was given in division (B) of this section shall be given notice of a proposed change at least five working days prior to the change.

(G) The adult, the board, or any other person who received notice of the petition may file a motion for modification of the court order at any time.

(H) The county board shall pay court costs incurred in proceedings brought pursuant to this section. The adult shall not be required to pay for court-ordered services.

(I)(1) After the filing of a complaint for an order under this section, the court, prior to the final disposition, may enter any temporary order that the court finds necessary to protect the adult with mental retardation or a developmental disability from abuse, neglect, or exploitation including, but not limited to, the following:

(a) A temporary protection order;

(b) An order requiring the evaluation of the adult;

(c) An order requiring a party to vacate the adult's place of residence or legal settlement, provided that, subject to division (K)(1)(d) of this section, no operator of a residential facility licensed by the department may be removed under this division;

(d) In the circumstances described in, and in accordance with the procedures set forth in, section 5123.191 of the Revised Code, an order of the type described in that section that appoints a receiver to take possession of and operate a residential facility licensed by the department.

(2) The court may grant an ex parte order pursuant to this division on its own motion or if a party files a written motion or makes an oral motion requesting the issuance of the order and stating the reasons for it if it appears to the court that the best interest and the welfare of the adult require that the court issue the order immediately. The court, if acting on its own motion, or the person requesting the granting of an ex parte order, to the extent possible, shall give notice of its intent or of the request to all parties, the adult's legal counsel, if any~~, and the legal rights service~~. If the court issues an ex parte order, the court shall hold a hearing to review the order within seventy-two hours after it is issued or before the end of the next day after the day on which it is issued, whichever occurs first. The court shall give written notice of the hearing to all parties to the action.

SECTION 120.21. That existing sections 3721.16, 5111.709, 5119.221, 5122.01, 5122.02, 5122.27, 5122.271, 5122.29, 5122.31, 5122.32, 5123.092, 5123.19, 5123.191, 5123.35, 5123.60, 5123.61, 5123.63, 5123.64, 5123.69,

5123.701, 5123.86, 5123.99, and 5126.33 of the Revised Code are hereby repealed.

SECTION 120.22. That sections 5123.601, 5123.602, 5123.603, 5123.604, and 5123.605 of the Revised Code are hereby repealed.

SECTION 120.23. Sections 120.20, 120.21, and 120.22 of this act take effect October 1, 2012.

SECTION 201.10. Except as otherwise provided in this act, all appropriation items in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this act, the amounts in the first column are for fiscal year 2012 and the amounts in the second column are for fiscal year 2013.

SECTION 203.10. ACC ACCOUNTANCY BOARD OF OHIO

General Services Fund Group

4J80	889601	CPA Education Assistance	$	200,000	$	200,000
4K90	889609	Operating Expenses	$	977,200	$	977,500
TOTAL GSF General Services Fund Group			$	1,177,200	$	1,177,500
TOTAL ALL BUDGET FUND GROUPS			$	1,177,200	$	1,177,500

SECTION 205.10. ADJ ADJUTANT GENERAL

General Revenue Fund

GRF	745401	Ohio Military Reserve	$	12,308	$	12,308
GRF	745404	Air National Guard	$	1,810,606	$	1,810,606
GRF	745407	National Guard Benefits	$	400,000	$	400,000
GRF	745409	Central Administration	$	2,692,098	$	2,692,098
GRF	745499	Army National Guard	$	3,687,888	$	3,689,871
TOTAL GRF General Revenue Fund			$	8,602,900	$	8,604,883

General Services Fund Group

5340	745612	Property Operations Management	$	534,304	$	534,304
5360	745605	Marksmanship Activities	$	128,600	$	128,600
5360	745620	Camp Perry and Buckeye Inn Operations	$	1,178,311	$	978,846
5370	745604	Ohio National Guard Facilities Maintenance	$	62,000	$	62,000
TOTAL GSF General Services Fund Group			$	1,903,215	$	1,703,750

Federal Special Revenue Fund Group

3410	745615	Air National Guard Base Security	$ 2,977,692	$ 2,977,692
3420	745616	Army National Guard Service Agreement	$ 10,970,050	$ 10,970,050
3E80	745628	Air National Guard Operations and Maintenance	$ 16,958,595	$ 16,958,595
3R80	745603	Counter Drug Operations	$ 25,000	$ 25,000
TOTAL FED Federal Special Revenue Fund Group			$ 30,931,337	$ 30,931,337

State Special Revenue Fund Group

5U80	745613	Community Match Armories	$ 250,000	$ 250,000
TOTAL SSR State Special Revenue Fund Group			$ 250,000	$ 250,000
TOTAL ALL BUDGET FUND GROUPS			$ 41,687,452	$ 41,489,970

NATIONAL GUARD BENEFITS

The foregoing appropriation item 745407, National Guard Benefits, shall be used for purposes of sections 5919.31 and 5919.33 of the Revised Code, and for administrative costs of the associated programs.

For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit, pursuant to section 5919.33 of the Revised Code, shall be paid to the beneficiary or beneficiaries designated on the member's Servicemembers' Group Life Insurance Policy.

STATE ACTIVE DUTY COSTS

Of the foregoing appropriation item 745409, Central Administration, $50,000 in each fiscal year shall be used for the purpose of paying expenses related to state active duty of members of the Ohio organized militia, in accordance with a proclamation of the Governor. Expenses include, but are not limited to, the cost of equipment, supplies, and services, as determined by the Adjutant General's Department.

SECTION 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

General Revenue Fund

GRF	100403	Public Employees Health Care Program	$ 400,000	$ 400,000
GRF	100415	OAKS Rental Payments	$ 23,024,500	$ 23,006,300
GRF	100416	STARS Lease Rental Payments	$ 4,970,700	$ 4,971,300
GRF	100418	Web Sites and Business Gateway	$ 2,895,063	$ 2,795,176
GRF	100419	IT Security Infrastructure	$ 742,535	$ 742,648
GRF	100439	Equal Opportunity Certification Programs	$ 625,000	$ 625,000
GRF	100447	OBA - Building Rent Payments	$ 53,260,000	$ 83,504,200
GRF	100448	OBA - Building Operating	$ 21,000,000	$ 21,000,000

		Payments		
GRF	100449	DAS - Building Operating Payments	$ 7,551,245	$ 7,551,571
GRF	100451	Minority Affairs	$ 24,016	$ 24,016
GRF	102321	Construction Compliance	$ 920,000	$ 920,000
GRF	130321	State Agency Support Services	$ 2,779,457	$ 2,780,032
TOTAL GRF General Revenue Fund			$ 118,192,516	$ 148,320,243
General Services Fund Group				
1120	100616	DAS Administration	$ 5,974,625	$ 5,886,524
1150	100632	Central Service Agency	$ 911,995	$ 912,305
1170	100644	General Services Division - Operating	$ 13,000,000	$ 13,000,000
1220	100637	Fleet Management	$ 3,978,827	$ 4,204,066
1250	100622	Human Resources Division - Operating	$ 16,922,295	$ 16,717,009
1250	100657	Benefits Communication	$ 925,586	$ 921,531
1280	100620	Collective Bargaining	$ 3,462,529	$ 3,464,148
1300	100606	Risk Management Reserve	$ 10,349,494	$ 12,149,884
1310	100639	State Architect's Office	$ 9,812,132	$ 9,813,342
1320	100631	DAS Building Management	$ 11,000,000	$ 11,000,000
1330	100607	IT Services Delivery	$ 58,088,940	$ 58,103,005
1880	100649	Equal Opportunity Division - Operating	$ 939,559	$ 863,013
2100	100612	State Printing	$ 17,597,054	$ 16,659,526
2290	100630	IT Governance	$ 14,000,000	$ 14,000,000
2290	100640	Leveraged Enterprise Purchases	$ 3,000,000	$ 3,000,000
4270	100602	Investment Recovery	$ 4,100,000	$ 4,100,000
4N60	100617	Major IT Purchases	$ 1,950,000	$ 4,950,000
4P30	100603	DAS Information Services	$ 5,047,565	$ 4,979,392
5C20	100605	MARCS Administration	$ 14,075,705	$ 14,077,467
5C30	100608	Skilled Trades	$ 404,297	$ 404,375
5EB0	100635	OAKS Support Organization	$ 19,000,539	$ 19,003,108
5EB0	100656	OAKS Updates and Developments	$ 12,265,952	$ 8,743,462
5HU0	100655	Construction Reform Demo Compliance	$ 150,000	$ 150,000
5L70	100610	Professional Development	$ 2,496,679	$ 2,496,760
5V60	100619	Employee Educational Development	$ 800,000	$ 850,000
5X30	100634	Centralized Gateway Enhancement	$ 2,052,308	$ 2,052,308
TOTAL GSF General Services Fund Group			$ 232,306,081	$ 232,501,225
Federal Special Revenue Fund Group				
3AJ0	100654	ARRA Broadband Mapping Grant	$ 270,756	$ 106,347
TOTAL FED Federal Special Revenue Fund Group			$ 270,756	$ 106,347
State Special Revenue Fund Group				
5JQ0	100658	Professions Licensing System	$ 2,000,000	$ 1,000,000
TOTAL SSR State Special Revenue				

Fund Group	$	2,000,000	$	1,000,000
TOTAL ALL BUDGET FUND GROUPS	$	352,769,353	$	381,927,815

SECTION 207.10.10. PUBLIC EMPLOYEES HEALTH CARE PROGRAM

The foregoing appropriation item 100403, Public Employees Health Care Program, shall be used by the Department of Administrative Services to carry out its duties prescribed in Section 515.60 of this act.

SECTION 207.10.20. OHIO ADMINISTRATIVE KNOWLEDGE SYSTEM

The Ohio Administrative Knowledge System (OAKS) is an enterprise resource planning system that replaced the state's central services infrastructure systems, including, but not limited to, the Central Accounting System, the Human Resources/Payroll System, the Capital Improvements Projects Tracking System, the Fixed Assets Management System, and the Procurement System. The Department of Administrative Services, in conjunction with the Office of Budget and Management, may update or add functionality to the OAKS system that will support shared services, financial or human resources functions, and enterprise applications that improve the state's operational efficiency. This includes, but is not limited to, the installation and implementation of hardware and software. Any lease-purchase arrangement entered into under Chapter 125. of the Revised Code to finance the OAKS system and the enhancements described above, including any fractionalized interest therein, as defined in division (N) of section 133.01 of the Revised Code, shall provide that at the end of the lease period, the financed asset becomes the property of the state.

SECTION 207.10.30. OAKS LEASE RENTAL PAYMENTS

The foregoing appropriation item 100415, OAKS Rental Payments, shall be used for payments at the times they are required to be made for the period from July 1, 2011, through June 30, 2013, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code, as supplemented by Section 281.10 of Am. Sub. H.B. 562 of the 127th General Assembly and other prior acts of the General Assembly, with respect to financing the costs associated with the acquisition, development, installation, and implementation of the Ohio Administrative Knowledge System. If it is determined that additional appropriations are necessary for this purpose, the amounts are hereby appropriated.

SECTION 207.10.40. STATE TAXATION ACCOUNTING AND REVENUE SYSTEM

The Department of Administrative Services, in conjunction with the Department of Taxation, may acquire the State Taxation Accounting and Revenue System (STARS) pursuant to Chapter 125. of the Revised Code, including, but not limited to, the application hardware and software and installation and implementation thereof, for the use of the Department of Taxation. STARS is an integrated tax collection and audit system that will replace all of the state's existing separate tax software and administration systems for the various taxes collected by the state. Any lease-purchase arrangement used under Chapter 125. of the Revised Code to acquire STARS, including any fractionalized interests therein as defined in division (N) of section 133.01 of the Revised Code, shall provide that at the end of the lease period, STARS becomes the property of the state.

SECTION 207.10.50. STARS LEASE RENTAL PAYMENTS

The foregoing appropriation item 100416, STARS Lease Rental Payments, shall be used for payments at the times they are required to be made for the period from July 1, 2011, through June 30, 2013, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code, as supplemented by Section 207.10.30 of Am. Sub. H.B. 1 of the 128th General Assembly and other prior acts of the General Assembly, with respect to financing the cost for the acquisition, development, installation, and implementation of the State Taxation Accounting and Revenue System (STARS). If it is determined that additional appropriations are necessary for this purpose, the amounts are appropriated.

SECTION 207.10.60. EQUAL OPPORTUNITY CERTIFICATION PROGRAMS

The foregoing appropriation item 100439, Equal Opportunity Certification Programs, shall be used to pay costs associated with the equal employment opportunity project tracking software that were formerly paid from appropriation item 100423, EEO Project Tracking Software.

SECTION 207.10.70. BUILDING RENT PAYMENTS

The foregoing appropriation item 100447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required

to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code.

The foregoing appropriation item 100448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of $42,800,000.

The payments to the Ohio Building Authority are for paying the expenses of agencies that occupy space in various state facilities. The Department of Administrative Services may enter into leases and agreements with the Ohio Building Authority providing for the payment of these expenses. The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of each fiscal year the actual expenses incurred by the Ohio Building Authority in operating the facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

SECTION 207.10.80. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2012 and 2013.

The foregoing appropriation item, 100449, DAS - Building Operating Payments, also may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and

the rent expenses of tenants that are relocated because of building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 1320).

SECTION 207.10.90. CENTRAL SERVICE AGENCY FUND

Appropriation item 100632, Central Service Agency, shall be used to purchase the equipment, products, and services that are needed to maintain existing automated applications for the professional licensing boards and to support board licensing functions in fiscal years 2012 and 2013 until these functions are replaced by the Ohio Professionals Licensing System. Appropriation item 100632, Central Service Agency, may also be used for these purposes for the Casino Control Commission if the commission elects to use these automated applications for its licensing functions. The Department of Administrative Services shall establish charges for recovering the costs of carrying out these functions. The charges shall be billed to the professional licensing boards, and the Casino Control Commission if applicable, and deposited via intrastate transfer vouchers to the credit of the Central Service Agency Fund (Fund 1150).

SECTION 207.20.10. GENERAL SERVICE CHARGES

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs funded by the General Services Fund (Fund 1170) and the State Printing Fund (Fund 2100). Such charges within Fund 1170 may be used to recover the cost of paying a vendor to establish reduced pricing for contracted supplies or services.

If the Director of Administrative Services determines that additional amounts are necessary to pay for consulting and administrative costs related to securing lower pricing, the Director of Administrative Services may request that the Director of Budget and Management approve additional expenditures. Such approved additional amounts are appropriated to appropriation item 100644, General Services Division-Operating.

SECTION 207.20.20. COLLECTIVE BARGAINING ARBITRATION EXPENSES

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state

agencies for the actual costs and expenses the Department incurs in the collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and credited to the Collective Bargaining Fund (Fund 1280).

SECTION 207.20.30. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund (Fund 1880). These charges shall be deposited to the credit of the State EEO Fund (Fund 1880) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

SECTION 207.20.40. INVESTMENT RECOVERY FUND

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund (Fund 4270) may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code.

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the Asset Management Services Program, including, but not limited to, the cost of establishing and maintaining procedures for inventory records for state property as described in section 125.16 of the Revised Code.

Of the foregoing appropriation item 100602, Investment Recovery, up to $2,092,697 in fiscal year 2012 and up to $2,092,697 in fiscal year 2013 may be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the Asset Management Services Program under Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100602, Investment Recovery, $3,500,000 in each fiscal year shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds under division (A)(2) of section 125.14 of the Revised

Code. If it is determined by the Director of Administrative Services that additional amounts are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to authorize additional amounts. Such authorized additional amounts are hereby appropriated.

SECTION 207.20.50. DAS INFORMATION SERVICES

There is hereby established in the State Treasury the DAS Information Services Fund. The foregoing appropriation item 100603, DAS Information Services, shall be used to pay the costs of providing information systems and services in the Department of Administrative Services. Any state agency, board, or commission may use DAS Information Services by paying for the services rendered.

The Department of Administrative Services shall establish user charges for all information systems and services that are allowable in the statewide indirect cost allocation plan submitted annually to the United States Department of Health and Human Services. These charges shall comply with federal regulations and shall be deposited to the credit of the DAS Information Services Fund (Fund 4P30).

SECTION 207.20.60. PROFESSIONAL DEVELOPMENT FUND

The foregoing appropriation item 100610, Professional Development, shall be used to make payments from the Professional Development Fund (Fund 5L70) under section 124.182 of the Revised Code. If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

SECTION 207.20.70. EMPLOYEE EDUCATIONAL DEVELOPMENT

The foregoing appropriation item 100619, Employee Educational Development, shall be used to make payments from the Employee Educational Development Fund (Fund 5V60) under section 124.86 of the Revised Code. The fund shall be used to pay the costs of administering educational programs under existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association and National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and

the Ohio State Troopers Association, Units 1 and 15.

If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

SECTION 207.20.80. CENTRALIZED GATEWAY ENHANCEMENT FUND

(A) As used in this section, "Ohio Business Gateway" refers to the internet-based system operated by the Department of Administrative Services with the advice of the Ohio Business Gateway Steering Committee established under section 5703.57 of the Revised Code. The Ohio Business Gateway is established to provide businesses a central web site where various filings and payments are submitted online to government. The information is then distributed to the various government entities that interact with the business community.

(B) As used in this section:

(1) "State Portal" refers to the official web site of the state, operated by the Department of Administrative Services.

(2) "Shared Hosting Environment" refers to the computerized system operated by the Department of Administrative Services for the purpose of providing capability for state agencies to host web sites.

(C) There is hereby created in the state treasury the Centralized Gateway Enhancement Fund (Fund 5X30). The foregoing appropriation item 100634, Centralized Gateway Enhancement, shall be used by the Department of Administrative Services to pay the costs of enhancing, expanding, and operating the infrastructure of the Ohio Business Gateway, State Portal, and Shared Hosting Environment. The Director of Administrative Services shall submit spending plans to the Director of Budget and Management to justify operating transfers to the fund from the General Revenue Fund. Upon approval, the Director of Budget and Management shall transfer approved amounts to the fund, not to exceed the amount of the annual appropriation in each fiscal year. The spending plans may be based on the recommendations of the Ohio Business Gateway Steering Committee or its successor.

SECTION 207.20.90. CASH TRANSFERS FROM THE MAJOR IT PURCHASES FUND

Upon request of the Director of Administrative Services, the Director of Budget and Management may make the following transfers from the Major IT Purchases Fund (Fund 4N60):

(1) Up to $2,800,000 in each fiscal year of the biennium to the State Architect's Fund (Fund 1310) to support the OAKS Capital Improvements Module and other costs of the State Architect's Office that are not directly related to capital projects managed by the State Architect;

(2) Up to $310,276 in fiscal year 2012 and up to $305,921 in fiscal year 2013 to the Director's Office Fund (Fund 1120) to support operating expenses of the Accountability and Results Initiative.

SECTION 207.20.93. CASH TRANSFERS FROM THE BUILDING MANAGEMENT FUND TO THE STATE ARCHITECT'S FUND

Upon request of the Director of Administrative Services, the Director of Budget and Management may transfer up to $2,000,000 from the Building Management Fund (Fund 1320) to the State Architect's Fund (Fund 1310) to support the OAKS Capital Improvements Module and other costs of the State Architect's Office that are not directly related to capital projects managed by the State Architect. If the cash balance in the State Architect's Fund (Fund 1310) is determined to be sufficient, the Director of Administrative Services may request that the Director of Budget and Management transfer cash from the State Architect's Fund (Fund 1310) to the Building Management Fund (Fund 1320) in an amount equal to the initial cash transfer made under this section plus applicable interest.

SECTION 207.30.10. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT SERVICE PAYMENTS

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering Committee and the Director of Budget and Management, shall determine the share of debt service payments attributable to spending for MARCS components that are not specific to any one agency and that shall be charged to agencies supported by the motor fuel tax. Such share of debt service payments shall be calculated for MARCS capital disbursements made beginning July 1, 1997. Within thirty days of any payment made from appropriation item 100447, OBA - Building Rent Payments, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from

the State Highway Safety Fund (Fund 7036) established in section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider renting or leasing existing tower sites at reasonable or current market rates, so long as these existing sites are equipped with the technical capabilities to support the MARCS project.

SECTION 207.30.20. OHIO PROFESSIONALS LICENSING SYSTEM

There is hereby created in the state treasury the Ohio Professionals Licensing System Fund (Fund 5JQ0). Appropriation item 100658, Ohio Professionals Licensing System, shall be used to make payments from the fund. The fund shall be used to purchase the equipment, products, and services necessary to develop and maintain a replacement automated licensing system for the professional licensing boards. The Director of Budget and Management may transfer up to a total of $3,000,000 in cash from the Occupational Licensing and Regulatory Fund (4K90), the State Medical Board Operating Fund (Fund 5C60), and the Casino Control Commission – Operating Fund (Fund 5HS0) if the Casino Control Commission elects to use the replacement automated licensing system, to the Ohio Professionals Licensing System Fund during the FY 2012-FY 2013 biennium. These transfers shall be in proportion to the number of current licensees, or current and anticipated licensees in the case of the Casino Control Commission if applicable. The purpose of these cash transfers is to fund the initial acquisition and development of the system. Any cash balances not expended in fiscal year 2012 are reappropriated in fiscal year 2013.

Effective with the implementation of the replacement licensing system, the Department of Administrative Services shall establish charges for recovering the costs of ongoing maintenance of the system. The charges shall be billed to the professional licensing boards, and the Casino Control Commission if applicable, and deposited via intrastate transfer vouchers to the credit of the Ohio Professionals Licensing System Fund.

SECTION 207.30.30. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY

Whenever the Director of Administrative Services declares a "public exigency," as provided in division (C) of section 123.15 of the Revised Code, the Director shall also notify the members of the Controlling Board.

SECTION 209.10. AGE DEPARTMENT OF AGING

General Revenue Fund						
GRF	490321	Operating Expenses	$	1,501,616	$	1,502,442
GRF	490410	Long-Term Care Ombudsman	$	482,271	$	482,271
GRF	490411	Senior Community Services	$	7,130,952	$	7,131,236
GRF	490414	Alzheimer's Respite	$	1,917,740	$	1,917,757
GRF	490423	Long Term Care Budget - State	$	3,419,250	$	3,419,250
GRF	490506	National Senior Service Corps	$	241,413	$	241,413
TOTAL GRF General Revenue Fund			$	14,693,242	$	14,694,369
General Services Fund Group						
4800	490606	Senior Community Outreach and Education	$	372,518	$	372,523
TOTAL GSF General Services Fund Group			$	372,518	$	372,523
Federal Special Revenue Fund Group						
3220	490618	Federal Aging Grants	$	14,000,000	$	14,000,000
3C40	490623	Long Term Care Budget	$	3,525,000	$	3,525,000
3M40	490612	Federal Independence Services	$	63,655,080	$	63,655,080
TOTAL FED Federal Special Revenue Fund Group			$	81,180,080	$	81,180,080
State Special Revenue Fund Group						
4C40	490609	Regional Long-Term Care Ombudsman Program	$	935,000	$	935,000
5BA0	490620	Ombudsman Support	$	750,000	$	750,000
5K90	490613	Long Term Care Consumers Guide	$	1,059,400	$	1,059,400
5W10	490616	Resident Services Coordinator Program	$	344,692	$	344,700
TOTAL SSR State Special Revenue Fund Group			$	3,089,092	$	3,089,100
TOTAL ALL BUDGET FUND GROUPS			$	99,334,932	$	99,336,072

SECTION 209.20. LONG-TERM CARE

Pursuant to an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under section 5111.204 of the Revised Code. The Department of Aging shall provide long-term care consultations under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program as delegated by the Department of Job and

Family Services in an interagency agreement. The foregoing appropriation items 490423, Long Term Care Budget - State, and 490623, Long Term Care Budget, may be used to support the Department of Aging's administrative costs associated with operating the PASSPORT, Choices, Assisted Living, and PACE programs.

SECTION 209.30. LONG-TERM CARE OMBUDSMAN

The foregoing appropriation item 490410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities as authorized in sections 173.14 to 173.27 and section 173.99 of the Revised Code.

SENIOR COMMUNITY SERVICES

The foregoing appropriation item 490411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with senior community services funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients.

ALZHEIMER'S RESPITE

The foregoing appropriation item 490414, Alzheimer's Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

SENIOR COMMUNITY OUTREACH AND EDUCATION

The foregoing appropriation item 490606, Senior Community Outreach and Education, may be used to provide training to workers in the field of aging pursuant to division (G) of section 173.02 of the Revised Code.

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES AND FEDERAL AGING GRANTS

At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between appropriation items 490612, Federal Independence Services, and 490618, Federal Aging Grants. The amounts transferred shall not exceed 30 per cent of the appropriation from which the transfer is made. Any transfers shall be reported by the Department of Aging to the Controlling Board at the next scheduled meeting of the board.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM

The foregoing appropriation item 490609, Regional Long-Term Care Ombudsman Program, shall be used to pay the costs of operating the regional long-term care ombudsman programs designated by the Long-Term Care Ombudsman.

TRANSFER OF RESIDENT PROTECTION FUNDS

In each fiscal year, the Director of Budget and Management may transfer up to $750,000 cash from the Resident Protection Fund (Fund 4E30), which is used by the Department of Job and Family Services, to the Ombudsman Support Fund (Fund 5BA0), which is used by the Department of Aging. The moneys in the Ombudsman Support Fund may be used by the state office of the Long-Term Care Ombudsman Program and by regional ombudsman programs to promote person-centered care in nursing homes.

On July 1, 2011, or as soon as possible thereafter, the Department of Aging shall certify to the Director of Budget and Management the amount of the cash balance in the Ombudsman Support Fund at the end of fiscal year 2011.

LONG-TERM CARE CONSUMERS GUIDE

The foregoing appropriation item 490613, Long-Term Care Consumers Guide, shall be used to conduct annual customer satisfaction surveys and to pay for other administrative expenses related to the publication of the Ohio Long-Term Care Consumer Guide.

During fiscal year 2012 and fiscal year 2013, the Department of Aging shall identify methods and tools for assessing consumer satisfaction with adult care facilities and with the providers of home and community-based services. The Department shall also consider the development of a provider fee structure to support the inclusion of information about adult care facilities and providers of home and community-based services among the types of providers reviewed in the Ohio Long-Term Care Consumer Guide.

SECTION 209.40. UNIFIED LONG-TERM CARE SYSTEM ADVISORY WORKGROUP

(A) As used in this section, "long-term care services" means both of the following:

(1) Services of long-term care facilities as defined in section 173.14 of the Revised Code;

(2) Community-based long-term care services as defined in section 173.14 of the Revised Code.

(B) There is hereby created for fiscal year 2012 and fiscal year 2013 the Unified Long-Term Care System Advisory Workgroup. The Workgroup shall consist of the following members:

(1) The Director of Aging, or the Director's designee;

(2) The following persons appointed by the Governor:

(a) Advocates for individuals who use long-term care services;

(b) Representatives of providers of long-term care services;

(c) Representatives of managed care organizations under contract with the Department of Job and Family Services under section 5111.17 of the Revised Code;

(d) State policy makers.

(3) One member of the House of Representatives from the majority party and one member of the House of Representatives from the minority party, appointed by the Speaker of the House of Representatives;

(4) One member of the Senate from the majority party and one member of the Senate from the minority party, appointed by the President of the Senate.

(C) Members of the Workgroup shall be appointed not later than fifteen days after the effective date of this section. Except to the extent that serving on the Workgroup is part of a member's regular employment duties, a member of the Workgroup shall not be paid for the member's service on the Workgroup. Members of the Workgroup shall not be reimbursed for their expenses incurred in serving on the Workgroup.

(D) The Director of Aging or the Director's designee shall serve as chairperson of the Workgroup. The Departments of Aging and Job and Family Services shall provide staff and other support services for the Workgroup.

(E) The Workgroup shall serve in an advisory capacity in the implementation of a unified system of long-term care services that facilitates all of the following:

(1) Providing consumers choices of long-term care services that meet their health-care needs and improve their quality of life;

(2) Providing a continuum of long-term care services that meets consumers' needs throughout life and promotes consumers' independence and autonomy;

(3) Assuring that the state has a system of long-term care services that is cost effective and connects disparate services across agencies and jurisdictions.

(F) The Workgroup, with the assistance of the Directors of Job and Family Services and Budget and Management, shall submit two reports to the General Assembly in accordance with section 101.68 of the Revised Code regarding a unified system of long-term care services. The first report is due not later than July 1, 2012. The second report is due not later than

July 1, 2013. A report due before the unified system of long-term care services is established shall discuss the progress being made in establishing the system. A report due after the system is established shall discuss the system's effectiveness.

SECTION 209.50. UNIFIED LONG-TERM CARE SYSTEM ADVISORY WORKGROUP SUBCOMMITTEES

The Unified Long-Term Care System Advisory Workgroup shall convene four subcommittees.

The first subcommittee shall study the current and future capacity of nursing facilities in this state, the configuration of that capacity, and strategies for addressing nursing facility capacity, including the ability of nursing facility operators to determine the number of beds to certify for participation in the Medicaid program. The subcommittee shall complete a report of the part of the study regarding the ability of nursing facility operators to determine the number of beds to certify for participation in the Medicaid program not later than September 1, 2011.

For purposes related to division (D) of section 5111.244 of the Revised Code, the second subcommittee shall study the quality incentive payments to be paid to nursing facilities under the Medicaid program for fiscal year 2013, including accountability measures to be used in awarding points for the quality incentive payments and the methodology for calculating the quality incentive payments. The subcommittee shall complete a report of its study not later than September 1, 2011.

The third subcommittee shall study the process of making Medicaid eligibility determinations for individuals seeking nursing facility services. The subcommittee shall complete a report of its study not later than December 31, 2011.

The fourth subcommittee shall study Medicaid reimbursement for nursing facility services, including issues related to the composition of peer groups, methodologies used to calculate reimbursement for capital costs, and the proportion of the total nursing facility reimbursement rate that should be based on the quality of care nursing facilities provide. The subcommittee shall complete a report of its study not later than December 31, 2012.

Each subcommittee shall submit its report to the General Assembly in accordance with section 101.68 of the Revised Code and to the Directors of Aging, Health, and Job and Family Services. A subcommittee shall cease to exist on the submission of its report.

SECTION 211.10. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF	700401	Animal Disease Control	$	3,936,687	$	3,936,687
GRF	700403	Dairy Division	$	1,088,115	$	1,088,115
GRF	700404	Ohio Proud	$	50,000	$	50,000
GRF	700406	Consumer Analytical Lab	$	1,287,556	$	1,287,556
GRF	700407	Food Safety	$	848,792	$	848,792
GRF	700409	Farmland Preservation	$	72,750	$	72,750
GRF	700412	Weights and Measures	$	600,000	$	600,000
GRF	700415	Poultry Inspection	$	392,978	$	392,978
GRF	700418	Livestock Regulation Program	$	1,108,071	$	1,108,071
GRF	700424	Livestock Testing and Inspections	$	102,770	$	102,770
GRF	700499	Meat Inspection Program - State Share	$	4,175,097	$	4,175,097
GRF	700501	County Agricultural Societies	$	391,413	$	391,413
TOTAL GRF General Revenue Fund			$	14,054,229	$	14,054,229

General Services Fund Group

5DA0	700644	Laboratory Administration Support	$	1,094,867	$	1,094,867
5GH0	700655	Central Support Indirect Cost	$	4,456,842	$	4,456,842
TOTAL GSF General Services Fund Group			$	5,551,709	$	5,551,709

Federal Special Revenue Fund Group

3260	700618	Meat Inspection Program - Federal Share	$	4,950,000	$	4,950,000
3360	700617	Ohio Farm Loan Revolving Fund	$	150,000	$	150,000
3820	700601	Cooperative Contracts	$	2,000,000	$	2,000,000
3AB0	700641	Agricultural Easement	$	1,000,000	$	1,000,000
3J40	700607	Indirect Cost	$	600,000	$	600,000
3R20	700614	Federal Plant Industry	$	1,000,000	$	1,000,000
TOTAL FED Federal Special Revenue Fund Group			$	9,700,000	$	9,700,000

State Special Revenue Fund Group

4960	700626	Ohio Grape Industries	$	846,611	$	846,611
4970	700627	Commodity Handlers Regulatory Program	$	483,402	$	483,402
4C90	700605	Commercial Feed and Seed	$	1,816,897	$	1,816,897
4D20	700609	Auction Education	$	41,000	$	41,000
4E40	700606	Utility Radiological Safety	$	131,785	$	131,785
4P70	700610	Food Safety Inspection	$	1,085,836	$	1,085,836
4R00	700636	Ohio Proud Marketing	$	30,500	$	30,500
4R20	700637	Dairy Industry Inspection	$	1,758,247	$	1,758,247
4T60	700611	Poultry and Meat Inspection	$	180,000	$	180,000
4T70	700613	Ohio Proud International and Domestic Market Development	$	50,000	$	50,000
5780	700620	Ride Inspection Fees	$	1,175,142	$	1,175,142
5B80	700629	Auctioneers	$	359,823	$	359,823
5FC0	700648	Plant Pest Program	$	1,164,000	$	1,164,000

5H20	700608	Metrology Lab and Scale Certification	$ 750,000	$ 750,000
5HP0	700656	Livestock Care Standards Board	$ 80,000	$ 80,000
5L80	700604	Livestock Management Program	$ 584,000	$ 584,000
6520	700634	Animal and Consumer Analytical Laboratory	$ 4,366,383	$ 4,366,383
6690	700635	Pesticide, Fertilizer, and Lime Inspection Program	$ 3,418,041	$ 3,418,041
TOTAL SSR State Special Revenue Fund Group			$ 18,321,667	$ 18,321,667
Clean Ohio Conservation Fund Group				
7057	700632	Clean Ohio Agricultural Easement	$ 310,000	$ 310,000
TOTAL CLF Clean Ohio Conservation Fund Group			$ 310,000	$ 310,000
TOTAL ALL BUDGET FUND GROUPS			$ 47,937,605	$ 47,937,605

COUNTY AGRICULTURAL SOCIETIES

The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities.

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering Ohio Agricultural Easement Fund (Fund 7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

SECTION 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY

General Services Fund Group				
5EG0	898608	Energy Strategy Development	$ 240,382	$ 240,681
TOTAL GSF General Services Fund			$ 240,382	$ 240,681
Agency Fund Group				
4Z90	898602	Small Business Ombudsman	$ 288,050	$ 288,232
5700	898601	Operating Expenses	$ 323,980	$ 323,980
5A00	898603	Small Business Assistance	$ 71,087	$ 71,087
TOTAL AGY Agency Fund Group			$ 683,117	$ 683,299
TOTAL ALL BUDGET FUND GROUPS			$ 923,499	$ 923,980

SECTION 213.20. ENERGY STRATEGY DEVELOPMENT

The Ohio Air Quality Development Authority shall establish the Energy Strategy Development Program for the purpose of developing energy initiatives, projects, and policy for the state. Issues addressed by such initiatives, projects, and policy shall not be limited to those governed by Chapter 3706. of the Revised Code.

There is hereby created in the state treasury the Energy Strategy Development Fund (Fund 5EG0). The fund shall consist of money credited to it and money obtained for advanced energy projects from federal or private grants, loans, or other sources. Money in the fund shall be used to carry out the purposes of the program. Interest earned on the money in the fund shall be credited to the General Revenue Fund.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management may transfer cash from the funds specified below, in the amounts specified below, to the Energy Strategy Development Fund. Fund 5EG0 may accept contributions and transfers made to the fund. On July 1, 2013, or as soon as possible thereafter, the Director shall transfer to the General Revenue Fund all cash credited to Fund 5EG0. Upon completion of the transfer, Fund 5EG0 is abolished.

Fund	Fund Name	User	FY 2012	FY 2013
1170	Office Services	Department of Administrative Services	$27,405	$27,439
5GH0	Central Support Indirect Cost	Department of Agriculture	$27,405	$27,439
1350	Supportive Services	Department of Development	$27,405	$27,439
2190	Central Support Indirect Cost	Environmental Protection Agency	$27,405	$27,439
1570	Central Support Indirect Chargeback	Department of Natural Resources	$27,405	$27,439
7002	Highway Operating	Department of Transportation	$39,150	$39,199

SECTION 213.30. REIMBURSEMENT TO AIR QUALITY DEVELOPMENT AUTHORITY TRUST ACCOUNT

Notwithstanding any other provision of law to the contrary, the Air Quality Development Authority may reimburse the Air Quality Development Authority trust account established under section 3706.10 of the Revised Code from all operating funds of the agency for expenses pertaining to the administration and shared costs incurred by the Air Quality Development Authority in the execution of responsibilities as prescribed in Chapter 3706. of the Revised Code. Reimbursement shall be made by voucher and completed in accordance with the administrative indirect costs allocation plan approved by the Office of Budget and Management.

SECTION 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

General Revenue Fund						
GRF	038401	Treatment Services	$	11,225,590	$	7,020,974
GRF	038404	Prevention Services	$	868,659	$	868,659
GRF	038501	Medicaid Match	$	23,959,113	$	0
TOTAL GRF General Revenue Fund			$	36,053,362	$	7,889,633
General Services Fund						
5T90	038616	Problem Gambling Services	$	335,000	$	335,000
TOTAL GSF General Services Fund Group			$	335,000	$	335,000
Federal Special Revenue Fund Group						
3G40	038614	Substance Abuse Block Grant	$	69,000,000	$	69,000,000
3H80	038609	Demonstration Grants	$	8,675,580	$	8,675,580
3J80	038610	Medicaid	$	69,200,000	$	0
3N80	038611	Administrative Reimbursement	$	300,000	$	300,000
TOTAL FED Federal Special Revenue Fund Group			$	147,175,580	$	77,975,580
State Special Revenue Fund Group						
4750	038621	Statewide Treatment and Prevention	$	16,000,000	$	14,000,000
5JW0	038615	Board Match Reimbursement	$	3,000,000	$	3,000,000
6890	038604	Education and Conferences	$	75,000	$	75,000
TOTAL SSR State Special Revenue Fund Group			$	19,075,000	$	17,075,000
TOTAL ALL BUDGET FUND GROUPS			$	202,638,942	$	103,275,213

SECTION 215.20. ALCOHOL AND DRUG ADDICTION MEDICAID MATCH

(A) As used in this section, "community alcohol and drug addiction Medicaid services" means services provided under the component, or aspect of the component, of the Medicaid program that the Department of Alcohol and Drug Addiction Services administers pursuant to a contract entered into with the Department of Job and Family Services under section 5111.91 of the Revised Code.

(B) Subject to division (C) of this section, the foregoing appropriation item 038501, Medicaid Match, shall be used by the Department of Alcohol and Drug Addiction Services to make payments for community alcohol and drug addiction Medicaid services.

(C) For state fiscal year 2012, the Department shall allocate foregoing appropriation item 038501, Medicaid Match, and a portion of appropriation item 038621, Statewide Treatment and Prevention, to boards of alcohol, drug addiction, and mental health services in accordance with a distribution

methodology the Department shall establish. Notwithstanding sections 5111.911 and 5111.913 of the Revised Code, the boards shall use the funds allocated to them under this section to pay claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012. The boards shall use all federal financial participation that the Department receives for claims paid for community alcohol and drug addiction Medicaid services provided during fiscal year 2012 as the first payment source to pay claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012. The boards are not required to use any funds other than the funds allocated to them under this section and the federal financial participation received for claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012 to pay for such claims.

(D) The Department shall enter into an agreement with each board regarding the issue of paying claims that are for community alcohol and drug addiction Medicaid services provided before July 1, 2011, and submitted for payment on or after that date. Such claims shall be paid in accordance with the agreements. A board shall receive the federal financial participation received for claims for community alcohol and drug addiction Medicaid services that were provided before July 1, 2011, and paid by the board.

SECTION 217.10. ARC ARCHITECTS BOARD

General Services Fund Group					
4K90	891609	Operating Expenses	$ 494,459	$	478,147
TOTAL GSF General Services Fund Group			$ 494,459	$	478,147
TOTAL ALL BUDGET FUND GROUPS			$ 494,459	$	478,147

SECTION 219.10. ART OHIO ARTS COUNCIL

General Revenue Fund					
GRF	370321	Operating Expenses	$ 1,605,704	$	1,605,704
GRF	370502	State Program Subsidies	$ 6,000,000	$	8,000,000
TOTAL GRF General Revenue Fund			$ 7,605,704	$	9,605,704
General Services Fund Group					
4600	370602	Management Expenses and Donations	$ 247,000	$	247,000
4B70	370603	Percent for Art Acquisitions	$ 247,000	$	247,000
TOTAL GSF General Services Fund Group			$ 494,000	$	494,000
Federal Special Revenue Fund Group					
3140	370601	Federal Support	$ 1,000,000	$	1,000,000
TOTAL FED Federal Special Revenue Fund Group			$ 1,000,000	$	1,000,000

TOTAL ALL BUDGET FUND GROUPS			$ 9,099,704	$ 11,099,704

FEDERAL SUPPORT

Notwithstanding any provision of law to the contrary, the foregoing appropriation item 370601, Federal Support, shall be used by the Ohio Arts Council for subsidies only, and not for its administrative costs, unless the Council is required to use a portion of the funds for administrative costs under conditions of the federal grant.

SECTION 221.10. ATH ATHLETIC COMMISSION

General Services Fund Group

4K90	175609	Operating Expenses	$ 281,904	$ 292,509
TOTAL GSF General Services Fund Group			$ 281,904	$ 292,509
TOTAL ALL BUDGET FUND GROUPS			$ 281,904	$ 292,509

SECTION 223.10. AGO ATTORNEY GENERAL

General Revenue Fund

GRF	055321	Operating Expenses	$ 42,514,169	$ 42,514,169
GRF	055405	Law-Related Education	$ 100,000	$ 100,000
GRF	055411	County Sheriffs' Pay Supplement	$ 757,921	$ 757,921
GRF	055415	County Prosecutors' Pay Supplement	$ 831,499	$ 831,499
TOTAL GRF General Revenue Fund			$ 44,203,589	$ 44,203,589

General Services Fund Group

1060	055612	General Reimbursement	$ 43,357,968	$ 43,011,277
1950	055660	Workers' Compensation Section	$ 8,415,504	$ 8,415,504
4180	055615	Charitable Foundations	$ 7,286,000	$ 7,286,000
4200	055603	Attorney General Antitrust	$ 1,871,674	$ 1,839,074
4210	055617	Police Officers' Training Academy Fee	$ 2,124,942	$ 2,088,805
4Z20	055609	BCI Asset Forfeiture and Cost Reimbursement	$ 1,529,685	$ 1,521,731
5900	055633	Peace Officer Private Security Fund	$ 98,370	$ 98,370
5A90	055618	Telemarketing Fraud Enforcement	$ 7,500	$ 7,500
5L50	055619	Law Enforcement Assistance Program	$ 300,222	$ 0
6310	055637	Consumer Protection Enforcement	$ 3,799,115	$ 3,718,973
TOTAL GSF General Services Fund Group			$ 68,790,980	$ 67,987,234

Federal Special Revenue Fund Group

3060	055620	Medicaid Fraud Control	$ 4,211,235	$ 4,122,399
3810	055611	Civil Rights Legal Service	$ 402,540	$ 402,540
3830	055634	Crime Victims Assistance	$ 13,000,000	$ 13,000,000
3E50	055638	Attorney General	$ 1,223,606	$ 1,222,172

		Pass-Through Funds		
3R60	055613	Attorney General Federal Funds	$ 3,823,251	$ 3,673,251
TOTAL FED Federal Special Revenue Fund Group			$ 22,660,632	$ 22,420,362
State Special Revenue Fund Group				
4020	055616	Victims of Crime	$ 26,000,000	$ 26,000,000
4170	055621	Domestic Violence Shelter	$ 25,000	$ 25,000
4190	055623	Claims Section	$ 44,197,843	$ 41,953,025
4L60	055606	DARE Programs	$ 4,477,962	$ 4,477,962
4Y70	055608	Title Defect Recision	$ 600,000	$ 600,000
6590	055641	Solid and Hazardous Waste Background Investigations	$ 662,227	$ 651,049
TOTAL SSR State Special Revenue Fund Group			$ 75,963,032	$ 73,707,036
Holding Account Redistribution Fund Group				
R004	055631	General Holding Account	$ 1,000,000	$ 1,000,000
R005	055632	Antitrust Settlements	$ 1,000	$ 1,000
R018	055630	Consumer Frauds	$ 750,000	$ 750,000
R042	055601	Organized Crime Commission Distributions	$ 25,025	$ 25,025
R054	055650	Collection Outside Counsel Payments	$ 4,500,000	$ 4,500,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 6,276,025	$ 6,276,025
Tobacco Master Settlement Agreement Fund Group				
J087	055635	Law Enforcement Technology, Training, and Facility Enhancements	$ 2,300,000	$ 0
U087	055402	Tobacco Settlement Oversight, Administration, and Enforcement	$ 2,527,992	$ 2,514,690
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			$ 4,827,992	$ 2,514,690
TOTAL ALL BUDGET FUND GROUPS			$ 222,722,250	$ 217,108,936

COUNTY SHERIFFS' PAY SUPPLEMENT

The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

COUNTY PROSECUTORS' PAY SUPPLEMENT

The foregoing appropriation item 055415, County Prosecutors' Pay

Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code.

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055415, County Prosecutors' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county prosecutors as required by section 325.111 of the Revised Code.

GENERAL REIMBURSEMENT FUND

Notwithstanding any other provision of law to the contrary, on July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer $160,000 cash from the General Revenue Fund to the General Reimbursement Fund (Fund 1060) used by the Office of the Attorney General.

WORKERS' COMPENSATION SECTION

The Workers' Compensation Fund (Fund 1950) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

ATTORNEY GENERAL PASS-THROUGH FUNDS

The foregoing appropriation item 055638, Attorney General Pass-Through Funds, shall be used to receive federal grant funds provided to the Attorney General by other state agencies, including, but not limited to, the Department of Youth Services and the Department of Public Safety.

GENERAL HOLDING ACCOUNT

The foregoing appropriation item 055631, General Holding Account, shall be used to distribute moneys under the terms of relevant court orders or other settlements received in a variety of cases involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ANTITRUST SETTLEMENTS

The foregoing appropriation item 055632, Antitrust Settlements, shall

be used to distribute moneys under the terms of relevant court orders or other out of court settlements in antitrust cases or antitrust matters involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

CONSUMER FRAUDS

The foregoing appropriation item 055630, Consumer Frauds, shall be used for distribution of moneys from court-ordered judgments against sellers in actions brought by the Office of Attorney General under sections 1334.08 and 4549.48 and division (B) of section 1345.07 of the Revised Code. These moneys shall be used to provide restitution to consumers victimized by the fraud that generated the court-ordered judgments. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ORGANIZED CRIME COMMISSION DISTRIBUTIONS

The foregoing appropriation item 055601, Organized Crime Commission Distributions, shall be used by the Organized Crime Investigations Commission, as provided by section 177.011 of the Revised Code, to reimburse political subdivisions for the expenses the political subdivisions incur when their law enforcement officers participate in an organized crime task force. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

COLLECTION OUTSIDE COUNSEL PAYMENTS

The foregoing appropriation item 055650, Collection Outside Counsel Payments, shall be used for the purpose of paying contingency counsel fees for cases where debtors mistakenly paid the client agencies instead of the Attorney General's Revenue Recovery/Collections Enforcement Section. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

SECTION 225.10. AUD AUDITOR OF STATE

General Revenue Fund

GRF	070321	Operating Expenses	$ 27,434,452	$ 27,434,452
GRF	070403	Fiscal Watch/Emergency Technical Assistance	$ 800,000	$ 800,000
TOTAL GRF General Revenue Fund			$ 28,234,452	$ 28,234,452

Auditor of State Fund Group

1090	070601	Public Audit Expense - Intra-State	$ 9,000,000	$ 8,700,000
4220	070602	Public Audit Expense - Local Government	$ 31,422,959	$ 31,052,999
5840	070603	Training Program	$ 181,250	$ 181,250

5JZ0	070606	LEAP Revolving Loans	$ 850,000	$ 650,000
6750	070605	Uniform Accounting Network	$ 3,500,000	$ 3,500,000
TOTAL AUD Auditor of State Fund Group			$ 44,954,209	$ 44,084,249
TOTAL ALL BUDGET FUND GROUPS			$ 73,188,661	$ 72,318,701

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE

The foregoing appropriation item 070403, Fiscal Watch/Emergency Technical Assistance, shall be used for expenses incurred by the Office of the Auditor of State in its role relating to fiscal watch or fiscal emergency activities under Chapters 118. and 3316. of the Revised Code. Expenses include, but are not limited to, the following: duties related to the determination or termination of fiscal watch or fiscal emergency of municipal corporations, counties, townships, or school districts; development of preliminary accounting reports; performance of annual forecasts; provision of performance audits; and supervisory, accounting, or auditing services for the municipal corporations, counties, townships, or school districts.

An amount equal to the unexpended, unencumbered portion of appropriation item 070403, Fiscal Watch/Emergency Technical Assistance, at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

SECTION 227.10. BRB BOARD OF BARBER EXAMINERS

General Services Fund Group

4K90	877609	Operating Expenses	$ 656,320	$ 649,211
TOTAL GSF General Services Fund Group			$ 656,320	$ 649,211
TOTAL ALL BUDGET FUND GROUPS			$ 656,320	$ 649,211

SECTION 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT

General Revenue Fund

GRF	042321	Budget Development and Implementation	$ 2,362,025	$ 2,378,166
GRF	042409	Commission Closures	$ 50,000	$ 50,000
GRF	042416	Office of Health Transformation	$ 306,285	$ 0
GRF	042423	Liquor Enterprise Transaction	$ 500,000	$ 0
TOTAL GRF General Revenue Fund			$ 3,218,310	$ 2,428,166

General Services Fund Group

1050	042603	State Accounting and Budgeting	$ 21,917,230	$ 22,006,331
5N40	042602	OAKS Project Implementation	$ 1,358,000	$ 1,309,500
5Z80	042608	Office of Health Transformation	$ 57,752	$ 0

		Administration		
TOTAL GSF General Services Fund Group			$ 23,332,982	$ 23,315,831
Federal Special Revenue Fund Group				
3CM0	042606	Office of Health Transformation - Federal	$ 384,037	$ 145,500
TOTAL FED Federal Special Revenue Fund Group			$ 384,037	$ 145,500
Agency Fund Group				
5EH0	042604	Forgery Recovery	$ 50,000	$ 50,000
TOTAL AGY Agency Fund Group			$ 50,000	$ 50,000
TOTAL ALL BUDGET FUND GROUPS			$ 26,985,329	$ 25,939,497

COMMISSION CLOSURES

The foregoing appropriation item 042409, Commission Closures, may be used to pay obligations associated with the closure of the Commission on Dispute Resolution and Conflict Management, the School Employees Health Care Board, the Legal Rights Service, and the Workers' Compensation Council. Notwithstanding any provision of law to the contrary, this appropriation item may also be used to pay final payroll expenses occurring after the closure of the Commission on Dispute Resolution and Conflict Management, the School Employees Health Care Board, the Legal Rights Service, and the Workers' Compensation Council in the event that appropriations or cash in the closing agency are insufficient to do so.

The Director of Budget and Management may request Controlling Board approval for funds to be transferred to appropriation item 042409, Commission Closures, from appropriation item 911614, CB Emergency Purposes, for anticipated expenses associated with agency closures.

LIQUOR ENTERPRISE TRANSACTION

The foregoing appropriation item 042423, Liquor Enterprise Transaction, shall be used by the Director of Budget and Management, without need for any other approval, to retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the Director's judgment to commence negotiation of the transfer agreement referred to in sections 4313.01 and 4313.02 of the Revised Code, as enacted by this act. Any amounts expended from appropriation item 042423 shall be reimbursed from the proceeds of the enterprise acquisition project transaction authorized in those sections.

The Director of Budget and Management, in consultation with the Director of Commerce, may negotiate an initial agreement with JobsOhio, which shall be executed by the Directors of Budget and Management and Commerce upon its completion.

AUDIT COSTS AND DUES

All centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted

accounting principles for the state shall be paid from the foregoing appropriation item 042603, State Accounting and Budgeting.

Costs associated with the audit of the Auditor of State and national association dues shall be paid from the foregoing appropriation item 042321, Budget Development and Implementation.

SHARED SERVICES CENTER

The Director of Budget and Management shall use the OAKS Project Implementation Fund (Fund 5N40) and the Accounting and Budgeting Fund (Fund 1050) to support a Shared Services Center within the Office of Budget and Management for the purpose of consolidating statewide business functions and common transactional processes.

The Director of Budget and Management shall include the recovery of costs to operate the Shared Services Center in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies for services rendered. The Director of Budget and Management shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of Fund 1050.

INTERNAL CONTROL AND AUDIT OVERSIGHT

The Director of Budget and Management shall include the recovery of costs to operate the Internal Control and Audit Oversight Program in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies reviewed by the program. The Director of Budget and Management, with advice from the Internal Audit Advisory Council, shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of the Accounting and Budgeting Fund (Fund 1050).

FORGERY RECOVERY

The foregoing appropriation item 042604, Forgery Recovery, shall be used to reissue warrants that have been certified as forgeries by the rightful recipient as determined by the Bureau of Criminal Identification and Investigation and the Treasurer of State. Upon receipt of funds to cover the reissuance of the warrant, the Director of Budget and Management shall reissue a state warrant of the same amount.

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer an amount not to exceed $1,100,000 in cash from the General Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40).

SECTION 231.10. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD

General Revenue Fund						
GRF	874100	Personal Services	$	1,272,017	$	1,272,017
GRF	874320	Maintenance and Equipment	$	529,391	$	529,391
TOTAL GRF General Revenue Fund			$	1,801,408	$	1,801,408
General Services Fund Group						
4G50	874603	Capitol Square Education Center and Arts	$	15,000	$	15,000
4S70	874602	Statehouse Gift Shop/Events	$	686,708	$	686,708
TOTAL GSF General Services Fund Group			$	701,708	$	701,708
Underground Parking Garage						
2080	874601	Underground Parking Garage Operations	$	3,290,052	$	3,186,573
TOTAL UPG Underground Parking Garage			$	3,290,052	$	3,186,573
TOTAL ALL BUDGET FUND GROUPS			$	5,793,168	$	5,689,689

WAREHOUSE PAYMENTS

Of the foregoing appropriation item 874601, Underground Parking Garage Operations, $48,000 in each fiscal year shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, to the Ohio Building Authority for bond service charges relating to the purchase and improvement of a warehouse acquired pursuant to section 105.41 of the Revised Code, in which to store items of the Capitol Collection Trust and, whenever necessary, equipment or other property of the Board.

UNDERGROUND PARKING GARAGE FUND

Notwithstanding division (G) of section 105.41 of the Revised Code and any other provision to the contrary, moneys in the Underground Parking Garage Fund (Fund 2080) may be used for personnel and operating costs related to the operations of the Statehouse and the Statehouse Underground Parking Garage.

SECTION 233.10. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS

General Services Fund Group						
4K90	233601	Operating Expenses	$	558,658	$	579,328
TOTAL GSF General Services Fund Group			$	558,658	$	579,328
TOTAL ALL BUDGET FUND GROUPS			$	558,658	$	579,328

SECTION 235.10. CAC CASINO CONTROL COMMISSION

State Special Revenue Fund Group

5HS0	955321	Casino Control - Operating	$ 8,263,312	$	13,121,283
TOTAL SSR State Special Revenue Fund Group			$ 8,263,312	$	13,121,283
TOTAL ALL BUDGET FUND GROUPS			$ 8,263,312	$	13,121,283

SECTION 237.10. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD

General Services Fund Group

4K90	930609	Operating Expenses	$ 433,734	$	417,827
TOTAL GSF General Services Fund Group			$ 433,734	$	417,827
TOTAL ALL BUDGET FUND GROUPS			$ 433,734	$	417,827

SECTION 239.10. CHR STATE CHIROPRACTIC BOARD

General Services Fund Group

4K90	878609	Operating Expenses	$ 592,916	$	584,925
TOTAL GSF General Services Fund Group			$ 592,916	$	584,925
TOTAL ALL BUDGET FUND GROUPS			$ 592,916	$	584,925

SECTION 241.10. CIV OHIO CIVIL RIGHTS COMMISSION

General Revenue Fund

GRF	876321	Operating Expenses	$ 4,725,784	$	4,725,784
TOTAL GRF General Revenue Fund			$ 4,725,784	$	4,725,784

General Services Fund Group

2170	876604	Operations Support	$ 8,000	$	8,000
TOTAL GSF General Services Fund Group			$ 8,000	$	8,000

Federal Special Revenue Fund Group

3340	876601	Federal Programs	$ 2,762,000	$	2,762,000
TOTAL FED Federal Special Revenue Fund Group			$ 2,762,000	$	2,762,000
TOTAL ALL BUDGET FUND GROUPS			$ 7,495,784	$	7,495,784

SECTION 243.10. COM DEPARTMENT OF COMMERCE

General Services Fund Group

1630	800620	Division of Administration	$ 6,200,000	$	6,200,000
1630	800637	Information Technology	$ 5,999,892	$	6,011,977
5430	800602	Unclaimed Funds-Operating	$ 7,836,107	$	7,841,473
5430	800625	Unclaimed Funds-Claims	$ 69,700,000	$	69,800,000
5F10	800635	Small Government Fire Departments	$ 300,000	$	300,000
TOTAL GSF General Services Fund Group			$ 90,035,999	$	90,153,450

Federal Special Revenue Fund Group					
3480	800622	Underground Storage Tanks	$ 1,129,518	$	1,129,518
3480	800624	Leaking Underground Storage Tanks	$ 1,556,211	$	1,556,211
TOTAL FED Federal Special Revenue Fund Group			$ 2,685,729	$	2,685,729
State Special Revenue Fund Group					
4B20	800631	Real Estate Appraisal Recovery	$ 35,000	$	35,000
4H90	800608	Cemeteries	$ 268,067	$	268,293
4X20	800619	Financial Institutions	$ 2,186,271	$	1,990,693
5440	800612	Banks	$ 7,242,364	$	6,942,336
5450	800613	Savings Institutions	$ 2,257,220	$	2,259,536
5460	800610	Fire Marshal	$ 15,400,000	$	15,501,562
5460	800639	Fire Department Grants	$ 1,698,802	$	1,698,802
5470	800603	Real Estate Education/Research	$ 125,000	$	125,000
5480	800611	Real Estate Recovery	$ 25,000	$	25,000
5490	800614	Real Estate	$ 3,413,708	$	3,332,308
5500	800617	Securities	$ 4,312,434	$	4,314,613
5520	800604	Credit Union	$ 3,450,390	$	3,450,390
5530	800607	Consumer Finance	$ 3,613,016	$	3,516,861
5560	800615	Industrial Compliance	$ 27,639,372	$	27,664,695
5FW0	800616	Financial Literacy Education	$ 240,000	$	240,000
5GK0	800609	Securities Investor Education/Enforcement	$ 1,135,000	$	485,000
5HV0	800641	Cigarette Enforcement	$ 120,000	$	120,000
5X60	800623	Video Service	$ 340,299	$	340,630
6530	800629	UST Registration/Permit Fee	$ 1,854,675	$	1,509,653
6A40	800630	Real Estate Appraiser-Operating	$ 699,565	$	648,890
TOTAL SSR State Special Revenue Fund Group			$ 76,056,183	$	74,469,262
Liquor Control Fund Group					
7043	800601	Merchandising	$ 472,209,274	$	0
7043	800627	Liquor Control Operating	$ 13,398,274	$	10,110,479
7043	800633	Development Assistance Debt Service	$ 51,973,200	$	0
7043	800636	Revitalization Debt Service	$ 21,129,800	$	0
TOTAL LCF Liquor Control Fund Group			$ 558,710,548	$	10,110,479
TOTAL ALL BUDGET FUND GROUPS			$ 727,488,459		177,418,920

SMALL GOVERNMENT FIRE DEPARTMENTS

Notwithstanding section 3737.17 of the Revised Code, the foregoing appropriation item 800635, Small Government Fire Departments, may be used to provide loans to private fire departments.

UNCLAIMED FUNDS PAYMENTS

The foregoing appropriation item 800625, Unclaimed Funds-Claims, shall be used to pay claims under section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are

appropriated.

UNCLAIMED FUNDS TRANSFERS

Notwithstanding division (A) of section 169.05 of the Revised Code, during the FY 2012-FY 2013 biennium, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to $215,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. The Director of Commerce shall transfer the funds at the times requested by the Director of Budget and Management.

FIRE DEPARTMENT GRANTS

Of the foregoing appropriation item 800639, Fire Department Grants, up to $1,647,140 in each fiscal year shall be used to make annual grants to the following eligible recipients: volunteer fire departments, fire departments that serve one or more small municipalities or small townships, joint fire districts comprised of fire departments that primarily serve small municipalities or small townships, local units of government responsible for such fire departments, and local units of government responsible for the provision of fire protection services for small municipalities or small townships. For the purposes of these grants, a private fire company, as that phrase is defined in section 9.60 of the Revised Code, that is providing fire protection services under a contract to a political subdivision of the state, is an additional eligible recipient for a training grant.

Eligible recipients that consist of small municipalities or small townships that all intend to contract with the same fire department or private fire company for fire protection services may jointly apply and be considered for a grant. If a joint applicant is awarded a grant, the State Fire Marshal shall, if feasible, proportionately award the grant and any equipment purchased with grant funds to each of the joint applicants based upon each applicant's contribution to and demonstrated need for fire protection services.

If the grant awarded to joint applicants is an equipment grant and the equipment to be purchased cannot be readily distributed or possessed by multiple recipients, each of the joint applicants shall be awarded by the State Fire Marshal an ownership interest in the equipment so purchased in proportion to each applicant's contribution to and demonstrated need for fire protection services. The joint applicants shall then mutually agree on how the equipment is to be maintained, operated, stored, or disposed of. If, for any reason, the joint applicants cannot agree as to how jointly owned equipment is to be maintained, operated, stored, or disposed of or any of the

joint applicants no longer maintain a contract with the same fire protection service provider as the other applicants, then the joint applicants shall, with the assistance of the State Fire Marshal, mutually agree as to how the jointly owned equipment is to be maintained, operated, stored, disposed of, or owned. If the joint applicants cannot agree how the grant equipment is to be maintained, operated, stored, disposed of, or owned, the State Fire Marshal may, in its discretion, require all of the equipment acquired by the joint applicants with grant funds to be returned to the State Fire Marshal. The State Fire Marshal may then award the returned equipment to any eligible recipients.

The grants shall be used by recipients to purchase firefighting or rescue equipment or gear or similar items, to provide full or partial reimbursement for the documented costs of firefighter training, or, at the discretion of the State Fire Marshal, to cover fire department costs for providing fire protection services in that grant recipient's jurisdiction.

Grant awards for firefighting or rescue equipment or gear or for fire department costs of providing fire protection services shall be up to $15,000 per fiscal year, or up to $25,000 per fiscal year if an eligible entity serves a jurisdiction in which the Governor declared a natural disaster during the preceding or current fiscal year in which the grant was awarded. In addition to any grant funds awarded for rescue equipment or gear, or for fire department costs associated with the provision of fire protection services, an eligible entity may receive a grant for up to $15,000 per fiscal year for full or partial reimbursement of the documented costs of firefighter training. For each fiscal year, the State Fire Marshal shall determine the total amounts to be allocated for each eligible purpose.

The grant program shall be administered by the State Fire Marshal in accordance with rules the State Fire Marshal adopts as part of the state fire code adopted pursuant to section 3737.82 of the Revised Code that are necessary for the administration and operation of the grant program. The rules may further define the entities eligible to receive grants and establish criteria for the awarding and expenditure of grant funds, including methods the State Fire Marshal may use to verify the proper use of grant funds or to obtain reimbursement for or the return of equipment for improperly used grant funds. Any amounts in appropriation item 800639, Fire Department Grants, in excess of the amount allocated for these grants may be used for the administration of the grant program.

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR EDUCATION AND ENFORCEMENT EXPENSE FUND

The Director of Budget and Management, upon the request of the

Director of Commerce, shall transfer up to $485,000 in cash in each fiscal year from the Division of Securities Fund (Fund 5500) to the Division of Securities Investor Education and Enforcement Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised Code.

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND

The Director of Budget and Management, upon the request of the Director of Commerce, shall transfer up to $340,000 in cash in each fiscal year from the Division of Administration Fund (Fund 1630) to the Video Service Authorization Fund (Fund 5X60).

INCREASED APPROPRIATION - MERCHANDISING

The foregoing appropriation item 800601, Merchandising, shall be used under section 4301.12 of the Revised Code. If it is determined that additional expenditures are necessary, the amounts are hereby appropriated.

DEVELOPMENT ASSISTANCE DEBT SERVICE

The foregoing appropriation item 800633, Development Assistance Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made during the period from July 1, 2011, to June 30, 2012, for bond service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. An appropriation for this purpose is not required, but is made in this form and in this act for record purposes only.

REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800636, Revitalization Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2011, to June 30, 2012. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The General Assembly acknowledges the priority of the pledge of a portion of receipts from that source to obligations issued and to be issued under Chapter 166. of the Revised Code.

LIQUOR CONTROL FUND TRANSFER

On January 1, 2012, or as soon as possible thereafter, the Director of Budget and Management may transfer up to $10,600,000 in cash from the General Revenue Fund to the Liquor Control Fund (Fund 7043) for the liquor permitting and compliance functions of the Division of Liquor Control in the Department of Commerce and for the operations of the Liquor Control Commission and the Department of Public Safety pursuant

to Chapter 4301. of the Revised Code.

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management may transfer up to $21,800,000 in cash from the General Revenue Fund to the Liquor Control Fund (Fund 7043) for the liquor permitting and compliance functions of the Division of Liquor Control in the Department of Commerce and for the operations of the Liquor Control Commission and the Department of Public Safety pursuant to Chapter 4301. of the Revised Code.

ADMINISTRATIVE ASSESSMENTS

Notwithstanding any other provision of law to the contrary, the Division of Administration Fund (Fund 1630) is entitled to receive assessments from all operating funds of the Department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

SECTION 245.10. OCC OFFICE OF CONSUMERS' COUNSEL

General Services Fund Group			
5F50 053601 Operating Expenses	$ 5,641,093	$ 4,142,070	
TOTAL GSF General Services Fund Group	$ 5,641,093	$ 4,142,070	
TOTAL ALL BUDGET FUND GROUPS	$ 5,641,093	$ 4,142,070	

SECTION 247.10. CEB CONTROLLING BOARD

General Revenue Fund		
GRF 911441 Ballot Advertising Costs	$ 475,000	$ 475,000
TOTAL GRF General Revenue Fund	$ 475,000	$ 475,000
General Services Fund Group		
5KM0911614 CB Emergency Purposes	$ 10,000,000	$ 10,000,000
TOTAL GSF General Services Fund Group	$ 10,000,000	$ 10,000,000
TOTAL ALL BUDGET FUND GROUPS	$ 10,475,000	$ 10,475,000

FEDERAL SHARE

In transferring appropriations to or from appropriation items that have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Disaster Services Fund (5E20) to a fund and appropriation item used by the Department of Public Safety to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and

approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding to fund the State Disaster Relief Program for disasters that have been declared by the Governor, and the State Individual Assistance Program for disasters that have been declared by the Governor and the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

Fund 5E20 shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriations to any fund and appropriation item for the payment of state agency disaster relief program expenses for disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist.

BALLOT ADVERTISING COSTS

Pursuant to section 3501.17 of the Revised Code, and upon requests submitted by the Secretary of State, the Controlling Board shall approve transfers from the foregoing appropriation item 911441, Ballot Advertising Costs, to appropriation item 050621, Statewide Ballot Advertising, in order to pay for the cost of public notices associated with statewide ballot initiatives.

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS ELIGIBILITY

A state agency director shall request that the Controlling Board increase the amount of the agency's capital appropriations if the director determines such an increase is necessary for the agency to receive and use funds under the federal American Recovery and Reinvestment Act of 2009. The Controlling Board may increase the capital appropriations pursuant to the request up to the exact amount necessary under the federal act if the Board determines it is necessary for the agency to receive and use those federal funds.

SECTION 249.10. COS STATE BOARD OF COSMETOLOGY

General Services Fund Group				
4K90	879609	Operating Expenses	$ 3,439,545	$ 3,364,030
TOTAL GSF General Services Fund Group			$ 3,439,545	$ 3,364,030
TOTAL ALL BUDGET FUND GROUPS			$ 3,439,545	$ 3,364,030

SECTION 251.10. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD

General Services Fund Group

4K90	899609	Operating Expenses	$ 1,204,235	$	1,234,756
TOTAL GSF General Services Fund Group			$ 1,204,235	$	1,234,756
TOTAL ALL BUDGET FUND GROUPS			$ 1,204,235	$	1,234,756

SECTION 253.10. CLA COURT OF CLAIMS

General Revenue Fund

GRF	015321	Operating Expenses	$ 2,573,508	$	2,501,052
TOTAL GRF General Revenue Fund			$ 2,573,508	$	2,501,052

State Special Revenue Fund Group

5K20	015603	CLA Victims of Crime	$ 1,582,684	$	1,582,684
TOTAL SSR State Special Revenue Fund Group			$ 1,582,684	$	1,582,684
TOTAL ALL BUDGET FUND GROUPS			$ 4,156,192	$	4,083,736

SECTION 255.10. AFC OHIO CULTURAL FACILITIES COMMISSION

General Revenue Fund

GRF	371321	Operating Expenses	$ 98,636	$	98,636
GRF	371401	Lease Rental Payments	$ 27,804,900	$	28,465,000
TOTAL GRF General Revenue Fund			$ 27,903,536	$	28,563,636

State Special Revenue Fund Group

4T80	371601	Riffe Theatre Equipment Maintenance	$ 80,891	$	80,891
4T80	371603	Project Administration Services	$ 1,200,000	$	1,200,000
TOTAL SSR State Special Revenue Group			$ 1,280,891	$	1,280,891
TOTAL ALL BUDGET FUND GROUPS			$ 29,184,427	$	29,844,527

LEASE RENTAL PAYMENTS

The foregoing appropriation item 371401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011 through June 30, 2013, from the Ohio Cultural Facilities Commission under the primary leases and agreements for those arts and sports facilities made under Chapters 152. and 154. of the Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapters 152. and 154. of the Revised Code.

OPERATING EXPENSES

The foregoing appropriation item 371321, Operating Expenses, shall be

used by the Ohio Cultural Facilities Commission to carry out its responsibilities under this section and Chapter 3383. of the Revised Code.

The foregoing appropriation item 371603, Project Administration Services, shall be used by the Ohio Cultural Facilities Commission in administering Cultural and Sports Facilities Building Fund (Fund 7030) projects pursuant to Chapter 3383. of the Revised Code.

By the tenth day following each calendar quarter in each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall determine the amount of cash from interest earnings to be transferred from the Cultural and Sports Facilities Building Fund (Fund 7030) to the Cultural Facilities Commission Administration Fund (Fund 4T80).

As soon as possible after each bond issuance made on behalf of the Cultural Facilities Commission, the Director of Budget and Management shall determine the amount of cash from any premium paid on each issuance that is available to be transferred, after all issuance costs have been paid, from the Cultural and Sports Facilities Building Fund (Fund 7030) to the Cultural Facilities Commission Administration Fund (Fund 4T80).

CAPITAL DONATIONS FUND CERTIFICATIONS AND APPROPRIATIONS

The Executive Director of the Cultural Facilities Commission shall certify to the Director of Budget and Management the amount of cash receipts and related investment income, irrevocable letters of credit from a bank, or certification of the availability of funds that have been received from a county or a municipal corporation for deposit into the Capital Donations Fund (Fund 5A10) and that are related to an anticipated project. These amounts are hereby appropriated to appropriation item C37146, Capital Donations. Prior to certifying these amounts to the Director, the Executive Director shall make a written agreement with the participating entity on the necessary cash flows required for the anticipated construction or equipment acquisition project.

SECTION 257.10. DEN STATE DENTAL BOARD

General Services Fund Group

4K90	880609	Operating Expenses	$ 1,574,715	$ 1,545,684
TOTAL GSF General Services Fund Group			$ 1,574,715	$ 1,545,684
TOTAL ALL BUDGET FUND GROUPS			$ 1,574,715	$ 1,545,684

SECTION 259.10. BDP BOARD OF DEPOSIT

General Services Fund Group

4M20	974601	Board of Deposit	$ 1,876,000	$ 1,876,000
TOTAL GSF General Services Fund Group			$ 1,876,000	$ 1,876,000
TOTAL ALL BUDGET FUND GROUPS			$ 1,876,000	$ 1,876,000

BOARD OF DEPOSIT EXPENSE FUND

Upon receiving certification of expenses from the Treasurer of State, the Director of Budget and Management shall transfer cash from the Investment Earnings Redistribution Fund (Fund 6080) to the Board of Deposit Expense Fund (Fund 4M20). The latter fund shall be used pursuant to section 135.02 of the Revised Code to pay for any and all necessary expenses of the Board of Deposit or for banking charges and fees required for the operation of the State of Ohio Regular Account.

SECTION 261.10. DEV DEPARTMENT OF DEVELOPMENT

General Revenue Fund

GRF	195401	Thomas Edison Program	$ 14,820,354	$ 0
GRF	195402	Coal Development Office	$ 260,983	$ 261,205
GRF	195404	Small Business Development	$ 1,565,770	$ 0
GRF	195405	Minority Business Enterprise Division	$ 1,118,528	$ 0
GRF	195407	Travel and Tourism	$ 5,000,000	$ 0
GRF	195412	Rapid Outreach Grants	$ 9,000,000	$ 0
GRF	195415	Strategic Business Investment Division and Regional Offices	$ 4,500,000	$ 0
GRF	195416	Governor's Office of Appalachia	$ 3,700,000	$ 3,700,000
GRF	195422	Technology Action	$ 547,341	$ 0
GRF	195426	Clean Ohio Implementation	$ 468,365	$ 0
GRF	195432	Global Markets	$ 3,500,000	$ 0
GRF	195434	Industrial Training Grants	$ 10,000,000	$ 0
GRF	195497	CDBG Operating Match	$ 1,015,000	$ 0
GRF	195501	Appalachian Local Development Districts	$ 391,482	$ 391,482
GRF	195502	Appalachian Regional Commission Dues	$ 195,000	$ 195,000
GRF	195528	Economic Development Projects	$ 0	$ 26,943,518
GRF	195901	Coal Research & Development General Obligation Debt Service	$ 7,861,100	$ 5,577,700
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	$ 29,323,300	$ 63,640,300
GRF	195912	Job Ready Site Development General Obligation Debt Service	$ 9,859,200	$ 15,680,500
TOTAL GRF General Revenue Fund			$ 103,126,423	$ 116,389,705

General Services Fund Group

1350	195684	Supportive Services	$ 11,700,000	$ 11,700,000
4W10	195646	Minority Business Enterprise Loan	$ 2,500,000	$ 2,500,000
5AD0	195633	Legacy Projects	$ 15,000,000	$ 15,000,000
5AD0	195677	Economic Development Contingency	$ 10,000,000	$ 0
5W50	195690	Travel and Tourism Cooperative Projects	$ 50,000	$ 50,000
6850	195636	Direct Cost Recovery Expenditures	$ 750,000	$ 750,000
TOTAL GSF General Services Fund Group			$ 40,000,000	$ 30,000,000

Federal Special Revenue Fund Group

3080	195602	Appalachian Regional Commission	$ 475,000	$ 475,000
3080	195603	Housing and Urban Development	$ 6,000,000	$ 6,000,000
3080	195605	Federal Projects	$ 85,028,606	$ 85,470,106
3080	195609	Small Business Administration	$ 6,438,143	$ 5,511,381
3080	195618	Energy Federal Grants	$ 38,000,000	$ 3,400,000
3350	195610	Energy Conservation and Emerging Technology	$ 1,100,000	$ 1,100,000
3AE0	195643	Workforce Development Initiatives	$ 16,300,000	$ 16,300,000
3DB0	195642	Federal Stimulus - Energy Efficiency & Conservation Block Grants	$ 3,000,000	$ 42,485
3EG0	195608	Federal Energy Training	$ 5,000,000	$ 1,344,056
3K80	195613	Community Development Block Grant	$ 76,795,818	$ 65,210,000
3K90	195611	Home Energy Assistance Block Grant	$ 115,743,608	$ 115,743,608
3K90	195614	HEAP Weatherization	$ 22,000,000	$ 22,000,000
3L00	195612	Community Services Block Grant	$ 27,240,217	$ 27,240,217
3V10	195601	HOME Program	$ 40,000,000	$ 40,000,000
TOTAL FED Federal Special Revenue Fund Group			$ 443,121,392	$ 389,836,853

State Special Revenue Fund Group

4500	195624	Minority Business Bonding Program Administration	$ 160,110	$ 159,069
4510	195625	Economic Development Financing Operating	$ 3,000,000	$ 3,000,000
4F20	195639	State Special Projects	$ 180,437	$ 180,436
4F20	195676	Marketing Initiatives	$ 5,000,000	$ 0
4F20	195699	Utility Provided Funds	$ 500,000	$ 500,000
4S00	195630	Tax Incentive Programs	$ 650,800	$ 650,800
5CG0	195679	Alterative Fuel Transportation	$ 750,000	$ 750,000
5HJ0	195604	Motion Picture Tax Credit Program	$ 50,000	$ 50,000
5HR0	195526	Ohio Workforce Job	$ 20,000,000	$ 30,000,000

		Training		
5HR0	195622	Defense Development Assistance	$ 5,000,000	$ 5,000,000
5JR0	195656	New Market Tax Credit Program	$ 50,000	$ 50,000
5KD0	195621	Brownfield Stormwater Loan	$ 50,000	$ 50,000
5KN0	195640	Local Government Innovation	$ 0	$ 45,000,000
5M40	195659	Low Income Energy Assistance	$ 245,000,000	$ 245,000,000
5M50	195660	Advanced Energy Programs	$ 8,000,000	$ 0
5W60	195691	International Trade Cooperative Projects	$ 160,000	$ 160,000
6170	195654	Volume Cap Administration	$ 94,397	$ 92,768
6460	195638	Low- and Moderate-Income Housing Trust Fund	$ 53,000,000	$ 53,000,000
TOTAL SSR State Special Revenue Fund Group			$ 341,645,744	$ 383,643,073
Facilities Establishment Fund Group				
5S90	195628	Capital Access Loan Program	$ 1,500,000	$ 1,500,000
7009	195664	Innovation Ohio	$ 15,000,000	$ 15,000,000
7010	195665	Research and Development	$ 22,000,000	$ 22,000,000
7037	195615	Facilities Establishment	$ 50,000,000	$ 50,000,000
TOTAL 037 Facilities Establishment Fund Group			$ 88,500,000	$ 88,500,000
Clean Ohio Revitalization Fund				
7003	195663	Clean Ohio Operating	$ 950,000	$ 950,000
TOTAL 7003 Clean Ohio Revitalization Fund			$ 950,000	$ 950,000
Third Frontier Research & Development Fund Group				
7011	195686	Third Frontier Operating	$ 1,149,750	$ 1,149,750
7011	195687	Third Frontier Research & Development Projects	$ 183,850,250	$ 133,850,250
7014	195620	Third Frontier Operating - Tax	$ 1,700,000	$ 1,700,000
7014	195692	Research & Development Taxable Bond Projects	$ 38,300,000	$ 38,300,000
TOTAL 011 Third Frontier Research & Development Fund Group			$ 225,000,000	$ 175,000,000
Job Ready Site Development Fund Group				
7012	195688	Job Ready Site Operating	$ 800,000	$ 800,000
TOTAL 012 Job Ready Site Development Fund Group			$ 800,000	$ 800,000
Tobacco Master Settlement Agreement Fund Group				
M087	195435	Biomedical Research and Technology Transfer	$ 1,999,224	$ 1,999,224
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			$ 1,999,224	$ 1,999,224
TOTAL ALL BUDGET FUND GROUPS			$ 1,245,142,783	$ 1,187,118,855

SECTION 261.10.10. THOMAS EDISON PROGRAM

The foregoing appropriation item 195401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code. Of the foregoing appropriation item 195401, Thomas Edison Program, not more than ten per cent in each fiscal year shall be used for operating expenditures in administering the programs of the Technology and Innovation Division.

SECTION 261.10.20. SMALL BUSINESS DEVELOPMENT

The foregoing appropriation item 195404, Small Business Development, shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Pub. L. No. 96-302 (1980) as amended by Pub. L. No. 98-395 (1984), and regulations and policy guidelines for the programs pursuant thereto. This appropriation item also may be used to provide grants to local organizations to support the operation of small business development centers and other local economic development activities that promote small business development and entrepreneurship.

SECTION 261.10.30. RAPID OUTREACH GRANTS

Appropriation item 195412, Rapid Outreach Grants, shall be used as an incentive for attracting, expanding, and retaining business opportunities for the state in accordance with Chapter 166. of the Revised Code. Of the amount appropriated, no more than five per cent in each fiscal year shall be used for administrative costs of the Rapid Outreach Program.

The department shall award funds directly to business entities considering Ohio for their expansion or new site location opportunities. Rapid Outreach grants shall be used by recipients to purchase equipment, make infrastructure improvements, make real property improvements, or fund other fixed assets. To meet the particular needs of economic development in a region, the department may elect to award funds directly to a political subdivision to assist with making on- or off-site infrastructure improvements to water and sewage treatment facilities, electric or gas service connections, fiber optic access, rail facilities, site preparation, and parking facilities. The Director of Development may recommend that the funds be used for alternative purposes when considered appropriate to satisfy an economic development opportunity or need deemed extraordinary in nature by the Director including, but not limited to, construction, rehabilitation, and acquisition projects for rail freight assistance as requested by the Department of Transportation. The Director of Transportation shall

submit the proposed projects to the Director of Development for an evaluation of potential economic benefit.

Moneys awarded directly to business entities from the foregoing appropriation item 195412, Rapid Outreach Grants, may be expended only after the submission of a request to the Controlling Board by the Department of Development outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

SECTION 261.10.40. STRATEGIC BUSINESS INVESTMENT DIVISION AND REGIONAL OFFICES

The foregoing appropriation item 195415, Strategic Business Investment Division and Regional Offices, shall be used for the operating expenses of the Strategic Business Investment Division and the regional economic development offices and for grants for cooperative economic development ventures.

SECTION 261.10.50. GOVERNOR'S OFFICE OF APPALACHIA

The foregoing appropriation item 195416, Governor's Office of Appalachia, may be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia, to provide financial assistance to projects in Ohio's Appalachian counties, and to match federal funds from the Appalachian Regional Commission.

SECTION 261.10.60. TECHNOLOGY ACTION

The foregoing appropriation item 195422, Technology Action, shall be used for operating expenses the Department of Development incurs for administering sections 184.10 to 184.20 of the Revised Code. If the appropriation is insufficient to cover the operating expenses, the Department may request Controlling Board approval to appropriate the additional amount needed in appropriation item 195686, Third Frontier Operating. The Department shall not request an amount in excess of the amount needed.

SECTION 261.10.70. CLEAN OHIO IMPLEMENTATION

The foregoing appropriation item 195426, Clean Ohio Implementation, shall be used to fund the costs of administering the Clean Ohio Revitalization program and other urban revitalization programs that may be implemented by the Department of Development.

SECTION 261.10.80. GLOBAL MARKETS

The foregoing appropriation item 195432, Global Markets, shall be used to administer Ohio's foreign trade and investment programs, including operation and maintenance of Ohio's out-of-state trade and investment offices. This appropriation item also shall be used to fund the Global Markets Division and to assist Ohio manufacturers, agricultural producers, and service providers in exporting to foreign countries and to assist in the attraction of foreign direct investment.

SECTION 261.10.90. OHIO WORKFORCE GUARANTEE PROGRAM

The foregoing appropriation item 195434, Industrial Training Grants, may be used for the Ohio Workforce Guarantee Program to promote training through grants to businesses and, in the case of a business consortium, training and education providers for the reimbursement of eligible training expenses.

SECTION 261.20.10. ECONOMIC DEVELOPMENT PROJECTS

The foregoing appropriation item 195528, Economic Development Projects, may be used for the purposes of Chapter 122. of the Revised Code. This appropriation item is made in anticipation of the evaluation of all powers, functions, and duties of the Department of Development by the Director of Development, as prescribed in Section 187.05 of the Revised Code. It is the intent of the General Assembly that the appropriations in the appropriation item be reallocated upon completion of the evaluation.

SECTION 261.20.20. OHIO FILM OFFICE

The Ohio Film Office shall promote media productions in the state and help the industry optimize its production experience in the state by enhancing local economies through increased employment and tax revenues and ensuring an accurate portrayal of Ohio. The Office shall serve as an informational clearinghouse and provide technical assistance to the media production industry and business entities engaged in media production in the state. The Office shall promote Ohio as the ideal site for media production and help those in the industry benefit from their experience in the state.

The primary objective of the Office shall be to encourage development of a strong capital base for electronic media production in order to achieve an independent, self-supporting industry in Ohio. Other objectives shall

include:

(A) Attracting private investment for the electronic media production industry;

(B) Developing a tax infrastructure that encourages private investment; and

(C) Encouraging increased employment opportunities within this sector and increased competition with other states.

SECTION 261.20.30. COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation line item 195901, Coal Research and Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2011, through June 30, 2013 for obligations issued under sections 151.01 and 151.07 of the Revised Code.

THIRD FRONTIER RESEARCH & DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195905, Third Frontier Research & Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for research and development purposes under sections 151.01 and 151.10 of the Revised Code.

JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195912, Job Ready Site Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for job ready site development purposes under sections 151.01 and 151.11 of the Revised Code.

SECTION 261.20.40. SUPPORTIVE SERVICES

The Director of Development may assess divisions of the department for the cost of central service operations. An assessment shall contain the characteristics of administrative ease and uniform application. A division's payments shall be credited to the Supportive Services Fund (Fund 1350) using an intrastate transfer voucher.

ECONOMIC DEVELOPMENT CONTINGENCY

The foregoing appropriation item 195677, Economic Development Contingency, may be used to award funds directly to either (1) business

entities considering Ohio for expansion or new site location opportunities or (2) political subdivisions to assist with necessary costs involved in attracting a business entity. In addition, the Director of Development may award funds for alternative purposes when appropriate to satisfy an economic development opportunity or need deemed extraordinary in nature by the Director.

DIRECT COST RECOVERY EXPENDITURES

The foregoing appropriation item 195636, Direct Cost Recovery Expenditures, shall be used for reimbursable costs. Revenues to the General Reimbursement Fund (Fund 6850) shall consist of moneys charged for administrative costs that are not central service costs.

SECTION 261.20.50. HEAP WEATHERIZATION

Up to fifteen per cent of the federal funds deposited to the credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) may be expended from appropriation item 195614, HEAP Weatherization, to provide home weatherization services in the state as determined by the Director of Development. Any transfers or increases in appropriation for the foregoing appropriation items 195614, HEAP Weatherization, or 195611, Home Energy Assistance Block Grant, shall be subject to approval by the Controlling Board.

SECTION 261.20.60. STATE SPECIAL PROJECTS

The State Special Projects Fund (Fund 4F20), may be used for the deposit of private-sector funds from utility companies and for the deposit of other miscellaneous state funds. State moneys so deposited shall be used to match federal housing grants for the homeless and to market economic development opportunities in the state. Private-sector moneys shall be deposited for use in appropriation item 195699, Utility Provided Funds, and shall be used to (1) pay the expenses of verifying the income-eligibility of HEAP applicants, (2) leverage additional federal funds, (3) fund special projects to assist homeless individuals, (4) fund special projects to assist with the energy efficiency of households eligible to participate in the Percentage of Income Payment Plan, and (5) assist with training programs for agencies that administer low-income customer assistance programs.

SECTION 261.20.70. TAX INCENTIVE PROGRAMS OPERATING

The foregoing appropriation item 195630, Tax Incentive Programs,

shall be used for the operating costs of the Office of Grants and Tax Incentives.

SECTION 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN

All repayments from the Minority Development Financing Advisory Board Loan Program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W10). Operating costs of administering the Minority Business Enterprise Loan Fund may be paid from the Minority Business Enterprise Loan Fund (Fund 4W10).

MINORITY BUSINESS BONDING FUND

Notwithstanding Chapters 122., 169., and 175. of the Revised Code, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to $10,000,000 in the fiscal year 2012-fiscal year 2013 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the Department of Commerce's Unclaimed Funds Fund (Fund 5430) to the Department of Development's Minority Business Bonding Fund (Fund 4490) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of $2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated.

SECTION 261.20.90. OHIO INCUMBENT WORKFORCE TRAINING VOUCHERS

(A) On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to $20,000,000 from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Department of Development.

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to $30,000,000 from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Department of Development.

(B) Of the foregoing appropriation item 195526, Ohio Workforce Job Training, up to $20,000,000 in fiscal year 2012 and up to $30,000,000 in fiscal year 2013 shall be used to support the Ohio Incumbent Workforce Training Voucher Program. The Director of Development and the Chief Investment Officer of JobsOhio may enter into an agreement to operate the program pursuant to the contract between the Department of Development and JobsOhio under section 187.04 of the Revised Code. The agreement may include a provision for granting, loaning, or transferring funds from appropriation item 195526, Ohio Incumbent Workforce Job Training, to JobsOhio to provide training for incumbent workers.

(C) Regardless of any agreement between the Director and the Chief Investment Officer under division (B) of this section, the Ohio Incumbent Workforce Training Voucher Program shall conform to guidelines for the operation of the program, including, but not limited to, the following:

(1) A requirement that a training voucher under the program shall not exceed $6,000 per worker per year;

(2) A provision for an employer of an eligible employee to apply for a voucher on behalf of the eligible employee;

(3) A provision for an eligible employee to apply directly for a training voucher with the pre-approval of the employee's employer; and

(4) A requirement that an employee participating in the program, or the employee's employer, shall pay for not less than thirty-three per cent of the training costs under the program.

DEFENSE DEVELOPMENT ASSISTANCE

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer $5,000,000 in cash from the Economic Development Projects Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Department of Development. The transferred funds are hereby appropriated in appropriation item 195622, Defense Development Assistance.

The foregoing appropriation item 195622, Defense Development Assistance, shall be used for economic development programs and the creation of new jobs to leverage and support mission gains at Department of Defense facilities in Ohio by working with future base realignment and

closure activities and ongoing Department of Defense efficiency initiatives, assisting efforts to secure Department of Defense support contracts for Ohio companies, assessing and supporting regional job training and workforce development needs generated by the Department of Defense and the Ohio aerospace industry, and for expanding job training and economic development programs in human performance related initiatives. These funds shall be matched by private industry partners or the Department of Defense in an aggregate amount of $6,000,000 over the FY 2012-FY 2013 biennium.

SECTION 261.20.93. LOCAL GOVERNMENT INNOVATION FUND

The foregoing appropriation item 195640, Local Government Innovation, shall be used for the purposes of making loans and grants to political subdivisions under the Local Government Innovation Program in accordance with sections 189.01 to 189.10 of the Revised Code. Of the foregoing appropriation item 195640, Local Government Innovation, up to $100,000 in fiscal year 2013 shall be used for administrative costs incurred by the Department of Development.

SECTION 261.30.10. ADVANCED ENERGY FUND

The foregoing appropriation item 195660, Advanced Energy Programs, shall be used to provide financial assistance to customers for eligible advanced energy projects for residential, commercial, and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for the program's administrative costs as provided in sections 4928.61 to 4928.63 of the Revised Code and rules adopted by the Director of Development.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer $750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the Alternative Fuel Transportation Grant Fund (Fund 5CG0).

VOLUME CAP ADMINISTRATION

The foregoing appropriation item 195654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 6170) shall consist of application fees, forfeited deposits, and interest earned from the custodial account held by the Treasurer of State.

SECTION 261.30.20. INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195664, Innovation Ohio, shall be used to provide for innovation Ohio purposes, including loan guarantees and loans under Chapter 166. and particularly sections 166.12 to 166.16 of the Revised Code.

RESEARCH AND DEVELOPMENT

The foregoing appropriation item 195665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE

Appropriation item 195698, Logistics and Distribution Infrastructure, shall be used for eligible logistics and distribution infrastructure projects as defined in section 166.01 of the Revised Code. Any unexpended and unencumbered portion of the appropriation item at the end of fiscal year 2011 is hereby reappropriated for the same purpose in fiscal year 2012, and any unexpended and unencumbered portion of the appropriation item at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

After all encumbrances have been paid, the Director of Budget and Management shall transfer the remaining cash balance in the Logistics and Distribution Infrastructure Fund (Fund 7008) to the Facilities Establishment Fund (Fund 7037).

FACILITIES ESTABLISHMENT FUND

The foregoing appropriation item 195615, Facilities Establishment (Fund 7037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed $1,000,000 in cash in fiscal year 2012 may be transferred from the Facilities Establishment Fund (Fund 7037) to the Economic Development Financing Operating Fund (Fund 4510). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer an amount not to exceed $2,500,000 in cash in each fiscal year from the Facilities Establishment Fund (Fund 7037) to the Minority Business Enterprise Loan Fund (Fund 4W10).

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered

cash balance in the Urban Development Loans Fund (Fund 5D20) to the Facilities Establishment Fund (Fund 7037).

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered cash balance in the Rural Industrial Park Loan Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037).

CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed-asset financing.

SECTION 261.30.30. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 195663, Clean Ohio Operating, shall be used by the Department of Development in administering Clean Ohio Revitalization Fund (Fund 7003) projects pursuant to sections 122.65 to 122.658 of the Revised Code.

SECTION 261.30.40. THIRD FRONTIER OPERATING

The foregoing appropriation items 195686, Third Frontier Operating, and 195620, Third Frontier Operating - Tax, shall be used for operating expenses incurred by the Department of Development in administering projects pursuant to sections 184.10 to 184.20 of the Revised Code. Operating expenses paid from item 195686 shall be limited to the administration of projects funded from the Third Frontier Research & Development Fund (Fund 7011) and operating expenses paid from item 195620 shall be limited to the administration of projects funded from the Third Frontier Research & Development Taxable Bond Project Fund (Fund 7014).

SECTION 261.30.50. THIRD FRONTIER RESEARCH AND DEVELOPMENT PROJECTS AND RESEARCH AND DEVELOPMENT TAXABLE BOND PROJECTS

The foregoing appropriation items 195687, Third Frontier Research & Development Projects, 195692, Research & Development Taxable Bond Projects, and 195620, Third Frontier Operating - Tax, shall be used by the

Department of Development to fund selected projects. Eligible costs are those costs of research and development projects to which the proceeds of the Third Frontier Research & Development Fund (Fund 7011) and the Research & Development Taxable Bond Project Fund (Fund 7014) are to be applied.

TRANSFERS OF THIRD FRONTIER APPROPRIATIONS

The Director of Budget and Management may approve written requests from the Director of Development for the transfer of appropriations between appropriation items 195687, Third Frontier Research & Development Projects, and 195692, Research & Development Taxable Bond Projects, based upon awards recommended by the Third Frontier Commission. The transfers are subject to approval by the Controlling Board.

On or before June 30, 2012, any unexpended and unencumbered portions of the foregoing appropriation items 195687, Third Frontier Research & Development Projects, and 195692, Research & Development Taxable Bond Projects, for fiscal year 2012 are hereby reappropriated to the Department of Development for the same purposes for fiscal year 2013.

AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS

The Ohio Public Facilities Commission, upon request of the Department of Development, is hereby authorized to issue and sell, in accordance with Section 2p of Article VIII, Ohio Constitution, and particularly sections 151.01 and 151.10 of the Revised Code, original obligations of the State of Ohio in an aggregate amount not to exceed $400,000,000 in addition to the original issuance of obligations authorized by prior acts of the General Assembly. The authorized obligations shall be issued and sold from time to time and in amounts necessary to ensure sufficient moneys to the credit of the Third Frontier Research and Development Fund (Fund 7011) to pay costs of research and development projects.

SECTION 261.30.60. JOB READY SITE OPERATING

The foregoing appropriation item 195688, Job Ready Site Operating, shall be used for operating expenses incurred by the Department of Development in administering Job Ready Site Development Fund (Fund 7012) projects pursuant to sections 122.085 to 122.0820 of the Revised Code. Operating expenses include, but are not limited to, certain qualified expenses of the District Public Works Integrating Committees, as applicable, engineering review of submitted applications by the State Architect or a third party engineering firm, audit and accountability activities, and costs associated with formal certifications verifying that site infrastructure is in place and is functional.

SECTION 261.30.70. OHIO COAL DEVELOPMENT OFFICE

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer any unexpended and unencumbered portion of appropriation item 898604, Coal Research and Development Fund, used by the Ohio Air Quality Development Authority, to a new capital appropriation item in the Department of Development, to be determined by the Director. The Director also shall cancel all outstanding encumbrances against appropriation item 898604, Coal Research and Development Fund, and reestablish them against the foregoing new capital appropriation item. The amounts of the transfer and the reestablished encumbrances, plus $2,283,264, are hereby appropriated for fiscal year 2012 in the foregoing new appropriation item and shall be used to provide funding for coal research and development purposes.

SECTION 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND COMMERCIALIZATION SUPPORT

The General Assembly and the Governor recognize the role that the biomedical industry has in job creation, innovation, and economic development throughout Ohio. It is the intent of the General Assembly, the Governor, the Director of Development, and the Director of Budget and Management to work together in continuing to provide comprehensive state support for the biomedical industry.

SECTION 261.30.90. UNCLAIMED FUNDS TRANSFER

(A) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed $25,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2013, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed $15,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed

funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

(B) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the State Special Projects Fund (Fund 4F20) an amount not to exceed $5,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

SECTION 261.40.10. WORKFORCE DEVELOPMENT

The Director of Development and the Director of Job and Family Services may enter into one or more interagency agreements between the two departments and take other actions the directors consider appropriate to further integrate workforce development into a larger economic development strategy, to implement the recommendations of the Workforce Policy Board, and to complete activities related to the transition of the administration of employment programs identified by the board. Subject to the approval of the Director of Budget and Management, the Department of Development and the Department of Job and Family Services may expend moneys to support the recommendations of the Workforce Policy Board in the area of integration of employment functions as described in this paragraph and to complete implementation and transition activities from the appropriations to those departments.

SECTION 263.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES

General Revenue Fund

GRF	320321	Central Administration	$ 4,422,794	$ 4,422,794
GRF	320412	Protective Services	$ 2,174,826	$ 1,957,343
GRF	320415	Lease-Rental Payments	$ 18,394,250	$ 19,907,900
GRF	322407	Medicaid State Match	$ 218,034,162	$ 214,902,506
GRF	322451	Family Support Services	$ 5,932,758	$ 5,932,758
GRF	322501	County Boards Subsidies	$ 40,906,365	$ 44,449,280
GRF	322503	Tax Equity	$ 14,000,000	$ 14,000,000
TOTAL GRF General Revenue Fund			$ 303,865,155	$ 305,572,581

General Services Fund Group

1520	323609	Developmental Center and Residential Operating Services	$ 3,414,317	$ 3,414,317
TOTAL GSF General Services Fund Group			$ 3,414,317	$ 3,414,317

Federal Special Revenue Fund Group

3A50	320613	DD Council	$	3,341,572	$	3,341,572
3250	322612	Community Social Service Programs	$	11,017,754	$	10,604,896
3DZ0	322648	Enhanced Medicaid - Federal	$	10,000,000	$	0
3G60	322639	Medicaid Waiver - Federal	$	866,566,007	$	985,566,007
3M70	322650	CAFS Medicaid	$	29,349,502	$	29,349,502
3A40	323605	Developmental Center and Residential Facility Services and Support	$	180,266,029	$	179,384,881
TOTAL FED Federal Special Revenue Fund Group			$	1,100,540,864	$	1,208,246,858
State Special Revenue Fund Group						
5GE0	320606	Operating and Services	$	7,406,609	$	7,407,297
2210	322620	Supplement Service Trust	$	150,000	$	150,000
4K80	322604	Medicaid Waiver - State Match	$	12,000,000	$	12,000,000
5CT0	322632	Intensive Behavioral Needs	$	1,000,000	$	1,000,000
5DJ0	322625	Targeted Case Management Match	$	21,000,000	$	24,000,000
5DJ0	322626	Targeted Case Management Services	$	57,307,357	$	66,000,000
5DK0	322629	Capital Replacement Facilities	$	750,000	$	750,000
5EV0	322627	Program Fees	$	685,000	$	685,000
5H00	322619	Medicaid Repayment	$	160,000	$	160,000
5JX0	322651	Interagency Workgroup - Autism	$	45,000		45,000
5Z10	322624	County Board Waiver Match	$	235,000,000	$	290,000,000
4890	323632	Developmental Center Direct Care Support	$	16,497,170	$	16,497,169
5S20	590622	Medicaid Administration & Oversight	$	20,875,567	$	21,727,540
TOTAL SSR State Special Revenue Fund Group			$	372,876,703	$	440,422,006
TOTAL ALL BUDGET FUND GROUPS			$	1,780,697,039	$	1,957,655,762

SECTION 263.10.10. LEASE-RENTAL PAYMENTS

The foregoing appropriation item 320415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Developmental Disabilities under leases and agreements made under section 154.20 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code.

SECTION 263.10.20. MEDICAID - STATE MATCH (GRF)

Except as otherwise provided in section 5123.0416 of the Revised Code, the purposes for which the foregoing appropriation item 322407, Medicaid

State Match, shall be used include the following:

(A) Home and community-based waiver services under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(B) To pay the nonfederal share of the cost of one or more new intermediate care facilities for the mentally retarded certified beds, if the Director of Developmental Disabilities is required by this act to transfer cash from funds used by the Department to any fund used by the Department of Job and Family Services to pay such nonfederal share.

(C) To implement the requirements of the agreement settling the consent decree in *Sermak v. Manuel*, Case No. C-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division.

(D) To implement the requirements of the agreement settling the consent decree in the *Martin v. Strickland*, Case No. 89-CV-00362, United States District Court for the Southern District of Ohio, Eastern Division.

(E) Developmental center and residential facilities services.

(F) Other programs as identified by the Director of Developmental Disabilities.

SECTION 263.10.30. FAMILY SUPPORT SERVICES SUBSIDY

(A) The foregoing appropriation item 322451, Family Support Services, may be used as follows in fiscal year 2012 and fiscal year 2013:

(1) The appropriation item may be used to provide a subsidy to county boards of developmental disabilities for family support services provided under section 5126.11 of the Revised Code. The subsidy shall be paid in quarterly installments and allocated to county boards according to a formula the Director of Developmental Disabilities shall develop in consultation with representatives of county boards. A county board shall use not more than seven per cent of its subsidy for administrative costs.

(2) The appropriation item may be used to distribute funds to county boards for the purpose of addressing economic hardships and to promote efficiency of operations. In consultation with representatives of county boards, the Director shall determine the amount of funds to distribute for these purposes and the criteria for distributing the funds.

(B) Each county board shall submit reports to the Department of Developmental Disabilities on the use of funds received under this section. The reports shall be submitted at the times and in the manner specified in rules the Director shall adopt in accordance with Chapter 119. of the Revised Code.

SECTION 263.10.40. STATE SUBSIDY TO COUNTY DD BOARDS

(A) Except as otherwise provided in the section of this act titled "NONFEDERAL SHARE OF NEW ICF/MR BEDS," the foregoing appropriation item 322501, County Boards Subsidies, shall be used for the following purposes:

(1) To provide a subsidy to county boards of developmental disabilities in quarterly installments and allocated according to a formula developed by the Director of Developmental Disabilities in consultation with representatives of county boards. Except as otherwise provided in section 5126.0511 of the Revised Code, or in division (B) of this section, county boards shall use the subsidy for early childhood services and adult services provided under section 5126.05 of the Revised Code, service and support administration provided under section 5126.15 of the Revised Code, or supported living as defined in section 5126.01 of the Revised Code.

(2) To provide funding, as determined necessary by the Director of Developmental Disabilities, for residential services, including room and board, and support service programs that enable individuals with developmental disabilities to live in the community.

(3) To distribute funds to county boards of developmental disabilities to address economic hardships and promote efficiency of operations. The Director shall determine, in consultation with representatives of county boards, the amount of funds to distribute for these purposes and the criteria for distributing the funds.

(B) In collaboration with the county's family and children first council, a county board of developmental disabilities may transfer portions of funds received under this section, to a flexible funding pool in accordance with the section of this act titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL."

SECTION 263.10.50. COUNTY BOARD SHARE OF WAIVER SERVICES

As used in this section, "home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

The Director of Developmental Disabilities shall establish a methodology to be used in fiscal year 2012 and fiscal year 2013 to estimate the quarterly amount each county board of developmental disabilities is to pay of the nonfederal share of home and community-based services that section 5126.0510 of the Revised Code requires county boards to pay. Each

quarter, the Director shall submit to a county board written notice of the amount the county board is to pay for that quarter. The notice shall specify when the payment is due.

SECTION 263.10.60. TAX EQUITY

Notwithstanding section 5126.18 of the Revised Code, the foregoing appropriation item 322503, Tax Equity, may be used to distribute funds to county boards of developmental disabilities to address economic hardships and promote efficiency of operations. The Director shall determine, in consultation with representatives of county boards, the amount of funds to distribute for these purposes and the criteria for distributing the funds.

SECTION 263.10.70. MEDICAID WAIVER - STATE MATCH

The foregoing appropriation item 322604, Medicaid Waiver - State Match (Fund 4K80), shall be used as state matching funds for home and community-based waivers.

SECTION 263.10.80. ICF/MR CONVERSION

(A) As used in this section, "home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

(B) For each quarter of the biennium, the Director of Developmental Disabilities shall certify to the Director of Budget and Management the estimated amount needed to fund the provision of home and community-based services made available by the slots sought under section 5111.877 of the Revised Code. On receipt of certification, the Director of Budget and Management shall transfer the estimated amount in cash from the General Revenue Fund to the Home and Community-Based Services Fund (Fund 4K80), used by the Department of Developmental Disabilities. Upon completion of the transfer, appropriation item 600525, Health Care/Medicaid, is hereby reduced by the amount transferred under this section plus the corresponding federal share. The amount transferred to Fund 4K80 is hereby appropriated to appropriation item 322604, Medicaid Waiver – State Match.

(C) If receipts credited to the Medicaid Waiver Fund (Fund 3G60) exceed the amounts appropriated from the fund, the Director of Developmental Disabilities may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and

Management, the additional amounts are hereby appropriated.

(D) If receipts credited to the Interagency Reimbursement Fund (Fund 3G50) exceed the amounts appropriated from the fund, the Director of Job and Family Services may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 263.10.90. TARGETED CASE MANAGEMENT SERVICES

County boards of developmental disabilities shall pay the nonfederal portion of targeted case management costs to the Department of Developmental Disabilities.

The Directors of Developmental Disabilities and Job and Family Services may enter into an interagency agreement under which the Department of Developmental Disabilities shall transfer cash from the Targeted Case Management Fund (Fund 5DJ0) to the Medicaid Program Support - State Fund (Fund 5C90) used by the Department of Job and Family Services in an amount equal to the nonfederal portion of the cost of targeted case management services paid by county boards, and the Department of Job and Family Services shall pay the total cost of targeted case management claims. The transfer shall be made using an intrastate transfer voucher.

SECTION 263.20.10. WITHHOLDING OF FUNDS OWED THE DEPARTMENT

If a county board of developmental disabilities does not fully pay any amount owed to the Department of Developmental Disabilities by the due date established by the Department, the Director of Developmental Disabilities may withhold the amount the county board did not pay from any amounts due to the county board. The Director may use any appropriation item or fund used by the Department to transfer cash to any other fund used by the Department in an amount equal to the amount owed the Department that the county board did not pay. Transfers under this section shall be made using an intrastate transfer voucher.

SECTION 263.20.20. TRANSFER TO MEDICAID REPAYMENT FUND

On July 1, 2011, or as soon as possible thereafter, the Director of

Developmental Disabilities shall request that the Director of Budget and Management transfer the cash balance in the Purchase of Service Fund (Fund 4880) to the Medicaid Repayment Fund (Fund 5H00). Upon completion of the transfer, Fund 4880 is hereby abolished. The Director of Developmental Disabilities shall cancel any existing encumbrances against appropriation item 322603, Provider Audit Refunds, and re-establish them against appropriation item 322619, Medicaid Repayment. The re-established encumbrances are hereby appropriated.

SECTION 263.20.30. DEVELOPMENTAL CENTER BILLING FOR SERVICES

Developmental centers of the Department of Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The Department may develop a method for recovery of all costs associated with the provisions of these services.

SECTION 263.20.40. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

The Director of Developmental Disabilities shall quarterly transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the Medicaid Program Support - State Fund (Fund 5C90) used by the Department of Job and Family Services, in an amount equal to the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services. The quarterly transfer shall be made using an intrastate transfer voucher.

SECTION 263.20.50. NONFEDERAL MATCH FOR ACTIVE TREATMENT SERVICES

Any county funds received by the Department of Developmental Disabilities from county boards for active treatment shall be deposited in the Developmental Disabilities Operating Fund (Fund 4890).

SECTION 263.20.60. NONFEDERAL SHARE OF NEW ICF/MR BEDS

(A) As used in this section, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) If the Department of Developmental Disabilities is required by section 5111.211 of the Revised Code to pay the nonfederal share of claims

submitted for services that are covered by the Medicaid program and provided to an eligible Medicaid recipient by an intermediate care facility for the mentally retarded, the Director of Developmental Disabilities shall transfer cash to the Department of Job and Family Services to pay the nonfederal share of the claims. The transfer shall be made using an intrastate transfer voucher. Except as otherwise provided in section 5123.0416 of the Revised Code, the Director shall use only the following appropriation items for the transfer:

(1) Appropriation item 322407, Medicaid State Match;

(2) Appropriation item 322501, County Boards Subsidies.

(C) If the intermediate care facility for the mentally retarded is located in a county served by a county board of developmental disabilities that initiates or supports the facility's certification as an intermediate care facility for the mentally retarded by the Director of Health, the cash that the Director transfers under division (B) of this section shall be moneys that the Director has allocated to the county board serving the county in which the facility is located unless the amount of the allocation is insufficient to pay the entire nonfederal share of the claims submitted by the facility. If the allocation is insufficient, the Director shall use as much of such moneys allocated to other counties as is needed to make up the difference.

SECTION 263.20.70. RATE INCREASE FOR WAIVER PROVIDERS SERVING FORMER RESIDENTS OF DEVELOPMENTAL CENTERS

Subject to approval by the Centers for Medicare and Medicaid Services, the Department of Job and Family Services shall increase the rate paid to a provider under the Individual Options Waiver by fifty-two cents for each fifteen minutes of routine homemaker/personal care provided to an individual for up to a year if all of the following apply:

(A) The individual was a resident of a developmental center immediately prior to enrollment in the waiver;

(B) The provider begins serving the individual on or after July 1, 2011;

(C) The Director of Developmental Disabilities determines that the increased rate is warranted by the individual's special circumstances, including the individual's diagnosis, service needs, or length of stay at the developmental center, and that serving the individual through the Individual Options Waiver is fiscally prudent for the Medicaid program.

SECTION 263.20.80. ODODD INNOVATIVE PILOT PROJECTS

(A) In fiscal year 2012 and fiscal year 2013, the Director of

Developmental Disabilities may authorize the implementation of one or more innovative pilot projects that, in the judgment of the Director, are likely to assist in promoting the objectives of Chapter 5123. or 5126. of the Revised Code. Subject to division (B) of this section and notwithstanding any provision of Chapters 5123. and 5126. of the Revised Code and any rule adopted under either chapter, a pilot project authorized by the Director may be implemented in a manner inconsistent with one or more provisions of Chapter 5123. or 5126. of the Revised Code or one or more rules adopted under either chapter. Before authorizing a pilot program, the Director shall consult with entities interested in the issue of developmental disabilities, including the Ohio Provider Resource Association, the Ohio Association of County Boards of Developmental Disabilities, and the ARC of Ohio.

(B) The Director may not authorize a pilot project to be implemented in a manner that would cause the state to be out of compliance with any requirements for a program funded in whole or in part with federal funds.

SECTION 263.20.90. OHIO DEVELOPMENTAL DISABILITIES COUNCIL REMOTE ATTENDANCE PILOT PROGRAM

(A) The Ohio Developmental Disabilities Council may establish a pilot program to allow Council members to attend a public Council meeting by teleconference or video conference in lieu of physically attending the meeting. If the pilot program is established, it shall be operated until two years after the effective date of this section.

A member who attends a Council meeting by teleconference or video conference shall be counted for purposes of determining whether a quorum is present for the transaction of business. The member shall be permitted to vote at the meeting.

At each Council meeting that includes members in attendance by teleconference or video conference, at least three Council members shall be physically present. Any Council meeting may be held with members in attendance by teleconference or video conference, except that the Council shall hold at least one meeting during each year of the pilot program at which members are not permitted to attend by teleconference or video conference.

(B) If the pilot program is established, the Council shall submit a report to the General Assembly not later than one year after the effective date of this section to assist the General Assembly in determining whether legislation establishing remote attendance by teleconference or video conference for the meetings of other public bodies would be beneficial. The report shall be submitted in accordance with section 101.68 of the Revised

Code. The report shall include all of the following:

(1) A description of the effect of teleconferencing or video conferencing on the operation of the Council meetings;

(2) An accounting of any costs incurred or savings realized by the Council through the use of teleconferencing or video conferencing;

(3) Regarding the Council meetings held during the pilot program, all of the following:

(a) The notice of each meeting;

(b) Attendance records for all Council members;

(c) A description of public and media attendance;

(d) A summary or copy of any comments made by the public or media regarding the use of teleconferencing or video conferencing;

(e) A copy of the minutes for each meeting;

(f) An accounting of the costs incurred for each meeting;

(g) A description of any local media coverage of a teleconference or video conference meeting.

(C) The Ohio Developmental Disabilities Council may adopt any rules the Council considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

At a minimum, the rules shall do the following:

(1) Allow Council members to remotely attend a public Council meeting by teleconference or video conference in lieu of physically attending the meeting;

(2) Establish a method for verifying the identity of a member who remotely attends a meeting by teleconference or video conference;

(3) Establish a policy for distributing and circulating necessary documents to Council members, the public, and the media in advance of a meeting at which members are permitted to attend by teleconference or video conference.

SECTION 265.10. OBD OHIO BOARD OF DIETETICS

General Services Fund Group

4K90 860609	Operating Expenses	$ 355,789	$	330,592
TOTAL GSF General Services Fund Group		$ 355,789	$	330,592
TOTAL ALL BUDGET FUND GROUPS		$ 355,789	$	330,592

SECTION 267.10. EDU DEPARTMENT OF EDUCATION

General Revenue Fund

GRF 200100	Personal Services	$ 8,579,178	$	8,579,178
GRF 200320	Maintenance and Equipment	$ 2,830,407	$	2,830,407

GRF	200408	Early Childhood Education	$ 23,268,341	$ 23,268,341
GRF	200416	Career-Technical Education Match	$ 2,233,195	$ 2,233,195
GRF	200420	Computer/Application/ Network Development	$ 4,241,296	$ 4,241,296
GRF	200421	Alternative Education Programs	$ 7,403,998	$ 7,403,998
GRF	200422	School Management Assistance	$ 2,842,812	$ 3,000,000
GRF	200424	Policy Analysis	$ 328,558	$ 328,558
GRF	200425	Tech Prep Consortia Support	$ 260,542	$ 260,542
GRF	200426	Ohio Educational Computer Network	$ 17,974,489	$ 17,974,489
GRF	200427	Academic Standards	$ 4,346,060	$ 3,700,000
GRF	200437	Student Assessment	$ 55,002,167	$ 55,002,167
GRF	200439	Accountability/Report Cards	$ 3,579,279	$ 3,579,279
GRF	200442	Child Care Licensing	$ 827,140	$ 827,140
GRF	200446	Education Management Information System	$ 6,833,070	$ 6,833,070
GRF	200447	GED Testing	$ 879,551	$ 879,551
GRF	200448	Educator Preparation	$ 786,737	$ 786,737
GRF	200455	Community Schools and Choice Programs	$ 2,200,000	$ 2,200,000
GRF	200502	Pupil Transportation	$ 438,248,936	$ 442,113,527
GRF	200505	School Lunch Match	$ 9,100,000	$ 9,100,000
GRF	200511	Auxiliary Services	$ 124,194,099	$ 126,194,099
GRF	200532	Nonpublic Administrative Cost Reimbursement	$ 56,164,384	$ 57,006,850
GRF	200540	Special Education Enhancements	$ 135,820,668	$ 135,820,668
GRF	200545	Career-Technical Education Enhancements	$ 8,802,699	$ 8,802,699
GRF	200550	Foundation Funding	$ 5,536,347,861	$ 5,610,290,686
GRF	200901	Property Tax Allocation - Education	$ 1,086,500,000	$ 1,095,000,000
TOTAL GRF General Revenue Fund			$ 7,539,595,467	$ 7,628,256,477
General Services Fund Group				
1380	200606	Computer Services-Operational Support	$ 7,600,090	$ 7,600,090
4520	200638	Miscellaneous Educational Services	$ 300,000	$ 300,000
4L20	200681	Teacher Certification and Licensure	$ 8,147,756	$ 8,147,756
5960	200656	Ohio Career Information System	$ 529,761	$ 529,761
5H30	200687	School District Solvency Assistance	$ 25,000,000	$ 25,000,000
TOTAL GSF General Services Fund Group			$ 41,577,607	$ 41,577,607
Federal Special Revenue Fund Group				
3090	200601	Neglected and Delinquent Education	$ 2,168,642	$ 2,168,642
3670	200607	School Food Services	$ 6,803,472	$ 6,959,906

3690	200616	Career-Technical Education Federal Enhancement	$	5,000,000	$	5,000,000
3700	200624	Education of Exceptional Children	$	1,905,000	$	0
3780	200660	Learn and Serve	$	619,211	$	619,211
3AF0	200603	Schools Medicaid Administrative Claims	$	639,000	$	639,000
3AN0	200671	School Improvement Grants	$	20,400,000	$	20,400,000
3AX0	200698	Improving Health and Educational Outcomes of Young People	$	630,954	$	630,954
3BK0	200628	Longitudinal Data Systems	$	500,000	$	250,000
3C50	200661	Early Childhood Education	$	14,554,749	$	14,554,749
3CG0	200646	Teacher Incentive Fund	$	1,925,881	$	0
3D10	200664	Drug Free Schools	$	1,500,000	$	0
3D20	200667	Math Science Partnerships	$	9,500,001	$	9,500,001
3DG0	200630	Federal Stimulus - McKinney Vento Grants	$	330,512	$	0
3DJ0	200699	IDEA Part B - Federal Stimulus	$	21,886,803	$	0
3DK0	200642	Title 1A - Federal Stimulus	$	18,633,673	$	0
3DL0	200650	IDEA Preschool - Federal Stimulus	$	670,000	$	0
3DM0	200651	Title IID Technology - Federal Stimulus	$	1,195,100	$	0
3DP0	200652	Title I School Improvement - Federal Stimulus	$	48,500,000	$	30,000,000
3EC0	200653	Teacher Incentive - Federal Stimulus	$	7,500,000	$	7,500,000
3EH0	200620	Migrant Education	$	2,645,905	$	2,645,905
3EJ0	200622	Homeless Children Education	$	1,759,782	$	1,759,782
3EN0	200655	State Data Systems - Federal Stimulus	$	2,500,000	$	2,500,000
3ES0	200657	General Supervisory Enhancement Grant	$	500,000	$	500,000
3ET0	200658	Education Jobs Fund	$	300,000,000	$	50,000,000
3FD0	200665	Race to the Top	$	100,000,000	$	100,000,000
3FE0	200669	Striving Readers	$	180,000	$	100,000
3H90	200605	Head Start Collaboration Project	$	225,000	$	225,000
3L60	200617	Federal School Lunch	$	327,516,539	$	337,323,792
3L70	200618	Federal School Breakfast	$	87,596,850	$	90,224,756
3L80	200619	Child/Adult Food Programs	$	100,850,833	$	103,876,359
3L90	200621	Career-Technical Education Basic Grant	$	48,466,864	$	48,466,864
3M00	200623	ESEA Title 1A	$	530,010,000	$	530,010,000
3M20	200680	Individuals with Disabilities Education Act	$	443,170,050	$	443,170,050
3S20	200641	Education Technology	$	9,487,397	$	9,487,397
3T40	200613	Public Charter Schools	$	14,291,353	$	14,291,353
3Y20	200688	21st Century Community Learning Centers	$	43,720,462	$	45,906,485
3Y60	200635	Improving Teacher Quality	$	101,900,000	$	101,900,000
3Y70	200689	English Language	$	8,373,995	$	8,373,995

		Acquisition		
3Y80	200639	Rural and Low Income Technical Assistance	$ 1,500,000	$ 1,500,000
3Z20	200690	State Assessments	$ 11,882,258	$ 11,882,258
3Z30	200645	Consolidated Federal Grant Administration	$ 8,949,280	$ 8,949,280
TOTAL FED Federal Special Revenue Fund Group			$ 2,310,389,566	$ 2,011,315,739
State Special Revenue Fund Group				
4540	200610	Guidance and Testing	$ 1,050,000	$ 1,050,000
4550	200608	Commodity Foods	$ 24,000,000	$ 24,000,000
4R70	200695	Indirect Operational Support	$ 6,500,000	$ 6,600,000
4V70	200633	Interagency Operational Support	$ 1,117,725	$ 1,117,725
5980	200659	Auxiliary Services Reimbursement	$ 1,328,910	$ 1,328,910
5BB0	200696	State Action for Education Leadership	$ 231,300	$ 0
5BJ0	200626	Half-Mill Maintenance Equalization	$ 17,300,000	$ 18,000,000
5U20	200685	National Education Statistics	$ 300,000	$ 300,000
6200	200615	Educational Improvement Grants	$ 3,000,000	$ 3,000,000
TOTAL SSR State Special Revenue Fund Group			$ 54,827,935	$ 55,396,635
Lottery Profits Education Fund Group				
7017	200612	Foundation Funding	$ 717,500,000	$ 680,500,000
TOTAL LPE Lottery Profits Education Fund Group			$ 717,500,000	$ 680,500,000
Revenue Distribution Fund Group				
7047	200909	School District Property Tax Replacement-Business	$ 722,000,000	$ 475,000,000
7053	200900	School District Property Tax Replacement-Utility	$ 34,000,000	$ 30,000,000
TOTAL RDF Revenue Distribution Fund Group			$ 756,000,000	$ 505,000,000
TOTAL ALL BUDGET FUND GROUPS			$ 11,419,890,575	$ 10,922,046,458

SECTION 267.10.10. EARLY CHILDHOOD EDUCATION

The Department of Education shall distribute the foregoing appropriation item 200408, Early Childhood Education, to pay the costs of early childhood education programs.

(A) As used in this section:

(1) "Provider" means a city, local, exempted village, or joint vocational school district, or an educational service center.

(2) In the case of a city, local, or exempted village school district, "new eligible provider" means a district that did not receive state funding for Early Childhood Education in the previous fiscal year or demonstrates a

need for early childhood programs as defined in division (D) of this section.

(3) "Eligible child" means a child who is at least three years of age as of the district entry date for kindergarten, is not of the age to be eligible for kindergarten, and whose family earns not more than two hundred per cent of the federal poverty guidelines as defined in division (A)(3) of section 5101.46 of the Revised Code. Children with an Individualized Education Program and where the Early Childhood Education program is the least restrictive environment may be enrolled on their third birthday.

(B) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve eligible children.

(C) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program guidelines.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2012, the Department shall distribute funds first to recipients of funds for early childhood education programs under Section 265.10.20 of Am. Sub. H.B. 1 of the 128th General Assembly in the previous fiscal year and the balance to new eligible providers of early childhood education programs under this section or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2013, the Department shall distribute funds first to providers of early childhood education programs under this section in the previous fiscal year and the balance to new eligible providers or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

Awards under this section shall be distributed on a per-pupil basis, and in accordance with division (H) of this section. The Department may adjust the per-pupil amount so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services on the first day of December or the business day closest to that date equals the amount allocated under this section.

(E) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved

costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (J) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program guidelines. The approved provider shall administer and use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the early learning program guidelines or exhibits below average performance as measured against the guidelines, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early childhood education program. The Department may withhold funding pending corrective action. If an early childhood education program fails to satisfactorily complete a corrective action plan, the Department may deny expansion funding to the program or withdraw all or part of the funding to the program and establish a new eligible provider through a selection process established by the Department.

(G) Each early childhood education program shall do all of the following:

(1) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;

(2) Align curriculum to the early learning content standards developed by the Department;

(3) Meet any child or program assessment requirements prescribed by the Department;

(4) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours every two years of professional development as

prescribed by the Department;

(5) Document and report child progress as prescribed by the Department;

(6) Meet and report compliance with the early learning program guidelines as prescribed by the Department.

(H) Per-pupil funding for programs subject to this section shall be sufficient to provide eligible children with services for a standard early childhood schedule which shall be defined in this section as a minimum of twelve and one-half hours per school week as defined in section 3313.62 of the Revised Code for the minimum school year as defined in sections 3313.48, 3313.481, and 3313.482 of the Revised Code. Nothing in this section shall be construed to prohibit program providers from utilizing other funds to serve eligible children in programs that exceed the twelve and one-half hours per week or that exceed the minimum school year. For any provider for which a standard early childhood education schedule creates a hardship or for which the provider shows evidence that the provider is working in collaboration with a preschool special education program, the provider may submit a waiver to the Department requesting an alternate schedule. If the Department approves a waiver for an alternate schedule that provides services for less time than the standard early childhood education schedule, the Department may reduce the provider's annual allocation proportionately. Under no circumstances shall an annual allocation be increased because of the approval of an alternate schedule.

(I) Each provider shall develop a sliding fee scale based on family incomes and shall charge families who earn more than two hundred per cent of the federal poverty guidelines, as defined in division (A)(3) of section 5101.46 of the Revised Code, for the early childhood education program.

The Department shall conduct an annual survey of each provider to determine whether the provider charges families tuition or fees, the amount families are charged relative to family income levels, and the number of families and students charged tuition and fees for the early childhood program.

(J) If an early childhood education program voluntarily waives its right for funding, or has its funding eliminated for not meeting financial standards or the early learning program guidelines, the provider shall transfer control of title to property, equipment, and remaining supplies obtained through the program to providers designated by the Department and return any unexpended funds to the Department along with any reports prescribed by the Department. The funding made available from a program that waives its right for funding or has its funding eliminated or reduced may be used by

the Department for new grant awards or expansion grants. The Department may award new grants or expansion grants to eligible providers who apply. The eligible providers who apply must do so in accordance with the selection process established by the Department.

(K) As used in this section, "early learning program guidelines" means the guidelines established by the Department pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 66 of the 126th General Assembly.

(L) Eligible expenditures for the Early Childhood Education program shall be claimed each fiscal year to help meet the state's TANF maintenance of effort requirement. The Superintendent of Public Instruction and the Director of Job and Family Services shall enter into an interagency agreement to carry out the requirements under this division, which shall include developing reporting guidelines for these expenditures.

SECTION 267.10.20. CAREER-TECHNICAL EDUCATION MATCH

The foregoing appropriation item 200416, Career-Technical Education Match, shall be used by the Department of Education to provide vocational administration matching funds under 20 U.S.C. 2311.

The Director of Budget and Management shall transfer any remaining appropriation from appropriation item 200416, Career-Technical Education Match, to appropriation item 200426, Ohio Educational Computer Network, to support the Ohio Educational Computer Network.

COMPUTER/APPLICATION/NETWORK DEVELOPMENT

The foregoing appropriation item 200420, Computer/Application/Network Development, shall be used to support the development and implementation of information technology solutions designed to improve the performance and services of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators. Funds may also be used to support data-driven decision-making and differentiated instruction, as well as to communicate academic content standards and curriculum models to schools through web-based applications.

SECTION 267.10.30. ALTERNATIVE EDUCATION PROGRAMS

The foregoing appropriation item 200421, Alternative Education

Programs, shall be used for the renewal of successful implementation grants and for competitive matching grants to school districts for alternative educational programs for existing and new at-risk and delinquent youth. Programs shall be focused on youth in one or more of the following categories: those who have been expelled or suspended, those who have dropped out of school or who are at risk of dropping out of school, those who are habitually truant or disruptive, or those on probation or on parole from a Department of Youth Services facility. Grants shall be awarded according to the criteria established by the Alternative Education Advisory Council in 1999. Grants shall be awarded only to programs in which the grant will not serve as the program's primary source of funding. These grants shall be administered by the Department of Education.

The Department of Education may waive compliance with any minimum education standard established under section 3301.07 of the Revised Code for any alternative school that receives a grant under this section on the grounds that the waiver will enable the program to more effectively educate students enrolled in the alternative school.

Of the foregoing appropriation item 200421, Alternative Education Programs, a portion may be used for program administration, monitoring, technical assistance, support, research, and evaluation.

SECTION 267.10.40. SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200422, School Management Assistance, $1,000,000 in fiscal year 2012 and $1,300,000 in fiscal year 2013 shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and may also be used by the Auditor of State to conduct performance audits of other school districts with priority given to districts in fiscal distress. Districts in fiscal distress shall be determined by the Auditor of State and shall include districts that the Auditor of State, in consultation with the Department of Education, determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of appropriation item 200422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal caution, fiscal watch, and fiscal emergency provisions under Chapter 3316. of the Revised Code.

SECTION 267.10.50. POLICY ANALYSIS

The foregoing appropriation item 200424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly and other state policymakers, including the Office of Budget and Management, the Governor's Office of 21st Century Education, and the Legislative Service Commission.

The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers.

A portion of the foregoing appropriation item 200424, Policy Analysis, may be used in conjunction with appropriation item 200439, Accountability/Report Cards, to support a fiscal reporting dimension that shall contain fiscal data reported for the prior fiscal year. The fiscal information contained therein shall be updated and reported annually in a form and in a manner as determined by the Department.

TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200425, Tech Prep Consortia Support, shall be used by the Department of Education to support state-level activities designed to support, promote, and expand tech prep programs. Use of these funds shall include, but not be limited to, administration of grants, program evaluation, professional development, curriculum development, assessment development, program promotion, communications, and statewide coordination of tech prep consortia.

SECTION 267.10.60. OHIO EDUCATIONAL COMPUTER NETWORK

The foregoing appropriation item 200426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system

of information technology throughout Ohio and to provide technical assistance for such a system in support of the P-16 State Education Technology Plan developed under section 3353.09 of the Revised Code.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to $10,705,569 in each fiscal year shall be used by the Department of Education to support connection of all public school buildings and participating chartered nonpublic schools to the state's education network, to each other, and to the Internet. In each fiscal year the Department of Education shall use these funds to assist information technology centers or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of these funds to information technology centers or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, any community school established under Chapter 3314. of the Revised Code, any STEM school established under Chapter 3326. of the Revised Code, any educational service center building used for instructional purposes, the Ohio School for the Deaf and the Ohio School for the Blind, high schools chartered by the Ohio Department of Youth Services, or high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to $1,440,000 in each fiscal year shall be used for the Union Catalog and InfOhio Network and to support the provision of electronic resources with priority given to resources that support the teaching of state academic content standards in all public schools. Consideration shall be given by the Department of Education to coordinating the allocation of these moneys with the efforts of Libraries Connect Ohio, whose members include OhioLINK, the Ohio Public Information Network, and the State Library of Ohio.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to $5,220,000 in each fiscal year shall be used, through a formula and guidelines devised by the Department, to subsidize the activities of designated information technology centers, as defined by State Board of Education rules, to provide school districts and chartered nonpublic schools with computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to ensure the effective operation of local automated administrative and instructional systems.

The remainder of appropriation item 200426, Ohio Educational

Computer Network, shall be used to support the work of the development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. This technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. In order to improve the efficiency of network activities, the Department and information technology centers may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the Department, may utilize the services of appropriate state purchasing agencies.

SECTION 267.10.70. ACADEMIC STANDARDS

The foregoing appropriation item 200427, Academic Standards, shall be used by the Department of Education to develop, revise, and communicate to school districts academic content standards and curriculum models.

SECTION 267.10.80. STUDENT ASSESSMENT

Of the foregoing appropriation item 200437, Student Assessment, up to $95,000 in each fiscal year may be used to support the assessments required under section 3301.0715 of the Revised Code.

The remainder of appropriation item 200437, Student Assessment, shall be used to develop, field test, print, distribute, score, report results, and support other associated costs for the tests required under sections 3301.0710, 3301.0711, and 3301.0712 of the Revised Code and for similar purposes as required by section 3301.27 of the Revised Code. If funds remain in this appropriation after these purposes have been fulfilled, the Department may use the remainder of the appropriation to develop end-of-course exams.

DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT ASSESSMENT

In fiscal year 2012 and fiscal year 2013, if the Superintendent of Public Instruction determines that additional funds are needed to fully fund the requirements of sections 3301.0710, 3301.0711, and 3301.27 of the Revised Code and this act for assessments of student performance, the Superintendent of Public Instruction may recommend the reallocation of unexpended and unencumbered General Revenue Fund appropriations within the Department of Education to appropriation item 200437, Student Assessment, to the Director of Budget and Management. If the Director of

Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unexpended and unencumbered appropriations within the Department of Education as necessary to appropriation item 200437, Student Assessment. If these transferred appropriations are not sufficient to fully fund the assessment requirements in fiscal year 2012 or fiscal year 2013, the Superintendent of Public Instruction may request that the Controlling Board transfer up to $9,000,000 cash from the Lottery Profits Education Reserve Fund (Fund 7018) to the General Revenue Fund. Upon approval of the Controlling Board, the Director of Budget and Management shall transfer the cash. These transferred funds are hereby appropriated for the same purpose as appropriation item 200437, Student Assessment.

SECTION 267.10.90. (A) Notwithstanding anything to the contrary in section 3301.0710, 3301.0711, 3301.0715 or 3313.608 of the Revised Code, the administration of the English language arts assessments for elementary grades as a replacement for the separate reading and writing assessments prescribed by sections 3301.0710 and 3301.0711 of the Revised Code, as those sections were amended by Am. Sub. H.B. 1 of the 128th General Assembly, shall not be required until a date prescribed by rule of the State Board of Education. Until that date, the Department of Education and school districts and schools shall continue to administer separate reading assessments for elementary grades, as prescribed by the versions of sections 3301.0710 and 3301.0711 of the Revised Code that were in effect prior to the effective date of Section 265.20.15 of Am. Sub. H.B. 1 of the 128th General Assembly. The intent for delaying implementation of the replacement English language arts assessment is to provide adequate time for the complete development of the new assessment.

(B) Notwithstanding anything to the contrary in section 3301.0710 of the Revised Code, the State Board shall not prescribe the three ranges of scores for the assessments prescribed by division (A)(2) of section 3301.0710 of the Revised Code, as amended by Am. Sub. H.B. 1 of the 128th General Assembly, until the Board adopts the rule required by division (A) of this section. Until that date, the Board shall continue to prescribe the five ranges of scores required by the version of section 3301.0710 of the Revised Code in effect prior to the effective date of Section 265.20.15 of Am. Sub. H.B. 1 of the 128th General Assembly, and the following apply:

(1) The range of scores designated by the State Board as a proficient level of skill remains the passing score on the Ohio Graduation Tests for

purposes of sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code;

(2) The range of scores designated as a limited level of skill remains the standard for applying the third-grade reading guarantee under division (A) of section 3313.608 of the Revised Code;

(3) The range of scores designated by the State Board as a proficient level of skill remains the standard for the summer remediation requirement of division (B)(2) of section 3313.608 of the Revised Code.

(C) This section is not subject to expiration after June 30, 2013, under Section 809.10 of this act.

SECTION 267.20.10. Notwithstanding anything to the contrary in sections 3301.0710 and 3301.0711 of the Revised Code, in the 2011-2012 and 2012-2013 school years, the Department of Education shall not furnish, and school districts and schools shall not administer, the elementary writing and social studies achievement assessments prescribed by section 3301.0710 of the Revised Code, unless the Superintendent of Public Instruction determines the Department has sufficient funds to pay the costs of furnishing and scoring those assessments.

SECTION 267.20.20. ACCOUNTABILITY/REPORT CARDS

Of the foregoing appropriation item 200439, Accountability/Report Cards, a portion in each fiscal year may be used to train district and regional specialists and district educators in the use of the value-added progress dimension and in the use of data as it relates to improving student achievement. This training may include teacher and administrator professional development in the use of data to improve instruction and student learning, and teacher and administrator training in understanding teacher value-added reports and how they can be used as a component in measuring teacher and administrator effectiveness. A portion of this funding may be provided to a credible nonprofit organization with expertise in value-added progress dimensions.

The remainder of appropriation item 200439, Accountability/Report Cards, shall be used by the Department to incorporate a statewide value-added progress dimension into performance ratings for school districts and for the development of an accountability system that includes the preparation and distribution of school report cards and funding and expenditure accountability reports under sections 3302.03 and 3302.031 of the Revised Code.

CHILD CARE LICENSING

The foregoing appropriation item 200442, Child Care Licensing, shall be used by the Department of Education to license and to inspect preschool and school-age child care programs under sections 3301.52 to 3301.59 of the Revised Code.

SECTION 267.20.30. EDUCATION MANAGEMENT INFORMATION SYSTEM

The foregoing appropriation item 200446, Education Management Information System, shall be used by the Department of Education to improve the Education Management Information System (EMIS).

Of the foregoing appropriation item 200446, Education Management Information System, up to $729,000 in each fiscal year shall be distributed to designated information technology centers for costs relating to processing, storing, and transferring data for the effective operation of the EMIS. These costs may include, but are not limited to, personnel, hardware, software development, communications connectivity, professional development, and support services, and to provide services to participate in the State Education Technology Plan developed under section 3353.09 of the Revised Code.

The remainder of appropriation item 200446, Education Management Information System, shall be used to develop and support a common core of data definitions and standards as adopted by the Education Management Information System Advisory Board, including the ongoing development and maintenance of the data dictionary and data warehouse. In addition, such funds shall be used to support the development and implementation of data standards and the design, development, and implementation of a new data exchange system.

Any provider of software meeting the standards approved by the Education Management Information System Advisory Board shall be designated as an approved vendor and may enter into contracts with local school districts, community schools, STEMS schools, information technology centers, or other educational entities for the purpose of collecting and managing data required under Ohio's education management information system (EMIS) laws. On an annual basis, the Department of Education shall convene an advisory group of school districts, community schools, and other education-related entities to review the Education Management Information System data definitions and data format standards. The advisory group shall recommend changes and enhancements based upon surveys of its members, education agencies in other states, and current

industry practices, to reflect best practices, align with federal initiatives, and meet the needs of school districts.

School districts, STEMS schools, and community schools not implementing a common and uniform set of data definitions and data format standards for Education Management Information System purposes shall have all EMIS funding withheld until they are in compliance.

SECTION 267.20.40. GED TESTING

The foregoing appropriation item 200447, GED Testing, shall be used to provide General Educational Development (GED) testing under rules adopted by the State Board of Education.

SECTION 267.20.50. EDUCATOR PREPARATION

Of the foregoing appropriation item 200448, Educator Preparation, up to $150,000 in each fiscal year may be used by the Department of Education to monitor and support Ohio's State System of Support in accordance with the "No Child Left Behind Act of 2011," 20 U.S.C. 6317.

The remainder of appropriation item 200448, Educator Preparation, may be used by the Department to support the Educator Standards Board under section 3319.61 of the Revised Code and reforms under sections 3302.042, 3302.06 through 3302.068, 3302.12, 3302.20 through 3302.22, and 3319.58 of the Revised Code.

SECTION 267.20.60. COMMUNITY SCHOOLS AND CHOICE PROGRAMS

The foregoing appropriation item 200455, Community Schools and Choice Programs, may be used by the Department of Education for additional services and responsibilities under section 3314.11 of the Revised Code and for operation of the school choice programs.

Of the foregoing appropriation item 200455, Community Schools and Choice Programs, a portion in each fiscal year may be used by the Department of Education for developing and conducting training sessions for community schools and sponsors and prospective sponsors of community schools as prescribed in division (A)(1) of section 3314.015 of the Revised Code, and other schools participating in school choice programs. In developing the community school training sessions, the Department shall collect and disseminate examples of best practices used by sponsors of independent charter schools in Ohio and other states.

SECTION 267.20.70. PUPIL TRANSPORTATION

Of the foregoing appropriation item 200502, Pupil Transportation, up to $838,930 in each fiscal year may be used by the Department of Education for training prospective and experienced school bus drivers in accordance with training programs prescribed by the Department. Up to $60,469,220 in each fiscal year may be used by the Department of Education for special education transportation reimbursements to school districts and county DD boards for transportation operating costs as provided in division (J) of section 3317.024 of the Revised Code. Up to $650,000 in each fiscal year may be used to partially reimburse school districts for costs of providing transportation services to nontraditional schools when those schools are open on a day the traditional school district is not scheduled to open. Up to $5,000,000 in each fiscal year may be used by the Department of Education to reimburse school districts that make payments to parents in lieu of transportation under section 3327.02 of the Revised Code and whose transportation is not funded under division (C) of section 3317.024 of the Revised Code.

The remainder of appropriation item 200502, Pupil Transportation, shall be used to distribute the amounts calculated for formula aid under Section 267.30.50 of this act.

SECTION 267.20.80. SCHOOL LUNCH MATCH

The foregoing appropriation item 200505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.

Any remaining appropriation after providing matching funds for the school lunch program may be used to partially reimburse school buildings within school districts that are required to have a school breakfast program under section 3313.813 of the Revised Code, at a rate decided by the Department.

SECTION 267.20.90. AUXILIARY SERVICES

The foregoing appropriation item 200511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to $1,789,943 in each fiscal year may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students. Notwithstanding

section 3365.10 of the Revised Code, the Department shall distribute funding according to rules adopted by the Department in accordance with Chapter 119. of the Revised Code.

SECTION 267.30.10. NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT

The foregoing appropriation item 200532, Nonpublic Administrative Cost Reimbursement, shall be used by the Department of Education for the purpose of implementing section 3317.063 of the Revised Code.

SECTION 267.30.20. SPECIAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200540, Special Education Enhancements, up to $2,206,875 in each fiscal year shall be used for home instruction for children with disabilities.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to $45,282,959 in each fiscal year shall be used to fund special education and related services at county boards of developmental disabilities for eligible students under section 3317.20 of the Revised Code and at institutions for eligible students under section 3317.201 of the Revised Code. Notwithstanding the distribution formulas under sections 3317.20 and 3317.201 of the Revised Code, funding for DD boards and institutions for fiscal year 2012 and fiscal year 2013 shall be determined by providing the per pupil amount received by each DD board and institution for the prior fiscal year for each student served in the current fiscal year.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to $1,333,468 in each fiscal year shall be used for parent mentoring programs.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to $2,537,824 in each fiscal year may be used for school psychology interns.

The remainder of appropriation item 200540, Special Education Enhancements, shall be distributed by the Department of Education to county boards of developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units under section 3317.052 of the Revised Code. To the greatest extent possible, the Department of Education shall allocate these units to school districts and educational service centers.

The Department may reimburse county DD boards, educational service centers, and school districts for services provided by instructional assistants,

related services as defined in rule 3301-51-11 of the Administrative Code, physical therapy services provided by a licensed physical therapist or physical therapist assistant under the supervision of a licensed physical therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-27 of the Administrative Code and occupational therapy services provided by a licensed occupational therapist or occupational therapy assistant under the supervision of a licensed occupational therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-7 of the Administrative Code. Nothing in this section authorizes occupational therapy assistants or physical therapist assistants to generate or manage their own caseloads.

The Department of Education shall require school districts, educational service centers, and county DD boards serving preschool children with disabilities to adhere to Ohio's Early Learning Program Guidelines and document child progress using research-based indicators prescribed by the Department and report results annually. The reporting dates and method shall be determined by the Department.

SECTION 267.30.30. CAREER-TECHNICAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to $2,563,568 in each fiscal year shall be used to fund secondary career-technical education at institutions using a grant-based methodology, notwithstanding sections 3317.05, 3317.052, and 3317.053 of the Revised Code.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to $2,838,281 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep consortia that expand the number of students enrolled in tech prep programs. These grant funds shall be used to directly support expanded tech prep programs provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions. This support may include the purchase of equipment.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to $3,100,850 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students.

HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to $300,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the set aside.

SECTION 267.30.40. FOUNDATION FUNDING

Of the foregoing appropriation item 200550, Foundation Funding, up to $675,000 in each fiscal year shall be used to support the work of the College of Education and Human Ecology at the Ohio State University in reviewing and assessing the alignment of courses offered through the distance learning clearinghouse established in sections 3333.81 to 3333.88 of the Revised Code with the academic content standards adopted under division (A) of section 3301.079 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to $250,000 in each fiscal year may be used by the Department to fund a shared services pilot project involving at least two educational service centers. The pilot project shall focus on the design, implementation, and evaluation of a shared service delivery model. The educational service centers participating in the pilot project shall submit a report not later than September 1, 2013, to the Governor, members of the General Assembly, and members of the State Board of Education, reviewing the opportunities and challenges of implementing shared services initiatives as well as any real or projected cost efficiencies achieved through the pilot project.

Of the foregoing appropriation item 200550, Foundation Funding, up to $50,000 shall be expended in each fiscal year for court payments under section 2151.362 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to $8,100,000 in each fiscal year shall be used to fund gifted education at educational service centers. Notwithstanding division (D)(5) of section 3317.018 of the Revised Code, the Department shall distribute the funding through the unit-based funding methodology in place under division (L) of section 3317.024, division (E) of section 3317.05, and divisions (A), (B), and (C) of section 3317.053 of the Revised Code as they existed prior to

fiscal year 2010.

Of the foregoing appropriation item 200550, Foundation Funding, up to $10,000,000 in each fiscal year shall be used to provide additional state aid to school districts, joint vocational school districts, and community schools for special education students under division (C)(3) of section 3317.022 of the Revised Code, except that the Controlling Board may increase these amounts if presented with such a request from the Department of Education at the final meeting of the fiscal year; and up to $2,000,000 in each fiscal year shall be reserved for Youth Services tuition payments under section 3317.024 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to $41,760,000 in fiscal year 2012 and up to $35,496,000 in fiscal year 2013 shall be reserved to fund the state reimbursement of educational service centers under section 3317.11 of the Revised Code and the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING"; and up to $3,545,752 in each fiscal year shall be distributed to educational service centers for School Improvement Initiatives. Educational service centers shall be required to support districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317.

Of the foregoing appropriation item 200550, Foundation Funding, up to $700,000 in each fiscal year shall be used by the Department of Education for a program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section of this act entitled "PRIVATE TREATMENT FACILITY PROJECT."

Of the foregoing appropriation item 200550, Foundation Funding, up to $12,522,860 in each fiscal year shall be used to support the Cleveland school choice program.

Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to $11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District under sections 3313.974 to 3313.979 of the Revised Code. Notwithstanding divisions (B) and (C) of section 3313.978 and division (C) of section 3313.979 of the Revised Code, up to $1,000,000 in each fiscal year of this amount shall be used by the Cleveland Municipal School District to provide tutorial assistance as provided in division (H) of section 3313.974 of the Revised Code. The Cleveland Municipal School District

shall report the use of these funds in the district's three-year continuous improvement plan as described in section 3302.04 of the Revised Code in a manner approved by the Department of Education.

Of the foregoing appropriation item 200550, Foundation Funding, an amount shall be available in each fiscal year to be paid to joint vocational school districts in accordance with the section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

Of the foregoing appropriation item 200550, Foundation Funding, a portion in each fiscal year shall be paid to city, exempted village, and local school districts in accordance with the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT FUNDING."

Of the foregoing appropriation item 200550, Foundation Funding, a portion in each fiscal year shall be paid to school districts and community schools in accordance with the section of this act entitled "SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS."

The remainder of appropriation item 200550, Foundation Funding, shall be used to distribute the amounts calculated for formula aid under Section 267.30.50 of this act.

Appropriation items 200502, Pupil Transportation, 200540, Special Education Enhancements, and 200550, Foundation Funding, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts, community schools, STEM schools, and joint vocational school districts under this act. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations. It may be necessary to reallocate funds among these appropriation items or use excess funds from other general revenue fund appropriation items in the Department of Education's budget in each fiscal year, in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items or to transfer funds from other General Revenue Fund appropriations in the Department of Education's budget to meet state formula aid obligations, the Department of Education shall seek approval from the Controlling Board to transfer funds as needed.

SECTION 267.30.50. FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS

(A) For each of fiscal years 2012 and 2013, the Department of Education shall compute and pay operating funding for each city, exempted village, and local school district according to the following formula:

[(The final amount computed for fiscal year 2011 under

the line on the district's PASS form entitled "State Resources for the Foundation Funding Program" / the district's recalculated fiscal year 2011 formula ADM) X the district's current year formula ADM] - the district's adjustment amount

Where:

(1) "PASS form" means the form for calculating operating payments to school districts as prescribed by former section 3306.012 of the Revised Code.

(2) "Recalculated fiscal year 2011 formula ADM" means the district's average daily membership reported in October 2010 under division (A) of section 3317.03 of the Revised Code, as verified by the Superintendent of Public Instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by the Department, as follows:

(a) Count only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code;

(b) Add twenty per cent of the number of students who are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and are enrolled in another school district under a career-technical educational compact.

(3) "Current year formula ADM" means the district's formula ADM for the current fiscal year as defined in section 3317.02 of the Revised Code.

(4) "The district's adjustment amount" means the amount computed under division (B)(5) of this section.

If the computation made under division (A) of this section results in a negative number, the district's funding under this section shall be zero.

(B) To make the computation required by division (A) of this section, the Department shall determine all of the following:

(1) Each district's charge-off valuation per pupil, which shall be the valuation used to determine the district's state share of the adequacy amount for fiscal year 2011, under former section 3306.13 of the Revised Code, divided by the district's recalculated fiscal year 2011 formula ADM;

(2) The statewide median charge-off valuation per pupil;

(3) Each district's charge-off valuation index, which shall be the district's charge-off valuation per pupil divided by the statewide median charge-off valuation per pupil;

(4) The statewide per pupil adjustment amount. The Department shall determine that amount so that the total statewide formula aid obligation for school districts does not exceed the aggregate amount appropriated for formula aid under line items 200502, 200550, and 200612.

(5) Each district's adjustment amount, which shall be the district's charge-off valuation index multiplied by the statewide per pupil adjustment amount multiplied by the district's current year formula ADM.

(C) On the form that the Department uses to compute funding for a school district in accordance with this section, the Department also shall indicate the amount of that funding allocated to special education and related services, the amount allocated to career-technical education, and the amount allocated to gifted education. The amounts allocated for special education and career-technical education shall be the amounts indicated on the PASS form for fiscal year 2011. Each school district that receives an allocation for career-technical education shall spend the funds only for purposes the Department of Education designates as approved for career-technical education expenses. Career-technical education expenses approved by the Department shall include only expenses connected to the delivery of career-technical programming to students enrolled in state-approved career-technical programs. If a school district informs the Department that it is unable to spend the full allocation on approved career-technical education expenses, the Department may reallocate the district's unexpended amount of the career-technical education allocation to other school districts. The overall funding levels calculated under division (A) of this section for districts affected by a reallocation under this division shall be adjusted accordingly. The Department shall first allocate the funds to school districts within the original school district's vocational education planning district that have growth in career-technical enrollment from the previous fiscal year. If there are no such districts, the Department shall allocate the funds to other school districts, with priority given to districts according to each district's growth in career-technical enrollment from the previous fiscal year. The amounts allocated to gifted education shall be the amounts districts received for gifted unit funding and supplemental identification funds in fiscal year 2009, either directly or through funds allocated to educational service centers. The Department shall require each school district to report data annually so that the Department may monitor and enforce the district's compliance with the requirements regarding the manner in which allocations for career-technical education and gifted education may be spent.

(D) For fiscal years 2012 and 2013, wherever a provision of law refers to payments or adjustments for a school district made in accordance with any section of Chapter 3317. of the Revised Code, that reference shall be construed to include payments or adjustments made under this section.

SECTION 267.30.53. SUPPLEMENTAL SCHOOL DISTRICT FUNDING

(A) For each of fiscal years 2012 and 2013, the Department of Education shall compute and pay supplemental operating funding for each city, exempted village, and local school district according to the following formula:

(The final amount computed for fiscal year 2011 under the line on the district's PASS form entitled "State Resources for the Foundation Funding Program" minus the portion of that amount paid from funds received under the American Recovery and Reinvestment Act State Fiscal Stabilization Fund) minus the amount computed for the district for the current fiscal year under Section 267.30.50 of this act.

(B) If the computation made under division (A) of this section results in a negative number, the district's funding under that division shall be zero.

SECTION 267.30.56. SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS

In addition to any other payments made under Sections 267.30.50 and 267.30.53 of this act or under Chapter 3317. of the Revised Code, for each of fiscal years 2012 and 2013, the Department of Education shall pay to each qualifying school district or community school, established under Chapter 3314. of the Revised Code, the amount prescribed by this section.

The Department shall pay to each school district or community school rated as "excellent with distinction" or "excellent" on the report card issued for the district or community school under sections 3302.03 and 3314.012 of the Revised Code for the prior school year an amount equal to $17 times the district's current-year formula ADM, in the case of a school district, or the number of students in the community school's enrollment report for the current year, in the case of a community school.

As used in this section, "the number of students in the community school's enrollment report" means "the final number of students reported under divisions (B)(2)(a) and (b) of section 3314.08 of the Revised Code at the end of a fiscal year, as verified by the Department."

SECTION 267.30.60. FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS

The Department of Education shall distribute funds within appropriation

item 200550, Foundation Funding, for joint vocational funding in each fiscal year to each joint vocational school district that received joint vocational funding in fiscal year 2011. The Department shall distribute to each such district joint vocational funding in an amount equal to the district's total state foundation aid as reported on the final JVS payment report produced by the Department for the previous fiscal year.

The joint vocational funding for each fiscal year for each district is the amount specified in this section less any general revenue fund spending reductions ordered by the Governor under section 126.05 of the Revised Code.

SECTION 267.30.70. PROPERTY TAX ALLOCATION - EDUCATION

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of appropriation from appropriation item 200901, Property Tax Allocation - Education, to any other appropriation item.

The appropriation item 200901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred because of the homestead exemption, the property tax rollback, and payments required under division (C) of section 5705.2110 of the Revised Code. In cooperation with the Department of Taxation, the Department of Education shall distribute these funds directly to the appropriate school districts of the state, notwithstanding sections 321.24 and 323.156 of the Revised Code, which provide for payment of the homestead exemption and property tax rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each school district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amount specifically appropriated in appropriation items 200901, Property Tax Allocation - Education, for the homestead exemption and the property tax rollback payments, and payments required under division (C) of section 5705.2110 of the Revised Code, which are determined to be necessary for these purposes, are hereby appropriated.

SECTION 267.30.80. TEACHER CERTIFICATION AND LICENSURE

The foregoing appropriation item 200681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer and support teacher certification and licensure activities.

SCHOOL DISTRICT SOLVENCY ASSISTANCE

(A) Of the foregoing appropriation item 200687, School District Solvency Assistance, $20,000,000 in each fiscal year shall be allocated to the School District Shared Resource Account and $5,000,000 in each fiscal year shall be allocated to the Catastrophic Expenditures Account. These funds shall be used to provide assistance and grants to school districts to enable them to remain solvent under section 3316.20 of the Revised Code. Assistance and grants shall be subject to approval by the Controlling Board. Except as provided under division (C) of this section, any required reimbursements from school districts for solvency assistance shall be made to the appropriate account in the School District Solvency Assistance Fund (Fund 5H30).

(B) Notwithstanding any provision of law to the contrary, upon the request of the Superintendent of Public Instruction, the Director of Budget and Management may make transfers to the School District Solvency Assistance Fund (Fund 5H30) from any fund used by the Department of Education or the General Revenue Fund to maintain sufficient cash balances in Fund 5H30 in fiscal years 2012 and 2013. Any cash transferred is hereby appropriated. The transferred cash may be used by the Department of Education to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that the school district is unable to pay from existing resources. The Director of Budget and Management shall notify the members of the Controlling Board of any such transfers.

(C) If the cash balance of the School District Solvency Assistance Fund (Fund 5H30) is insufficient to pay solvency assistance in fiscal years 2012 and 2013, at the request of the Superintendent of Public Instruction, and with the approval of the Controlling Board, the Director of Budget and Management may transfer cash from the Lottery Profits Education Reserve Fund (Fund 7018) to Fund 5H30 to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary nature that they are unable to pay from existing resources under section 3316.20 of the Revised Code. Such transfers are hereby appropriated to appropriation item 200670, School District Solvency

Assistance – Lottery. Any required reimbursements from school districts for solvency assistance granted from appropriation item 200670, School District Solvency Assistance – Lottery, shall be made to Fund 7018.

SECTION 267.30.90. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS

Upon the request of the Superintendent of Public Instruction, the Director of Budget and Management may transfer up to $639,000 cash in each fiscal year from the General Revenue Fund to the Schools Medicaid Administrative Claims Fund (Fund 3AF0). The transferred cash is to be used by the Department of Education to pay the expenses the Department incurs in administering the Medicaid School Component of the Medicaid program established under sections 5111.71 to 5111.715 of the Revised Code. On June 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer cash from Fund 3AF0 back to the General Revenue Fund in an amount equal to the total amount transferred to Fund 3AF0 in that fiscal year.

The money deposited into Fund 3AF0 under division (B) of section 5111.714 of the Revised Code is hereby appropriated for fiscal years 2012 and 2013 and shall be used in accordance with division (D) of section 5111.714 of the Revised Code.

SECTION 267.40.10. HALF-MILL MAINTENANCE EQUALIZATION

The foregoing appropriation item 200626, Half-Mill Maintenance Equalization, shall be used to make payments pursuant to section 3318.18 of the Revised Code.

SECTION 267.40.20. AUXILIARY SERVICES REIMBURSEMENT

Notwithstanding section 3317.064 of the Revised Code, if the unexpended, unencumbered cash balance is sufficient, the Treasurer of State shall transfer $1,500,000 in fiscal year 2012 within thirty days after the effective date of this section, and $1,500,000 in fiscal year 2013 by August 1, 2012, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Auxiliary Services Reimbursement Fund (Fund 5980) used by the Department of Education.

SECTION 267.40.30. LOTTERY PROFITS EDUCATION FUND

Appropriation item 200612, Foundation Funding (Fund 7017), shall be

used in conjunction with appropriation item 200550, Foundation Funding (GRF), to provide state foundation payments to school districts.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200550, Foundation Funding (GRF), and appropriation item 200612, Foundation Funding (Fund 7017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

SECTION 267.40.40. LOTTERY PROFITS EDUCATION RESERVE FUND

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 7018) in the State Treasury. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund.

(B) Notwithstanding any other provision of law to the contrary, the Director of Budget and Management may transfer cash from Fund 7018 to the Lottery Profits Education Fund (Fund 7017) in fiscal year 2012 and fiscal year 2013. Amounts transferred under this section are hereby appropriated.

(C) On July 15, 2011, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded $711,000,000 in fiscal year 2011. The Director of Budget and Management may transfer the amount so certified, plus the cash balance in Fund 7017, to Fund 7018.

(D) On July 15, 2012, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded $717,500,000 in fiscal year 2012. The Director of Budget and Management may transfer the amount so certified, plus the cash balance in Fund 7017, to Fund 7018.

SECTION 267.40.50. GENERAL REVENUE FUND TRANSFERS TO SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047)

Notwithstanding any provision of law to the contrary, in fiscal year 2012 and fiscal year 2013 the Director of Budget and Management may make temporary transfers between the General Revenue Fund and the

School District Property Tax Replacement – Business Fund (Fund 7047) in the Department of Education to ensure sufficient balances in Fund 7047 and to replenish the General Revenue Fund for such transfers.

SECTION 267.40.60. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS

The foregoing appropriation item 200909, School District Property Tax Replacement – Business, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5751.21 of the Revised Code. If it is determined by the Director of Budget and Management that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY

The foregoing appropriation item 200900, School District Property Tax Replacement-Utility, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5727.85 of the Revised Code. If it is determined by the Director of Budget and Management that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

DISTRIBUTION FORMULAS

The Department of Education shall report the following to the Director of Budget and Management and the Legislative Service Commission:

(A) Changes in formulas for distributing state appropriations, including administratively defined formula factors;

(B) Discretionary changes in formulas for distributing federal appropriations;

(C) Federally mandated changes in formulas for distributing federal appropriations.

Any such changes shall be reported two weeks prior to the effective date of the change.

SECTION 267.40.70. EDUCATIONAL SERVICE CENTERS FUNDING

In fiscal year 2012, each Educational Service Center shall receive funding equal to ninety per cent of the amount received in fiscal year 2011 under section 3317.11 of the Revised Code and Section 265.50.10 of Am. Sub. H.B. 1 of the 128th General Assembly.

In fiscal year 2013, each Educational Service Center shall receive

funding equal to eighty-five per cent of the amount received in fiscal year 2012 under this section.

Notwithstanding any provision of law to the contrary, the Department of Education shall modify the payments under this section as follows:

(A) If an educational service center ceases operation, the Department shall redistribute that center's funding, as calculated under this section, to the remaining centers in proportion to each center's service center ADM as defined in section 3317.11 of the Revised Code.

(B) If two or more educational service centers merge operations to create a single service center, the Department shall distribute the sum of the original service centers' funding, as calculated under this section, to the new service center.

SECTION 267.40.80. PRIVATE TREATMENT FACILITY PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2012 or fiscal year 2013 or both, the Department pays through appropriation item 470401, RECLAIM Ohio;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;

(d) F.I.R.S.T., in Mansfield.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.

(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.

(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.

(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria

established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2012 and fiscal year 2013 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2012 and fiscal year 2013 under this division unless that school district is providing the educational program to the child under division (B) of this section.

A tuition payment under this division shall be made to the school district, educational service center, or residential treatment facility providing the educational program to the child.

The amount of tuition paid shall be:

(1) The amount of tuition determined for the district under division (A) of section 3317.08 of the Revised Code;

(2) In addition, for any student receiving special education pursuant to an individualized education program as defined in section 3323.01 of the Revised Code, a payment for excess costs. This payment shall equal the actual cost to the school district, educational service center, or residential treatment facility of providing special education and related services to the student pursuant to the student's individualized education program, minus the tuition paid for the child under division (C)(1) of this section.

A school district paying tuition under this division shall not include the child for whom tuition is paid in the district's average daily membership certified under division (A) of section 3317.03 of the Revised Code.

(D) In each of fiscal years 2012 and 2013, the Department of Education

shall reimburse, from appropriations made for the purpose, a school district, educational service center, or residential treatment facility, whichever is providing the service, that has demonstrated that it is in compliance with the funding criteria for each served child for whom a school district must pay tuition under division (C) of this section. The amount of the reimbursement shall be the amount appropriated for this purpose divided by the full-time equivalent number of children for whom reimbursement is to be made.

(E) Funds provided to a school district, educational service center, or residential treatment facility under this section shall be used to supplement, not supplant, funds from other public sources for which the school district, service center, or residential treatment facility is entitled or eligible.

(F) The Department of Education shall track the utilization of funds provided to school districts, educational service centers, and residential treatment facilities under this section and monitor the effect of the funding on the educational programs they provide in participating residential treatment facilities. The Department shall monitor the programs for educational accountability.

SECTION 267.40.90. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district selected for participation by the Superintendent of Public Instruction shall participate.

SECTION 267.50.10. COMMUNITY SCHOOL FUNDING GUARANTEE FOR SBH STUDENTS

(A) As used in this section:

(1) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(2) "SBH student" means a student receiving special education and related services for severe behavior disabilities pursuant to an IEP.

(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2012 and 2013 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year.

(C) In addition to any state foundation payments made, in each of fiscal

years 2012 and 2013, the Department of Education shall pay to a community school to which this section applies a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education and related services additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero.

(D) The amount of any subsidy paid to a community school under this section shall not be deducted from the school district in which any of the students enrolled in the community school are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. The amount of any subsidy paid to a community school under this section shall be paid from funds appropriated to the Department of Education in appropriation item 200550, Foundation Funding.

SECTION 267.50.20. EARMARK ACCOUNTABILITY

At the request of the Superintendent of Public Instruction, any entity that receives a budget earmark under the Department of Education shall submit annually to the chairpersons of the committees of the House of Representatives and the Senate primarily concerned with education and to the Department of Education a report that includes a description of the services supported by the funds, a description of the results achieved by those services, an analysis of the effectiveness of the program, and an opinion as to the program's applicability to other school districts. For an earmarked entity that received state funds from an earmark in the prior fiscal year, no funds shall be provided by the Department of Education to an earmarked entity for a fiscal year until its report for the prior fiscal year has been submitted.

SECTION 267.50.30. PROHIBITION FROM OPERATING FROM HOME

No community school established under Chapter 3314. of the Revised Code that was not open for operation as of May 1, 2005, shall operate from a home, as defined in section 3313.64 of the Revised Code.

SECTION 267.50.40. EARLY COLLEGE START UP COMMUNITY

SCHOOL

(A) As used in this section:

(1) "Big eight school district" has the same meaning as in section 3314.02 of the Revised Code.

(2) "Early college high school" means a high school that provides students with a personalized learning plan based on an accelerated curriculum combining high school and college-level coursework.

(B) Any early college high school that is operated by a big eight school district in partnership with a private university may operate as a new start-up community school under Chapter 3314. of the Revised Code beginning in the 2007-2008 school year, if all of the following conditions are met:

(1) The governing authority and sponsor of the school enter into a contract in accordance with section 3314.03 of the Revised Code and, notwithstanding division (D) of section 3314.02 of the Revised Code, both parties adopt and sign the contract by July 9, 2007.

(2) Notwithstanding division (A) of former section 3314.016 of the Revised Code, the school's governing authority enters into a contract with the private university under which the university will be the school's operator.

(3) The school provides the same educational program the school provided while part of the big eight school district.

SECTION 267.50.50. USE OF VOLUNTEERS

The Department of Education may utilize the services of volunteers to accomplish any of the purposes of the Department. The Superintendent of Public Instruction shall approve for what purposes volunteers may be used and for these purposes may recruit, train, and oversee the services of volunteers. The Superintendent may reimburse volunteers for necessary and appropriate expenses in accordance with state guidelines and may designate volunteers as state employees for the purpose of motor vehicle accident liability insurance under section 9.83 of the Revised Code, for immunity under section 9.86 of the Revised Code, and for indemnification from liability incurred in the performance of their duties under section 9.87 of the Revised Code.

SECTION 267.50.60. RESTRICTION OF LIABILITY FOR CERTAIN REIMBURSEMENTS

(A) Except as expressly required under a court judgment not subject to further appeals, or a settlement agreement with a school district executed on or before June 1, 2009, in the case of a school district for which the formula ADM for fiscal year 2005, as reported for that fiscal year under division (A) of section 3317.03 of the Revised Code, was reduced based on enrollment reports for community schools, made under section 3314.08 of the Revised Code, regarding students entitled to attend school in the district, which reduction of formula ADM resulted in a reduction of foundation funding or transitional aid funding for fiscal year 2005, 2006, or 2007, no school district, except a district named in the court's judgment or the settlement agreement, shall have a legal claim for reimbursement of the amount of such reduction in foundation funding or transitional aid funding, and the state shall not have liability for reimbursement of the amount of such reduction in foundation funding or transitional aid funding.

(B) As used in this section:

(1) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(3) "Foundation funding" means payments calculated for the respective fiscal year under Chapter 3317. of the Revised Code.

(4) "Transitional aid funding" means payments calculated for the respective fiscal year under Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as subsequently amended; Section 206.09.39 of Am. Sub. H.B. 66 of the 126th General Assembly, as subsequently amended; and Section 269.30.80 of Am. Sub. H.B. 119 of the 127th General Assembly.

SECTION 267.50.70. UNAUDITABLE COMMUNITY SCHOOL

(A) If the Auditor of State or a public accountant, pursuant to section 117.41 of the Revised Code, declares a community school established under Chapter 3314. of the Revised Code to be unauditable, the Auditor of State shall provide written notification of that declaration to the school, the school's sponsor, and the Department of Education. The Auditor of State also shall post the notification on the Auditor of State's web site.

(B) Notwithstanding any provision to the contrary in Chapter 3314. of the Revised Code or any other provision of law, a sponsor of a community school that is notified by the Auditor of State under division (A) of this section that a community school it sponsors is unauditable shall not enter into contracts with any additional community schools under section 3314.03 of the Revised Code until the Auditor of State or a public accountant has

completed a financial audit of that school.

(C) Not later than forty-five days after receiving notification by the Auditor of State under division (A) of this section that a community school is unauditable, the sponsor of the school shall provide a written response to the Auditor of State. The response shall include the following:

(1) An overview of the process the sponsor will use to review and understand the circumstances that led to the community school becoming unauditable;

(2) A plan for providing the Auditor of State with the documentation necessary to complete an audit of the community school and for ensuring that all financial documents are available in the future;

(3) The actions the sponsor will take to ensure that the plan described in division (C)(2) of this section is implemented.

(D) If a community school fails to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditable condition within ninety days after being declared unauditable, the Auditor of State, in addition to requesting legal action under sections 117.41 and 117.42 of the Revised Code, shall notify the Department of the school's failure. If the Auditor of State or a public accountant subsequently is able to complete a financial audit of the school, the Auditor of State shall notify the Department that the audit has been completed.

(E) Notwithstanding any provision to the contrary in Chapter 3314. of the Revised Code or any other provision of law, upon notification by the Auditor of State under division (D) of this section that a community school has failed to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditable condition following a declaration that the school is unauditable, the Department shall immediately cease all payments to the school under Chapter 3314. of the Revised Code and any other provision of law. Upon subsequent notification from the Auditor of State under that division that the Auditor of State or a public accountant was able to complete a financial audit of the community school, the Department shall release all funds withheld from the school under this section.

SECTION 267.50.80. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN

In collaboration with the County Family and Children First Council, a city, local, or exempted village school district, community school, STEM school, joint vocational school district, educational service center, or county board of developmental disabilities that receives allocations from the

Department of Education from appropriation item 200550, Foundation Funding, or appropriation item 200540, Special Education Enhancements, may transfer portions of those allocations to a flexible funding pool authorized by the Section of this act entitled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL." Allocations used for maintenance of effort or for federal or state funding matching requirements shall not be transferred unless the allocation may still be used to meet such requirements.

SECTION 267.50.90. EDUCATIONAL SHARED SERVICES MODEL/P-16 COUNCILS

The Governor's Director of 21st Century Education shall develop a plan for the integration and consolidation of the publicly supported regional shared services organizations serving Ohio's public and chartered nonpublic schools and develop a plan to encourage communities and school districts to create regional P-16 councils to better organize and share existing community resources to improve student achievement. The Director shall include recommendations for implementation of the plans beginning July 1, 2012.

In preparing the shared services plan, the Director shall recommend educational support organizations to be integrated into the regional shared service center system. The organizations to be integrated shall include, but shall not be limited to, educational service centers, education technology centers, information technology centers, area media centers, Ohio's statewide system of support, the education regional service system, regional advisory boards, and regional staff from the Department of Education providing direct support to school districts.

In preparing the recommendations of the shared services plan, the Director shall include an examination of services offered to public and chartered nonpublic schools and recommendations for integration of services into a shared services model. Services to be considered shall include, but shall not be limited to, general instruction, special education, gifted education, academic leadership, technology, fiscal management, transportation, food services, human resources, employee benefits, pooled purchasing, professional development, and noninstructional support.

Not later than October 15, 2011, the Director shall conduct a shared services survey of Ohio's school districts, community schools, STEM schools, chartered nonpublic schools, joint vocational school districts, and other educational service providers and local political subdivisions to gather baseline data on the current status of shared services and to determine where

opportunities for additional shared services exist.

In preparing the P-16 plan, the Director shall develop a set of model criteria that encourages and permits communities and school districts to create local P-16 councils. Members of the councils shall include, but not be limited to, local community leaders in primary and secondary education, higher education, early childhood education, and representatives of business, nonprofit, and social service agencies.

In preparing the recommendations for the P-16 plan, the Director shall include an examination of existing P-16 councils in Ohio and identify for inclusion in the model criteria their success in setting short and long-term student achievement and growth targets in their communities, leading cross-sector strategies to improve student-level outcomes, effectively using data to inform decisions around funding, providing intervention strategies for students, and achieving greater systems alignment.

Not later than January 1, 2012, the Director shall submit to the Governor and the General Assembly, in accordance with section 101.68 of the Revised Code, legislative recommendations for implementation of the plans.

SECTION 267.60.10. If there are unencumbered moneys remaining on July 1, 2011, in a school district's textbook and instructional materials fund, as required by former section 3315.17 of the Revised Code, the district board of education may transfer those moneys to the district's general fund and may use such moneys for any purpose authorized for general fund moneys.

Section 267.60.20. A new conversion community school established under division (B) of section 3314.02 of the Revised Code may open for operation in the 2011-2012 school year, notwithstanding the deadlines prescribed by division (D) of section 3314.02 of the Revised Code for adoption and signing of the contract under section 3314.03 of the Revised Code, but those parties shall adopt and sign the contract, and file a copy of it with the Superintendent of Public Instruction, prior to the school's opening.

SECTION 267.60.23. Not later than July 1, 2012, the State Board of Education shall review its March 2008 legislative recommendations for performance standards for community schools that operate dropout prevention and recovery programs and shall make new recommendations to

the General Assembly regarding legislation to enact performance standards for those schools.

SECTION 267.60.30. The State Board of Education shall initiate rulemaking procedures for the rules for the Jon Peterson Special Needs Scholarship Program, required under section 3310.64 of the Revised Code, as enacted by this act, so that those rules are in effect not later than one hundred twenty days after the effective date of this section.

SECTION 267.60.31. The Department of Education shall conduct a formative evaluation of the Jon Peterson Special Needs Scholarship Program established under sections 3310.51 to 3310.64 of the Revised Code, using both quantitative and qualitative analyses, and shall report its findings to the General Assembly, in accordance with section 101.68 of the Revised Code, not later than December 31, 2014.

The study shall include an assessment of:

(A) The level of the participating student's satisfaction with the program;

(B) The level of the participating parent's satisfaction with the program;

(C) The fiscal impact to the state and resident school districts affected by the program.

In conducting the evaluation, the Department shall to the extent possible gather comments from parents who have been awarded scholarships under the program, school district officials, representatives of registered private providers, educators, and representatives of educational organizations for inclusion in the report required under this section.

The Department may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct this study. The Department may accept grants to assist in funding this study.

SECTION 267.60.33. Not later than December 31, 2011, the Department of Education shall develop and submit to the Governor and the General Assembly, in accordance with section 101.68 of the Revised Code, a plan and legislative recommendations for the provision of up to two cumulative school years of educational services toward a high school diploma for individuals who are twenty-two years of age or older and who have not been awarded a high school diploma or a certificate of high school equivalence,

as defined in section 4109.06 of the Revised Code. The plan and legislative recommendations shall specify that those services be provided by dropout prevention and recovery programs operated by school districts, granted waivers under division (F) of section 3313.603 of the Revised Code, and by dropout prevention and recovery programs operated by community schools, granted waivers under section 3314.36 of the Revised Code. In developing the plan and legislative recommendations, the Department shall consult with the United States Department of Education to ensure that the creation of the program does not expand the requirement of the state or local education agencies to provide a free appropriate public education under the Individuals with Disabilities Education Act to all individuals beyond twenty-one years of age.

SECTION 269.10. ELC OHIO ELECTIONS COMMISSION

General Revenue Fund					
GRF	051321	Operating Expenses	$ 333,117	$	333,117
TOTAL GRF General Revenue Fund			$ 333,117	$	333,117
General Services Fund Group					
4P20	051601	Ohio Elections Commission Fund	$ 225,000	$	225,000
TOTAL GSF General Services Fund Group			$ 225,000	$	225,000
TOTAL ALL BUDGET FUND GROUPS			$ 558,117	$	558,117

SECTION 271.10. FUN STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

General Services Fund Group					
4K90	881609	Operating Expenses	$ 561,494	$	551,958
TOTAL GSF General Services Fund Group			$ 561,494	$	551,958
TOTAL ALL BUDGET FUND GROUPS			$ 561,494	$	551,958

SECTION 273.10. PAY EMPLOYEE BENEFITS FUNDS

Accrued Leave Liability Fund Group					
8060	995666	Accrued Leave Fund	$ 72,053,178	$	71,828,986
8070	995667	Disability Fund	$ 27,616,583	$	26,593,747
TOTAL ALF Accrued Leave Liability Fund Group			$ 99,669,761	$	98,422,733
Agency Fund Group					
1240	995673	Payroll Deductions	$ 855,456,678	$	840,248,559
8080	995668	State Employee Health Benefit Fund	$ 590,265,468	$	649,292,014

8090	995669	Dependent Care Spending Account	$ 2,881,273	$ 2,967,711
8100	995670	Life Insurance Investment Fund	$ 2,080,634	$ 2,143,053
8110	995671	Parental Leave Benefit Fund	$ 3,484,737	$ 3,355,673
8130	995672	Health Care Spending Account	$ 8,588,262	$ 9,447,088
8140	995674	Cost Savings Days	$ 50,000,000	$ 0
TOTAL AGY Agency Fund Group			$ 1,512,757,052	$ 1,507,454,098
TOTAL ALL BUDGET FUND GROUPS			$ 1,612,426,813	$ 1,605,876,831

ACCRUED LEAVE LIABILITY FUND

The foregoing appropriation item 995666, Accrued Leave Fund, shall be used to make payments from the Accrued Leave Liability Fund (Fund 8060) pursuant to section 125.211 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND

The foregoing appropriation item 995667, Disability Fund, shall be used to make payments from the State Employee Disability Leave Benefit Fund (Fund 8070) pursuant to section 124.83 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

PAYROLL WITHHOLDING FUND

The foregoing appropriation item 995673, Payroll Deductions, shall be used to make payments from the Payroll Withholding Fund (Fund 1240). If it is determined by the Director of Budget and Management that additional appropriation amounts are necessary, the amounts are hereby appropriated.

STATE EMPLOYEE HEALTH BENEFIT FUND

The foregoing appropriation item 995668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 8080) pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

DEPENDENT CARE SPENDING FUND

The foregoing appropriation item 995669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Fund (Fund 8090) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

LIFE INSURANCE INVESTMENT FUND

The foregoing appropriation item 995670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 8100) for the costs and expenses of the state's life insurance

benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

PARENTAL LEAVE BENEFIT FUND

The foregoing appropriation item 995671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 8110) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

HEALTH CARE SPENDING ACCOUNT FUND

The foregoing appropriation item 995672, Health Care Spending Account, shall be used to make payments from the Health Care Spending Account Fund (Fund 8130) for payments pursuant to state employees' participation in a flexible spending account for non-reimbursed health care expenses and section 124.821 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

At the request of the Director of Administrative Services, the Director of Budget and Management may transfer up to $600,000 annually from the General Revenue Fund to the Health Care Spending Account Fund during fiscal years 2012 and 2013. This cash shall be transferred as needed to provide adequate cash flow for the Health Care Spending Account Fund during fiscal year 2012 and fiscal year 2013. If funds are available at the end of fiscal years 2012 and 2013, the Director of Budget and Management shall transfer cash up to the amount previously transferred in the respective year, plus interest income, from the Health Care Spending Account (Fund 8130) to the General Revenue Fund.

COST SAVINGS DAYS

The foregoing appropriation item, 995674, Cost Savings Days, shall be used by the Director of Budget and Management in accordance with division (E) of section 124.392 of the Revised Code to pay employees who participated in a mandatory cost savings program, or to reimburse employees who did not fully participate in a mandatory cost savings program. Notwithstanding any provision of law to the contrary, in fiscal year 2012 and fiscal year 2013, the Director may transfer agency savings achieved from the use of a mandatory cost savings program to the General Revenue Fund or any other fund as deemed necessary by the Director. The

Director may make temporary transfers from the General Revenue Fund to ensure sufficient balances in the Cost Savings Fund and may reimburse the General Revenue Fund for such transfers. If the Director determines that additional amounts are necessary for these purposes, the amounts are hereby appropriated.

SECTION 273.20. CASH TRANSFER TO PAYROLL WITHHOLDING FUND

The Director of Budget and Management may transfer $561,897 in cash from the Health Care Spending Account Fund (Fund 8130) to the Payroll Withholding Fund (Fund 1240) to correct payments made from the Payroll Withholding Fund that should have been made from the Health Care Spending Account Fund.

SECTION 275.10. ERB STATE EMPLOYMENT RELATIONS BOARD

General Revenue Fund					
GRF	125321	Operating Expenses	$ 3,758,869	$	3,761,457
TOTAL GRF General Revenue Fund			$ 3,758,869	$	3,761,457
General Services Fund Group					
5720	125603	Training and Publications	$ 87,075	$	87,075
TOTAL GSF General Services Fund Group			$ 87,075	$	87,075
TOTAL ALL BUDGET FUND GROUPS			$ 3,845,944	$	3,848,532

SECTION 277.10. ENG STATE BOARD OF ENGINEERS AND SURVEYORS

General Services Fund Group					
4K90	892609	Operating Expenses	$ 934,264	$	921,778
TOTAL GSF General Services Fund Group			$ 934,264	$	921,778
TOTAL ALL BUDGET FUND GROUPS			$ 934,264	$	921,778

SECTION 279.10. EPA ENVIRONMENTAL PROTECTION AGENCY

General Services Fund Group					
1990	715602	Laboratory Services	$ 402,295	$	408,560
2190	715604	Central Support Indirect	$ 8,594,348	$	8,555,680
4A10	715640	Operating Expenses	$ 2,304,267	$	2,093,039
TOTAL GSF General Services Fund Group			$ 11,300,910	$	11,057,279
Federal Special Revenue Fund Group					
3530	715612	Public Water Supply	$ 2,941,282	$	2,941,282
3540	715614	Hazardous Waste	$ 4,193,000	$	4,193,000

		Management - Federal		
3570	715619	Air Pollution Control - Federal	$ 6,310,203	$ 6,310,203
3620	715605	Underground Injection Control - Federal	$ 111,874	$ 111,874
3BU0	715684	Water Quality Protection	$ 8,100,000	$ 6,785,000
3CS0	715688	Federal NRD Settlements	$ 100,000	$ 100,000
3F20	715630	Revolving Loan Fund - Operating	$ 907,543	$ 907,543
3F30	715632	Federally Supported Cleanup and Response	$ 3,344,746	$ 3,290,405
3F50	715641	Nonpoint Source Pollution Management	$ 6,265,000	$ 6,260,000
3T30	715669	Drinking Water State Revolving Fund	$ 2,273,323	$ 2,273,323
3V70	715606	Agencywide Grants	$ 600,000	$ 600,000
TOTAL FED Federal Special Revenue Fund Group			$ 35,146,971	$ 33,772,630

State Special Revenue Fund Group

4J00	715638	Underground Injection Control	$ 445,234	$ 445,571
4K20	715648	Clean Air - Non Title V	$ 3,152,306	$ 2,906,267
4K30	715649	Solid Waste	$ 16,742,551	$ 16,414,654
4K40	715650	Surface Water Protection	$ 7,642,625	$ 6,672,246
4K40	715686	Environmental Lab Service	$ 2,096,007	$ 2,096,007
4K50	715651	Drinking Water Protection	$ 7,410,118	$ 7,405,428
4P50	715654	Cozart Landfill	$ 100,000	$ 100,000
4R50	715656	Scrap Tire Management	$ 1,368,610	$ 1,376,742
4R90	715658	Voluntary Action Program	$ 999,503	$ 997,425
4T30	715659	Clean Air - Title V Permit Program	$ 16,349,471	$ 16,241,822
4U70	715660	Construction and Demolition Debris	$ 425,913	$ 433,591
5000	715608	Immediate Removal Special Account	$ 633,832	$ 634,033
5030	715621	Hazardous Waste Facility Management	$ 10,241,107	$ 9,789,620
5050	715623	Hazardous Waste Cleanup	$ 12,511,234	$ 12,331,272
5050	715674	Clean Ohio Environmental Review	$ 108,104	$ 108,104
5410	715670	Site Specific Cleanup	$ 2,048,101	$ 2,048,101
5420	715671	Risk Management Reporting	$ 132,636	$ 132,636
5920	715627	Anti Tampering Settlement	$ 2,285	$ 2,285
5BC0	715617	Clean Ohio	$ 611,455	$ 611,455
5BC0	715622	Local Air Pollution Control	$ 2,297,980	$ 2,297,980
5BC0	715624	Surface Water	$ 8,970,181	$ 9,114,974
5BC0	715672	Air Pollution Control	$ 4,438,629	$ 4,534,758
5BC0	715673	Drinking and Ground Water	$ 4,317,527	$ 4,323,521
5BC0	715675	Hazardous Waste	$ 95,266	$ 95,266
5BC0	715676	Assistance and Prevention	$ 640,179	$ 645,069
5BC0	715677	Laboratory	$ 939,717	$ 958,586
5BC0	715678	Corrective Actions	$ 31,765	$ 105,423
5BC0	715687	Areawide Planning Agencies	$ 450,000	$ 450,000
5BC0	715692	Administration	$ 8,562,476	$ 8,212,627

5BT0	715679	C&DD Groundwater Monitoring	$ 203,800	$ 203,800
5BY0	715681	Auto Emissions Test	$ 13,029,952	$ 13,242,762
5CD0	715682	Clean Diesel School Buses	$ 600,000	$ 600,000
5H40	715664	Groundwater Support	$ 77,508	$ 78,212
5N20	715613	Dredge and Fill	$ 29,250	$ 29,250
5Y30	715685	Surface Water Improvement	$ 2,800,000	$ 2,800,000
6440	715631	ER Radiological Safety	$ 279,838	$ 279,966
6600	715629	Infectious Waste Management	$ 91,573	$ 88,764
6760	715642	Water Pollution Control Loan Administration	$ 4,317,376	$ 4,321,605
6780	715635	Air Toxic Release	$ 138,669	$ 138,669
6790	715636	Emergency Planning	$ 2,623,192	$ 2,623,252
6960	715643	Air Pollution Control Administration	$ 1,100,000	$ 1,100,000
6990	715644	Water Pollution Control Administration	$ 220,000	$ 220,000
6A10	715645	Environmental Education	$ 1,488,260	$ 1,488,718
TOTAL SSR State Special Revenue Fund Group			$ 140,764,230	$ 138,700,461
Clean Ohio Conservation Fund Group				
5S10	715607	Clean Ohio - Operating	$ 284,083	$ 284,124
TOTAL CLF Clean Ohio Conservation Fund Group			$ 284,083	$ 284,124
TOTAL ALL BUDGET FUND GROUPS			$ 187,496,194	$ 183,814,494

AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management may transfer up to $13,029,952 in cash in fiscal year 2012, and up to $13,242,762 in cash in fiscal year 2013 from the General Revenue Fund to the Auto Emissions Test Fund (Fund 5BY0) for the operation and oversight of the auto emissions testing program.

AREAWIDE PLANNING AGENCIES

The Director of Environmental Protection Agency may award grants from appropriation item 715687, Areawide Planning Agencies, to areawide planning agencies engaged in areawide water quality management and planning activities in accordance with Section 208 of the "Federal Clean Water Act," 33 U.S.C. 1288.

CORRECTIVE CASH TRANSFERS

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer $376,891.85 in cash that was mistakenly deposited in the Clean Air Non Title V Fund (Fund 4K20) to the Clean Air Title V Permit Fund (Fund 4T30).

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer $133,026.63 in cash that was mistakenly deposited in the Scrap Tire Management Fund (Fund 4R50) to

the Site Specific Cleanup Fund (Fund 5410).

SECTION 281.10. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION

General Revenue Fund

GRF	172321	Operating Expenses	$	580,145	$	545,530
TOTAL GRF General Revenue Fund			$	580,145	$	545,530
TOTAL ALL BUDGET FUND GROUPS			$	580,145	$	545,530

SECTION 283.10. ETC ETECH OHIO

General Revenue Fund

GRF	935401	Statehouse News Bureau	$	215,561	$	215,561
GRF	935402	Ohio Government Telecommunications Services	$	702,089	$	702,089
GRF	935408	General Operations	$	1,251,789	$	1,254,193
GRF	935409	Technology Operations	$	2,092,432	$	2,091,823
GRF	935410	Content Development, Acquisition, and Distribution	$	2,607,094	$	2,607,094
GRF	935411	Technology Integration and Professional Development	$	4,251,185	$	4,252,671
GRF	935412	Information Technology	$	829,340	$	829,963
TOTAL GRF General Revenue Fund			$	11,949,490	$	11,953,394

General Services Fund Group

4F30	935603	Affiliate Services	$	50,000	$	50,000
4T20	935605	Government Television/Telecommunications Operating	$	25,000	$	25,000
TOTAL GSF General Services Fund Group			$	75,000	$	75,000

State Special Revenue Fund Group

4W90	935630	Telecommunity	$	25,000	$	25,000
4X10	935634	Distance Learning	$	24,150	$	24,150
5D40	935640	Conference/Special Purposes	$	2,100,000	$	2,100,000
5FK0	935608	Media Services	$	637,601	$	637,956
5JU0	935611	Information Technology Services	$	1,455,000	$	1,455,000
5T30	935607	Gates Foundation Grants	$	200,000	$	171,112
TOTAL SSR State Special Revenue Fund Group			$	4,441,751	$	4,413,218
TOTAL ALL BUDGET FUND GROUPS			$	16,466,241	$	16,441,612

SECTION 283.20. STATEHOUSE NEWS BUREAU

The foregoing appropriation item 935401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.

OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES

The foregoing appropriation item 935402, Ohio Government

Telecommunications Services, shall be used solely to support the operations of Ohio Government Telecommunications Services which include providing multimedia support to the state government and its affiliated organizations and broadcasting the activities of the legislative, judicial, and executive branches of state government, among its other functions.

TECHNOLOGY OPERATIONS

The foregoing appropriation item 935409, Technology Operations, shall be used by eTech Ohio to pay expenses of eTech Ohio's network infrastructure, which includes the television and radio transmission infrastructure and infrastructure that shall link all public K-12 classrooms to each other and to the Internet, and provide access to voice, video, other communication services, and data educational resources for students and teachers. The foregoing appropriation item 935409, Technology Operations, may also be used to cover student costs for taking advanced placement courses and courses that the Chancellor of the Board of Regents has determined to be eligible for postsecondary credit through the Ohio Learns Gateway. To the extent that funds remain available for this purpose, public school students taking advanced placement or postsecondary courses through the OhioLearns Gateway shall be eligible to receive a fee waiver to cover the cost of participating in one course. The fee waivers shall be distributed until the funds appropriated to support the waivers have been exhausted.

CONTENT DEVELOPMENT, ACQUISITION, AND DISTRIBUTION

The foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, shall be used for the development, acquisition, and distribution of information resources by public media and radio reading services and for educational use in the classroom and online.

Of the foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, up to $658,099 in each fiscal year shall be allocated equally among the 12 Ohio educational television stations and used with the advice and approval of eTech Ohio. Funds shall be used for the production of interactive instructional programming series with priority given to resources aligned with state academic content standards in consultation with the Ohio Department of Education and for teleconferences to support eTech Ohio. The programming shall be targeted to the needs of the poorest two hundred school districts as determined by the district's adjusted valuation per pupil as defined in former section 3317.0213 of the Revised Code as that section existed prior to June 30, 2005.

Of the foregoing appropriation item 935410, Content Development,

Acquisition, and Distribution, up to $1,749,283 in each fiscal year shall be distributed by eTech Ohio to Ohio's qualified public educational television stations and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation formula used by the Ohio Educational Telecommunications Network Commission unless a substitute formula is developed by eTech Ohio in consultation with Ohio's qualified public educational television stations and educational radio stations.

Of the foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, up to $199,712 in each fiscal year shall be distributed by eTech Ohio to Ohio's qualified radio reading services to support their operations. The funds shall be distributed pursuant to an allocation formula used by the Ohio Educational Telecommunications Network Commission unless a substitute formula is developed by eTech Ohio in consultation with Ohio's qualified radio reading services.

SECTION 283.30. TECHNOLOGY INTEGRATION AND PROFESSIONAL DEVELOPMENT

The foregoing appropriation item 935411, Technology Integration and Professional Development, shall be used by eTech Ohio for the provision of staff development, hardware, software, telecommunications services, and information resources to support educational uses of technology in the classroom and at a distance and for professional development for teachers, administrators, and technology staff on the use of educational technology in qualifying public schools, including the State School for the Blind, the State School for the Deaf, and the Department of Youth Services.

Of the foregoing appropriation item 935411, Technology Integration and Professional Development, up to $1,691,701 in each fiscal year shall be used by eTech Ohio to contract with educational television to provide Ohio public schools with instructional resources and services with priority given to resources and services aligned with state academic content standards and such resources and services shall be based upon the advice and approval of eTech Ohio, based on a formula used by the Ohio SchoolNet Commission unless and until a substitute formula is developed by eTech Ohio in consultation with Ohio's educational technology agencies and noncommercial educational television stations.

SECTION 283.40. TELECOMMUNITY

The foregoing appropriation item 935630, Telecommunity, shall be distributed by eTech Ohio on a grant basis to eligible school districts to

establish "distance learning" through interactive video technologies in the school district. Per agreements with eight Ohio local telephone companies, ALLTEL Ohio, CENTURY Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone Company, Orwell Telephone Company, Sprint North Central Telephone, VERIZON, and Western Reserve Telephone Company, school districts are eligible for funds if they are within one of the listed telephone company service areas. Funds to administer the program shall be expended by eTech Ohio up to the amount specified in the agreements with the listed telephone companies.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4W90 in the State Special Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of any settlement agreement between the listed companies and the Public Utilities Commission in fiscal years 1996 and beyond.

DISTANCE LEARNING

The foregoing appropriation item 935634, Distance Learning, shall be distributed by eTech Ohio on a grant basis to eligible school districts to establish "distance learning" in the school district. Per an agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by eTech Ohio up to the amount specified in the agreement with Ameritech.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4X10 in the State Special Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of a settlement agreement between the company and the Public Utilities Commission in fiscal year 1995.

GATES FOUNDATION GRANTS

The foregoing appropriation item 935607, Gates Foundation Grants, shall be used by eTech Ohio to provide professional development to school district principals, superintendents, and other administrative staff on the use of education technology.

SECTION 285.10. ETH OHIO ETHICS COMMISSION

General Revenue Fund				
GRF 146321	Operating Expenses	$ 1,409,751	$	1,409,751
TOTAL GRF General Revenue Fund		$ 1,409,751	$	1,409,751
General Services Fund Group				
4M60 146601	Operating Expenses	$ 827,393	$	827,393
TOTAL GSF General Services Fund Group		$ 827,393	$	827,393

TOTAL ALL BUDGET FUND GROUPS			$ 2,237,144	$ 2,237,144

ETHICS COMMISSION CASINO-RELATED ACTIVITIES

On July 1, 2011, or as soon as possible thereafter, an amount equal to the unexpended and unencumbered balance of appropriation item 146602, Casino Investigations, at the end of fiscal year 2011 is hereby reappropriated to the same appropriation item for fiscal year 2012, to be used for the performance of the Ohio Ethics Commission's casino-related duties.

SECTION 287.10. EXP OHIO EXPOSITIONS COMMISSION

General Revenue Fund

GRF	723403	Junior Fair Subsidy	$ 250,000	$ 250,000
TOTAL GRF General Revenue Fund			$ 250,000	$ 250,000

State Special Revenue Fund Group

4N20	723602	Ohio State Fair Harness Racing	$ 400,000	$ 400,000
5060	723601	Operating Expenses	$ 12,991,000	$ 12,894,000
TOTAL SSR State Special Revenue Fund Group			$ 13,391,000	$ 13,294,000
TOTAL ALL BUDGET FUND GROUPS			$ 13,641,000	$ 13,544,000

STATE FAIR RESERVE

The General Manager of the Expositions Commission may submit a request to the Controlling Board to use available amounts in the State Fair Reserve Fund (Fund 6400) if the following conditions apply:

(A) Admissions receipts for the 2011 or 2012 Ohio State Fair are less than $1,982,000 because of inclement weather or extraordinary circumstances;

(B) The Ohio Expositions Commission declares a state of fiscal exigency; and

(C) The request contains a plan describing how the Expositions Commission will eliminate the cash shortage causing the request.

The amount approved by the Controlling Board is hereby appropriated.

SECTION 289.10. GOV OFFICE OF THE GOVERNOR

General Revenue Fund

GRF	040321	Operating Expenses	$ 3,001,806	$ 2,851,552
TOTAL GRF General Revenue Fund			$ 3,001,806	$ 2,851,552

General Services Fund Group

5AK0	040607	Government Relations	$ 365,149	$ 365,149
TOTAL GSF General Services Fund Group			$ 365,149	$ 365,149
TOTAL ALL BUDGET FUND GROUPS			$ 3,366,955	$ 3,216,701

GOVERNMENT RELATIONS

A portion of the foregoing appropriation item 040607, Government

Relations, may be used to support Ohio's membership in national or regional associations.

The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of governmental relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited in the Government Relations Fund (Fund 5AK0).

SECTION 291.10. DOH DEPARTMENT OF HEALTH

General Revenue Fund

GRF	440412	Cancer Incidence Surveillance System	$ 600,000	$ 600,000
GRF	440413	Local Health Department Support	$ 2,302,788	$ 2,303,061
GRF	440416	Mothers and Children Safety Net Services	$ 4,227,842	$ 4,228,015
GRF	440418	Immunizations	$ 6,430,538	$ 8,930,829
GRF	440431	Free Clinics Safety Net Services	$ 437,326	$ 437,326
GRF	440438	Breast and Cervical Cancer Screening	$ 823,217	$ 823,217
GRF	440444	AIDS Prevention and Treatment	$ 5,842,315	$ 5,842,315
GRF	440451	Public Health Laboratory	$ 3,654,348	$ 3,655,449
GRF	440452	Child and Family Health Services Match	$ 630,390	$ 630,444
GRF	440453	Health Care Quality Assurance	$ 8,170,694	$ 8,174,361
GRF	440454	Local Environmental Health	$ 1,310,141	$ 1,310,362
GRF	440459	Help Me Grow	$ 33,673,545	$ 33,673,987
GRF	440465	Federally Qualified Health Centers	$ 458,688	$ 2,686,688
GRF	440467	Access to Dental Care	$ 540,484	$ 540,484
GRF	440468	Chronic Disease and Injury Prevention	$ 2,577,251	$ 2,577,251
GRF	440472	Alcohol Testing	$ 550,000	$ 1,100,000
GRF	440505	Medically Handicapped Children	$ 7,512,451	$ 7,512,451
GRF	440507	Targeted Health Care Services Over 21	$ 1,045,414	$ 1,045,414
TOTAL GRF General Revenue Fund			$ 80,787,432	$ 86,071,654

State Highway Safety Fund Group

4T40	440603	Child Highway Safety	$ 233,894	$ 233,894
TOTAL HSF State Highway Safety Fund Group			$ 233,894	$ 233,894

General Services Fund Group

1420	440646	Agency Health Services	$ 8,825,788	$ 8,826,146
2110	440613	Central Support Indirect	$ 28,900,000	$ 29,000,000

		Costs		
4730	440622	Lab Operating Expenses	$ 5,000,000	$ 5,000,000
5HB0	440470	Breast and Cervical Cancer Screening	$ 1,000,000	$ 0
6830	440633	Employee Assistance Program	$ 1,100,000	$ 1,100,000
6980	440634	Nurse Aide Training	$ 99,239	$ 99,265
TOTAL GSF General Services Fund Group			$ 44,925,027	$ 44,025,411
Federal Special Revenue Fund Group				
3200	440601	Maternal Child Health Block Grant	$ 27,068,886	$ 27,068,886
3870	440602	Preventive Health Block Grant	$ 7,826,659	$ 7,826,659
3890	440604	Women, Infants, and Children	$ 308,672,689	$ 308,672,689
3910	440606	Medicaid/Medicare	$ 29,625,467	$ 29,257,457
3920	440618	Federal Public Health Programs	$ 137,976,988	$ 137,976,988
TOTAL FED Federal Special Revenue Fund Group			$ 511,170,689	$ 510,802,679
State Special Revenue Fund Group				
4700	440647	Fee Supported Programs	$ 24,503,065	$ 24,513,973
4710	440619	Certificate of Need	$ 878,145	$ 878,433
4770	440627	Medically Handicapped Children Audit	$ 3,692,704	$ 3,692,703
4D60	440608	Genetics Services	$ 3,310,953	$ 3,311,039
4F90	440610	Sickle Cell Disease Control	$ 1,032,754	$ 1,032,824
4G00	440636	Heirloom Birth Certificate	$ 5,000	$ 5,000
4G00	440637	Birth Certificate Surcharge	$ 5,000	$ 5,000
4L30	440609	Miscellaneous Expenses	$ 3,333,164	$ 3,333,164
4P40	440628	Ohio Physician Loan Repayment	$ 476,870	$ 476,870
4V60	440641	Save Our Sight	$ 2,255,760	$ 2,255,789
5B50	440616	Quality, Monitoring, and Inspection	$ 878,638	$ 878,997
5C00	440615	Alcohol Testing and Permit	$ 551,018	$ 0
5CN0	440645	Choose Life	$ 75,000	$ 75,000
5D60	440620	Second Chance Trust	$ 1,151,815	$ 1,151,902
5ED0	440651	Smoke Free Indoor Air	$ 190,452	$ 190,452
5G40	440639	Adoption Services	$ 20,000	$ 20,000
5L10	440623	Nursing Facility Technical Assistance Program	$ 687,500	$ 687,528
5Z70	440624	Ohio Dentist Loan Repayment	$ 140,000	$ 140,000
6100	440626	Radiation Emergency Response	$ 930,525	$ 930,576
6660	440607	Medically Handicapped Children - County Assessments	$ 19,738,286	$ 19,739,617
TOTAL SSR State Special Revenue Fund Group			$ 63,856,649	$ 63,318,867
Holding Account Redistribution Fund Group				
R014	440631	Vital Statistics	$ 44,986	$ 44,986

R048	440625	Refunds, Grants Reconciliation, and Audit Settlements	$ 20,000	$	20,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 64,986	$	64,986
Tobacco Master Settlement Agreement Fund Group					
5BX0	440656	Tobacco Use Prevention	$ 1,000,000	$	1,000,000
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			$ 1,000,000	$	1,000,000
TOTAL ALL BUDGET FUND GROUPS			$ 702,038,677	$	705,517,491

SECTION 291.20. IMMUNIZATIONS

Of the foregoing appropriation item 440418, Immunizations, $2,500,000 in fiscal year 2013 shall be used to purchase pneumococcal conjugate vaccines.

HIV/AIDS PREVENTION/TREATMENT

The foregoing appropriation item 440444, AIDS Prevention and Treatment, shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications and to administer educational prevention initiatives.

PUBLIC HEALTH LABORATORY

A portion of the foregoing appropriation item 440451, Public Health Laboratory, shall be used for coordination and management of prevention program operations and the purchase of drugs for sexually transmitted diseases.

HELP ME GROW

The foregoing appropriation item 440459, Help Me Grow, shall be used by the Department of Health to implement the Help Me Grow Program. Funds shall be distributed to counties through contracts, grants, or subsidies in accordance with section 3701.61 of the Revised Code. Appropriation item 440459, Help Me Grow, may be used in conjunction with Early Intervention funding from the Department of Developmental Disabilities, and in conjunction with other early childhood funds and services to promote the optimal development of young children and family-centered programs and services that acknowledge and support the social, emotional, cognitive, intellectual, and physical development of children and the vital role of families in ensuring the well-being and success of children. The Department of Health shall enter into an interagency agreement with the Department of Education, Department of Developmental Disabilities, Department of Job and Family Services, and Department of Mental Health to ensure that all early childhood programs and initiatives are coordinated and school linked.

Of the foregoing appropriation item 440459, Help Me Grow, if a county

Family and Children First Council selects home-visiting programs, the home-visiting program shall only be eligible for funding if it serves pregnant women, or parents or other primary caregivers and the parent or other primary caregiver's child or children under three years of age, through quality programs of early childhood home visitation and if the home visitations are performed by nurses, social workers, child development specialists or other well-trained and competent staff, as demonstrated by education or training and the provision of ongoing specific training and supervision in the model of service being delivered. The home-visiting program also shall be required to have outcome and research standards that demonstrate ongoing positive outcomes for children, parents, and other primary caregivers that enhance child health and development, and conform to a clear consistent home visitation model that has been in existence for at least three years. The home visitation model shall be research-based; grounded in relevant, empirically based knowledge; linked to program-determined outcomes; associated with a national organization or institution of higher education that has comprehensive home visitation program standards that ensure high quality service delivery and continuous program improvement; and have demonstrated significant positive outcomes when evaluated using well-designed and rigorous randomized, controlled, or quasi-experimental research designs, and the evaluation results have been published in a peer-reviewed journal.

For fiscal year 2012, the Department of Health shall support a county's need for a transition period to meet expected service levels for the Help Me Grow Home Visiting Program and the Part C Program by distributing funds for home visiting through a subsidy agreement that allows the county Family and Children First Council discretion to use a percentage of those funds for Part C services, so long as the services are provided in accordance with the "Individuals with Disability Education Act," 118 Stat. 2744 (2004), 20 U.S.C. 1431 et seq. and section 3701.61 of the Revised Code. The county Family and Children First council may use up to one hundred per cent of the funds allocated for the first quarter, with decreasing percentages determined by the Department of Health for the remaining quarters of fiscal year 2012, for Part C services.

The foregoing appropriation item 440459, Help Me Grow, may also be used for the Developmental Autism and Screening Program.

FEDERALLY QUALIFIED HEALTH CENTERS

For fiscal year 2012, any undisbursed funds previously provided under subsidy agreements between the Department of Health and the Ohio Association of Community Health Centers, or its predecessor organization,

pursuant to section 183.18 of the Revised Code, shall be available to federally qualified health centers in the same manner as those funds in appropriation item 440465, Federally Qualified Health Centers.

TARGETED HEALTH CARE SERVICES OVER 21

The foregoing appropriation item 440507, Targeted Health Care Services Over 21, shall be used to administer the Cystic Fibrosis Program and to implement the Hemophilia Insurance Premium Payment Program.

The foregoing appropriation item 440507, Targeted Health Care Services Over 21, shall also be used to provide essential medications and to pay the copayments for drugs approved by the Department of Health and covered by Medicare Part D that are dispensed to Bureau for Children with Medical Handicaps (BCMH) participants for the Cystic Fibrosis Program.

The Department shall expend all of these funds.

GENETICS SERVICES

The foregoing appropriation item 440608, Genetics Services (Fund 4D60), shall be used by the Department of Health to administer programs authorized by sections 3701.501 and 3701.502 of the Revised Code. None of these funds shall be used to counsel or refer for abortion, except in the case of a medical emergency.

MEDICALLY HANDICAPPED CHILDREN AUDIT

The Medically Handicapped Children Audit Fund (Fund 4770) shall receive revenue from audits of hospitals and recoveries from third-party payers. Moneys may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payers and for encouraging Medically Handicapped Children's Program recipients to apply for third-party benefits. Moneys also may be expended for payments for diagnostic and treatment services on behalf of medically handicapped children, as defined in division (A) of section 3701.022 of the Revised Code, and Ohio residents who are twenty-one or more years of age and who are suffering from cystic fibrosis or hemophilia. Moneys may also be expended for administrative expenses incurred in operating the Medically Handicapped Children's Program.

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND

The Director of Budget and Management may transfer up to $551,018 in cash from the Liquor Control Fund (Fund 7043) to the Alcohol Testing and Permit Fund (Fund 5C00) in fiscal year 2012 to meet the operating needs of the Alcohol Testing and Permit Program.

The Director of Budget and Management may transfer up to $551,018 in cash in fiscal year 2012 to the Alcohol Testing and Permit Fund (Fund

5C00) from the Liquor Control Fund (Fund 7043) created in section 4301.12 of the Revised Code determined by a transfer schedule set by the Department of Health.

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS

The foregoing appropriation item 440607, Medically Handicapped Children - County Assessments (Fund 6660), shall be used to make payments under division (E) of section 3701.023 of the Revised Code.

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management may transfer, cash from the Resident Protection Fund (Fund 4E30), which is used by the Ohio Department of Job and Family Services, to the Nursing Facility Technical Assistance Program Fund (Fund 5L10), which is used by the Ohio Department of Health, to be used under section 3721.026 of the Revised Code. The transfers shall be up to $698,595 in each fiscal year of the biennium.

GENERAL REVENUE FUND TRANSFER TO THE TOBACCO USE PREVENTION FUND

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to $500,000 cash from the General Revenue Fund to the Tobacco Use Prevention Fund (Fund 5BX0), used by the Department of Health.

SECTION 291.30. EARLY INTERVENTION WORKGROUP

(A) The Department of Health shall convene a workgroup to develop recommendations for eligibility criteria for early intervention services to be provided pursuant to Part C of the "Individuals with Disability Education Act," 118 Stat. 2744 (2004), 20 U.S.C. 1431 et seq. The recommendations shall be based on available funds and national data related to the identification of infants and toddlers who have developmental delays or are most at risk for developmental delays and, in either case, would benefit from early intervention services.

(B) The workgroup shall be facilitated by the Department and shall be composed of all of the following members:

(1) A representative from the Department of Developmental Disabilities;

(2) A representative from the Department of Education;

(3) A representative from the Department of Mental Health;

(4) A representative from the Help Me Grow Advisory Council;

(5) A parent member of the Help Me Grow Advisory Council;

(6) A representative from the Ohio Family and Children First Cabinet Council;

(7) A representative from the Ohio Family and Children First Association;

(8) A county Help Me Grow project director;

(9) A representative from the Ohio Council of Behavioral Health and Family Services Providers;

(10) A representative from the Ohio Association for Infant Mental Health;

(11) A representative from the Ohio Association of County Boards of Developmental Disabilities;

(12) A representative from the Ohio Superintendents of County Boards of Developmental Disabilities;

(13) A representative from the Ohio chapter of the American Academy of Pediatrics;

(14) A public health nurse from a board of health of a city or general health district, or an authority having the duties of a board of health;

(15) A representative from the Department of Job and Family Services;

(16) The executive director of the Ohio Developmental Disabilities Council or the director's designee;

(17) A representative of the County Commissioners Association of Ohio.

(C) The Department shall convene the workgroup not later than July 15, 2011. The workgroup shall present to the Director of Health its recommendations for eligibility criteria for Part C early intervention services not later than October 1, 2011. After the recommendations are submitted, the Director may accept the recommendations in whole or in part and implement eligibility criteria accordingly.

SECTION 291.40. CERTIFICATE OF NEED FOR NEW NURSING HOME

(A) As used in this section:

"Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

"Population" means that shown by the 2000 regular federal census.

(B) The Director of Health shall accept, for review under section 3702.52 of the Revised Code, a certificate of need application for the establishment, development, and construction of a new nursing home if all of the following conditions are met:

(1) The application is submitted to the Director not later than one

hundred eighty days after the effective date of this section.

(2) The new nursing home is to be located in a county that has a population of at least thirty thousand persons and not more than forty-one thousand persons.

(3) The new nursing home is to be located on a campus that has been in operation for at least twelve years and both of the following are also located on the campus on the effective date of this section:

(a) At least one existing residential care facility with at least twenty-five residents;

(b) At least one existing independent living dwelling for seniors with at least seventy-five residents.

(4) The new nursing home is to have not more than thirty beds to which both of the following apply:

(a) All of the beds are to be transferred from an existing nursing home in the state.

(b) All of the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code.

(C) In reviewing certificate of need applications accepted under this section, the Director shall neither deny an application on the grounds that the new nursing home is to have less than fifty beds nor require an applicant to obtain a waiver of the minimum fifty-bed requirement established by division (I) of rule 3701-12-23 of the Administrative Code.

SECTION 291.50. EXEMPTION FROM CERTIFICATE OF NEED REQUIREMENT

(A) As used in this section:

"2010 bed need determination" means the determination of each county's bed need that the Director of Health made in calendar year 2010.

"Bed need" means the number of long-term care beds that a county needs as determined by the Director of Health pursuant to division (B)(3) of section 3702.593 of the Revised Code.

"Bed need excess" means that a county's bed need is such that one or more long-term care beds could be relocated from the county according to the 2010 bed need determination and regardless of any subsequent bed need determination.

"Bed need shortage" means that a county's bed need is such that one or more long-term care beds could be relocated into the county according to the 2010 bed need determination and regardless of any subsequent bed need determination.

"Bed need shortage quantity" means the number of long-term care beds

that could be relocated into a county with a bed need shortage according to the 2010 bed need determination and regardless of any subsequent bed need determination.

"Existing bed" means a county home bed that is used, or available for use, for skilled nursing care by a resident of the county home on the effective date of this section.

"Skilled nursing care" has the same meaning as in section 3721.01 of the Revised Code.

(B) Notwithstanding sections 3702.51 to 3702.62 of the Revised Code and until January 1, 2014, a county home is not required to obtain a certificate of need to obtain Medicare or Medicaid certification for one or more of the county home's existing beds if all of the following apply:

(1) The county home is located in a county that has a bed need shortage.

(2) No county that borders the county in which the county home is located has a bed need excess or bed need shortage.

(3) The number of the county home's existing beds for which Medicare or Medicaid certification is sought does not exceed the bed need shortage quantity of the county in which the county home is located and the county home obtains Medicare or Medicaid certification for those existing beds not later than December 31, 2013.

SECTION 293.10. HEF HIGHER EDUCATIONAL FACILITY COMMISSION

Agency Fund Group

4610	372601	Operating Expenses	$ 12,500	$	12,500
TOTAL AGY Agency Fund Group			$ 12,500	$	12,500
TOTAL ALL BUDGET FUND GROUPS			$ 12,500	$	12,500

SECTION 295.10. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS

General Revenue Fund

GRF	148100	Personal Services	$ 230,000	$	230,000
GRF	148200	Maintenance	$ 50,000	$	50,000
GRF	148402	Community Projects	$ 37,005	$	44,922
TOTAL GRF General Revenue Fund			$ 317,005	$	324,922

General Services Fund Group

6010	148602	Gifts and Miscellaneous	$ 4,558	$	4,558
TOTAL GSF General Services Fund Group			$ 4,558	$	4,558
TOTAL ALL BUDGET FUND GROUPS			$ 321,563	$	329,480

SECTION 297.10. OHS OHIO HISTORICAL SOCIETY

General Revenue Fund

GRF	360501	Education and Collections	$ 2,368,997	$ 2,368,997
GRF	360502	Site and Museum Operations	$ 3,926,288	$ 3,926,288
GRF	360504	Ohio Preservation Office	$ 290,000	$ 290,000
GRF	360505	National Afro-American Museum	$ 414,798	$ 414,798
GRF	360506	Hayes Presidential Center	$ 281,043	$ 281,043
GRF	360508	State Historical Grants	$ 1,140,570	$ 390,570
GRF	360509	Outreach and Partnership	$ 90,395	$ 90,395
TOTAL GRF General Revenue Fund			$ 8,512,091	$ 7,762,091
TOTAL ALL BUDGET FUND GROUPS			$ 8,512,091	$ 7,762,091

SUBSIDY APPROPRIATION

Upon approval by the Director of Budget and Management, the foregoing appropriation items shall be released to the Ohio Historical Society in quarterly amounts that in total do not exceed the annual appropriations. The funds and fiscal records of the society for fiscal year 2012 and fiscal year 2013 shall be examined by independent certified public accountants approved by the Auditor of State, and a copy of the audited financial statements shall be filed with the Office of Budget and Management. The society shall prepare and submit to the Office of Budget and Management the following:

(A) An estimated operating budget for each fiscal year of the biennium. The operating budget shall be submitted at or near the beginning of each calendar year.

(B) Financial reports, indicating actual receipts and expenditures for the fiscal year to date. These reports shall be filed at least semiannually during the fiscal biennium.

The foregoing appropriations shall be considered to be the contractual consideration provided by the state to support the state's offer to contract with the Ohio Historical Society under section 149.30 of the Revised Code.

HAYES PRESIDENTIAL CENTER

If a United States government agency, including, but not limited to, the National Park Service, chooses to take over the operations or maintenance of the Hayes Presidential Center, in whole or in part, the Ohio Historical Society shall make arrangements with the National Park Service or other United States government agency for the efficient transfer of operations or maintenance.

STATE HISTORICAL GRANTS

Of the foregoing appropriation item 360508, State Historical Grants, $195,285 in each fiscal year shall be granted to the Cincinnati Museum

Center, and $195,285 in each fiscal year shall be granted to the Western Reserve Historical Society.

SECTION 299.10. REP OHIO HOUSE OF REPRESENTATIVES

General Revenue Fund

GRF	025321	Operating Expenses	$ 18,517,093	$ 18,517,093
TOTAL GRF General Revenue Fund			$ 18,517,093	$ 18,517,093

General Services Fund Group

1030	025601	House Reimbursement	$ 1,433,664	$ 1,433,664
4A40	025602	Miscellaneous Sales	$ 37,849	$ 37,849
TOTAL GSF General Services Fund Group			$ 1,471,513	$ 1,471,513
TOTAL ALL BUDGET FUND GROUPS			$ 19,988,606	$ 19,988,606

OPERATING EXPENSES

On July 1, 2011, or as soon as possible thereafter, the Chief Administrative Officer of the House of Representatives may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 025321, Operating Expenses, at the end of fiscal year 2011 to be reappropriated to fiscal year 2012. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2012.

On July 1, 2012, or as soon as possible thereafter, the Chief Administrative Officer of the House of Representatives may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 025321, Operating Expenses, at the end of fiscal year 2012 to be reappropriated to fiscal year 2013. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2013.

HOUSE REIMBURSEMENT

If it is determined by the Chief Administrative Officer of the House of Representatives that additional appropriations are necessary for the foregoing appropriation item 025601, House Reimbursement, the amounts are hereby appropriated.

SECTION 303.10. HFA OHIO HOUSING FINANCE AGENCY

Agency Fund Group

5AZ0	997601	Housing Finance Agency Personal Services	$ 9,800,000	$ 9,800,000
TOTAL AGY Agency Fund Group			$ 9,800,000	$ 9,800,000
TOTAL ALL BUDGET FUND GROUPS			$ 9,800,000	$ 9,800,000

SECTION 305.10. IGO OFFICE OF THE INSPECTOR GENERAL

General Revenue Fund

GRF	965321	Operating Expenses	$	1,124,663	$	1,125,598
TOTAL GRF General Revenue Fund			$	1,124,663	$	1,125,598

General Services Fund Group

5FA0	965603	Deputy Inspector General for ODOT	$	400,000	$	400,000
5FT0	965604	Deputy Inspector General for BWC/OIC	$	425,000	$	425,000
5GI0	965605	Deputy Inspector General for ARRA	$	520,837	$	521,535
TOTAL GSF General Services Fund Group			$	1,345,837	$	1,346,535
TOTAL ALL BUDGET FUND GROUPS			$	2,470,500	$	2,472,133

IGO CASINO-RELATED ACTIVITIES

On July 1, 2011, or as soon as possible thereafter, an amount equal to the unexpended, unencumbered balance of appropriation item 965609, Casino Investigations, at the end of fiscal year 2011 is hereby reappropriated to the same appropriation item for fiscal year 2012, to be used for the performance of the Inspector General's casino-related duties.

DEPUTY INSPECTOR GENERAL FOR FUNDS RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

On July 1, 2011, and on January 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer $225,000 in cash, for each period, from the General Revenue Fund to the Deputy Inspector General for Funds Received through the American Recovery and Reinvestment Act of 2009 Fund (Fund 5GI0), which is created in section 121.53 of the Revised Code.

On July 1, 2012, and on January 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer $225,000 in cash, for each period, from the General Revenue Fund to the Deputy Inspector General for Funds Received through the American Recovery and Reinvestment Act of 2009 Fund (Fund 5GI0).

SECTION 307.10. INS DEPARTMENT OF INSURANCE

Federal Special Revenue Fund Group

3EV0	820610	Health Insurance Premium Review	$	1,000,000	$	1,000,000
3EW0	820611	Health Exchange Planning	$	1,000,000	$	1,000,000
3U50	820602	OSHIIP Operating Grant	$	2,270,726	$	2,270,725
TOTAL FED Federal Special Revenue Fund Group			$	4,270,726	$	4,270,725

State Special Revenue Fund Group						
5540	820601	Operating Expenses - OSHIIP	$	190,000	$	180,000
5540	820606	Operating Expenses	$	22,745,538	$	22,288,550
5550	820605	Examination	$	9,065,684	$	8,934,065
TOTAL SSR State Special Revenue Fund Group			$	32,001,222	$	31,402,615
TOTAL ALL BUDGET FUND GROUPS			$	36,271,948	$	35,673,340

MARKET CONDUCT EXAMINATION

When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or rules administered by the superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 5540).

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES

The Director of Budget and Management, at the request of the Superintendent of Insurance, may transfer funds from the Department of Insurance Operating Fund (Fund 5540), established by section 3901.021 of the Revised Code, to the Superintendent's Examination Fund (Fund 5550), established by section 3901.071 of the Revised Code, only for expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND

Not later than the thirty-first day of July each fiscal year, the Director of Budget and Management shall transfer $5,000,000 from the Department of Insurance Operating Fund (Fund 5540) to the General Revenue Fund.

SECTION 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES

General Revenue Fund						
GRF	600321	Support Services				
		State	$	34,801,760	$	31,932,117
		Federal	$	9,322,222	$	9,207,441
		Support Services Total	$	44,123,982	$	41,139,558
GRF	600410	TANF State	$	151,386,934	$	151,386,934
GRF	600413	Child Care Match/Maintenance of Effort	$	84,732,730	$	84,732,730
GRF	600416	Computer Projects				
		State	$	67,955,340	$	69,263,506
		Federal	$	13,105,167	$	12,937,222
		Computer Projects Total	$	81,060,507	$	82,200,728

GRF	600417	Medicaid Provider Audits	$ 1,312,992	$ 1,312,992
GRF	600420	Child Support Administration	$ 6,163,534	$ 6,065,588
GRF	600421	Office of Family Stability	$ 3,768,929	$ 3,757,493
GRF	600423	Office of Children and Families	$ 5,123,406	$ 4,978,756
GRF	600425	Office of Ohio Health Plans		
		State	$ 13,149,582	$ 15,740,987
		Federal	$ 12,556,921	$ 12,286,234
		Office of Ohio Health Plans Total	$ 25,706,503	$ 28,027,221
GRF	600502	Administration - Local	$ 23,814,103	$ 23,814,103
GRF	600511	Disability Financial Assistance	$ 26,599,666	$ 27,108,734
GRF	600521	Entitlement Administration - Local	$ 72,200,721	$ 72,200,721
GRF	600523	Children and Families Services	$ 53,605,323	$ 53,105,323
GRF	600525	Health Care/Medicaid		
		State	$ 4,313,761,372	$ 4,689,051,017
		Federal	$ 7,530,008,024	$ 8,429,762,527
		Health Care Total	$ 11,843,769,396	$ 13,118,813,544
GRF	600526	Medicare Part D	$ 277,996,490	$ 296,964,743
GRF	600528	Adoption Services		
		State	$ 29,257,932	$ 29,257,932
		Federal	$ 41,085,169	$ 41,085,169
		Adoption Services Total	$ 70,343,101	$ 70,343,101
GRF	600533	Child, Family, and Adult Community & Protective Services	$ 13,500,000	$ 13,500,000
GRF	600534	Adult Protective Services	$ 366,003	$ 366,003
GRF	600535	Early Care and Education	$ 123,596,474	$ 123,596,474
GRF	600537	Children's Hospital	$ 6,000,000	$ 6,000,000
GRF	600540	Second Harvest Food Banks	$ 4,000,000	$ 4,000,000
GRF	600541	Kinship Permanency Incentive Program	$ 2,500,000	$ 3,500,000
TOTAL GRF General Revenue Fund				
		State	$ 5,315,593,291	$ 5,711,636,153
		Federal	$ 7,606,077,503	$ 8,505,278,593
		GRF Total	$ 12,921,670,794	$ 14,216,914,746

General Services Fund Group

4A80	600658	Public Assistance Activities	$ 34,000,000	$ 34,000,000
5C90	600671	Medicaid Program Support	$ 85,800,878	$ 82,839,266
5DL0	600639	Medicaid Revenue and Collections	$ 89,256,974	$ 84,156,974
5DM0	600633	Administration & Operating	$ 20,392,173	$ 19,858,928
5FX0	600638	Medicaid Payment Withholding	$ 5,000,000	$ 6,000,000
5HL0	600602	State and County Shared services	$ 3,020,000	$ 3,020,000
5P50	600692	Prescription Drug Rebate - State	$ 220,600,000	$ 242,600,000
6130	600645	Training Activities	$ 500,000	$ 500,000
TOTAL GSF General Services Fund Group			$ 458,570,025	$ 472,975,168

Federal Special Revenue Fund Group

3270	600606	Child Welfare	$ 29,769,865	$ 29,769,866
3310	600686	Federal Operating	$ 49,128,140	$ 48,203,023
3840	600610	Food Assistance and State Administration	$ 180,381,394	$ 180,381,394
3850	600614	Refugee Services	$ 11,582,440	$ 12,564,952
3950	600616	Special Activities/Child and Family Services	$ 2,259,264	$ 2,259,264
3960	600620	Social Services Block Grant	$ 64,999,999	$ 64,999,998
3970	600626	Child Support	$ 255,812,837	$ 255,813,528
3980	600627	Adoption Maintenance/ Administration	$ 352,183,862	$ 352,184,253
3A20	600641	Emergency Food Distribution	$ 5,000,000	$ 5,000,000
3AW0	600675	Faith Based Initiatives	$ 544,140	$ 544,140
3D30	600648	Children's Trust Fund Federal	$ 2,040,524	$ 2,040,524
3ER0	600603	Health Information Technology	$ 411,661,286	$ 416,395,286
3F00	600623	Health Care Federal	$ 2,637,061,505	$ 2,720,724,869
3F00	600650	Hospital Care Assurance Match	$ 372,784,046	$ 380,645,627
3FA0	600680	Ohio Health Care Grants	$ 9,405,000	$ 20,000,000
3G50	600655	Interagency Reimbursement	$ 1,621,305,787	$ 1,380,391,478
3H70	600617	Child Care Federal	$ 208,290,036	$ 204,813,731
3N00	600628	IV-E Foster Care Maintenance	$ 133,963,142	$ 133,963,142
3S50	600622	Child Support Projects	$ 534,050	$ 534,050
3V00	600688	Workforce Investment Act	$ 176,496,250	$ 172,805,562
3V40	600678	Federal Unemployment Programs	$ 188,680,096	$ 186,723,415
3V40	600679	Unemployment Compensation Review Commission - Federal	$ 4,166,988	$ 4,068,758
3V60	600689	TANF Block Grant	$ 727,968,260	$ 727,968,260
TOTAL FED Federal Special Revenue Fund Group			$ 7,446,018,911	$ 7,302,795,120

State Special Revenue Fund Group

1980	600647	Children's Trust Fund	$ 5,873,637	$ 5,873,848
4A90	600607	Unemployment Compensation Administration Fund	$ 21,924,998	$ 21,424,998
4A90	600694	Unemployment Compensation Review Commission	$ 2,173,167	$ 2,117,031
4E30	600605	Nursing Home Assessments	$ 2,878,320	$ 2,878,319
4E70	600604	Child and Family Services Collections	$ 400,000	$ 400,000
4F10	600609	Children and Family Services Activities	$ 683,359	$ 683,549
4K10	600621	ICF/MR Bed Assessments	$ 41,405,596	$ 44,372,874
4Z10	600625	HealthCare Compliance	$ 11,551,076	$ 14,582,000
5AJ0	600631	Money Follows the Person	$ 5,483,080	$ 4,733,080
5DB0	600637	Military Injury Grants	$ 2,000,000	$ 2,000,000
5DP0	600634	Adoption Assistance Loan	$ 500,000	$ 500,000
5ES0	600630	Food Assistance	$ 500,000	$ 500,000
5GF0	600656	Medicaid - Hospital	$ 436,000,000	$ 436,000,000
5KC0	600682	Health Care Special Activities	$ 10,000,000	$ 10,000,000
5R20	600608	Medicaid-Nursing Facilities	$ 402,489,308	$ 407,100,746

5S30	600629	MR/DD Medicaid Administration and Oversight	$ 9,252,738	$ 9,147,791
5U30	600654	Health Care Services Administration	$ 24,400,000	$ 24,400,000
5U60	600663	Children and Family Support	$ 4,000,000	$ 4,000,000
6510	600649	Hospital Care Assurance Program Fund	$ 212,526,123	$ 217,008,050
TOTAL SSR State Special Revenue Fund Group			$ 1,194,041,402	$ 1,207,722,286
Agency Fund Group				
1920	600646	Support Intercept - Federal	$ 130,000,000	$ 130,000,000
5830	600642	Support Intercept - State	$ 16,000,000	$ 16,000,000
5B60	600601	Food Assistance Intercept	$ 2,000,000	$ 2,000,000
TOTAL AGY Agency Fund Group			$ 148,000,000	$ 148,000,000
Holding Account Redistribution Fund Group				
R012	600643	Refunds and Audit Settlements	$ 2,200,000	$ 2,200,000
R013	600644	Forgery Collections	$ 10,000	$ 10,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 2,210,000	$ 2,210,000
TOTAL ALL BUDGET FUND GROUPS			$ 22,170,511,132	$ 23,350,617,320

SECTION 309.20. SUPPORT SERVICES

SECTION 309.20.10. ADMINISTRATION AND OPERATING

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management may transfer up to $535,300 cash from the TANF Quality Control Reinvestments Fund (Fund 5Z90) to the Administration and Operating Fund (Fund 5DM0). Upon completion of the transfer, Fund 5Z90 is abolished.

Of the foregoing appropriation item 600633, Administration and Operating, the Department of Job and Family Services shall use up to $535,300 to pay for one-time contract expenses.

SECTION 309.20.20. TRANSFER TO STATE AND COUNTY SHARED SERVICES FUND

Within thirty days of the effective date of this act, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unencumbered cash balance in the County Technologies Fund (Fund 5N10) to the State and County Shared Services Fund (Fund 5HL0). The transferred cash is hereby appropriated.

SECTION 309.20.30. AGENCY FUND GROUP

The Agency Fund Group and Holding Account Redistribution Fund Group shall be used to hold revenues until the appropriate fund is determined or until the revenues are directed to the appropriate governmental agency other than the Department of Job and Family Services. If receipts credited to the Support Intercept – Federal Fund (Fund 1920), the Support Intercept – State Fund (Fund 5830), the Food Stamp Offset Fund (Fund 5B60), the Refunds and Audit Settlements Fund (Fund R012), or the Forgery Collections Fund (Fund R013) exceed the amounts appropriated from the fund, the Director of Job and Family Services may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 309.30. MEDICAID

SECTION 309.30.10. HEALTH CARE/MEDICAID

The foregoing appropriation item 600525, Health Care/Medicaid, shall not be limited by section 131.33 of the Revised Code.

SECTION 309.30.13. MEDICAID RESERVE FUND

There is hereby created in the state treasury the Medicaid Reserve Fund. The Director of Budget and Management may transfer up to $129,113,790 cash from the General Revenue Fund to the Medicaid Reserve Fund during the FY 2012-FY 2013 biennium. Money in the fund may be used for the Medicaid Program upon request of the Director of Job and Family Services and approval of the Director of Budget and Management. As necessary, the Director of Budget and Management is authorized to transfer cash from the Medicaid Reserve Fund to the General Revenue Fund. Appropriations in appropriation item 600525, Health Care/Medicaid, shall be increased by the amounts of such transfers and corresponding federal matching funds. Such amounts are hereby appropriated.

SECTION 309.30.20. UNIFIED LONG TERM CARE

The foregoing appropriation item 600525, Health Care/Medicaid, may

be used to provide the preadmission screening and resident review (PASRR), which includes screening, assessments, and determinations made under sections 5111.204, 5119.061, and 5123.021 of the Revised Code.

The foregoing appropriation item 600525, Health Care/Medicaid, may be used to assess and provide long-term care consultations under section 173.42 of the Revised Code to clients regardless of Medicaid eligibility.

The foregoing appropriation item 600525, Health Care/Medicaid, may be used to provide nonwaiver funded PASSPORT and assisted living services to persons who the state department has determined to be eligible to participate in the nonwaiver funded PASSPORT and assisted living programs, who applied for but have not yet been determined to be financially eligible to participate in the Medicaid waiver component of the PASSPORT Home Care Program or the Assisted Living Program by a county department of job and family services, and to persons who are not eligible for Medicaid but were enrolled in the PASSPORT Program prior to July 1, 1990.

The foregoing appropriation item 600525, Health Care/Medicaid, shall be used to provide the required state match for federal Medicaid funds supporting the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program.

The foregoing appropriation item 600525, Health Care/Medicaid, shall be used to provide the federal matching share of program costs determined by the Department of Job and Family Services to be eligible for Medicaid reimbursement for the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program.

SECTION 309.30.21. ESTIMATED EXPENDITURES FOR PASSPORT, CHOICES, ASSISTED LIVING, AND PACE PROGRAMS

(A) Of the funds appropriated to the Department of Job and Family Services for health care services, it is estimated that $618,772,607 in fiscal year 2012 and $662,261,174 in fiscal year 2013 will be expended on the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program.

(B) The Department of Job and Family Services and the Department of Aging shall jointly monitor the expenditures made under division (A) of this section at regular intervals, and shall use the following criteria in monitoring such expenditures:

(1) For fiscal year 2012 and fiscal year 2013, per member per month spending for PASSPORT and Choices services will be provided at

approximately the same levels as provided during fiscal year 2011;

(2) For fiscal year 2012 and fiscal year 2013, per member per month spending for PASSPORT Administrative Agency case management functions will be maintained at fiscal year 2011 levels;

(3) For fiscal year 2012, spending for PASSPORT Administrative Agency site operation functions will be ninety-five per cent of the level provided in fiscal year 2011. For fiscal year 2013, spending for PASSPORT Administrative Agency site operation functions will be ninety-five per cent of the level provided in fiscal year 2012.

(C) The Department of Job and Family Services and the Department of Aging shall identify any significant variance in expenditures from the overall funding levels provided under divisions (A) and (B) of this section, and shall take corrective action where variances may adversely affect the delivery of Medicaid waiver-funded PASSPORT Home Care, Choices, Assisted Living, and PACE services.

SECTION 309.30.23. HATTIE LARLHAM COMMUNITY LIVING

Of the foregoing appropriation item 600525, Health Care/Medicaid, $62,500 in each fiscal year shall be awarded to Hattie Larlham Community Living.

SECTION 309.30.30. REDUCTION IN MEDICAID PAYMENT RATES

(A) As used in this section, "charge high trim point" means a measure, excluding the measure established by paragraph (A)(6) of rule 5101:3-2-07.9 of the Administrative Code, used to determine whether a claim for a hospital inpatient service qualifies for a cost outlier payment under the Medicaid program.

(B) For fiscal year 2012 and fiscal year 2013, the Director of Job and Family Services shall implement purchasing strategies and rate reductions for hospital and other Medicaid-covered services, as determined by the Director, that result in payment rates for those services being at least two per cent less than the respective payment rates for fiscal year 2011. In implementing the purchasing strategies and rate reductions, the Director shall do the following:

(1) Notwithstanding the section of this act titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES," modernize hospital inpatient and outpatient reimbursement methodologies by doing the following:

(a) Modifying the inpatient hospital capital reimbursement

methodology;

(b) Establishing new diagnosis-related groups in a cost-neutral manner;

(c) For hospital discharges that occur during the period beginning October 1, 2011, and ending January 1, 2012, modifying charge high trim points, as in effect on January 1, 2011, by a factor of 13.6%;

(d) For hospital discharges that occur during the period beginning January 1, 2012, and ending on the effective date of the first of the new diagnosis-related groups established under division (B)(1)(b) of this section, modifying charge high trim points, as in effect on October 1, 2011, by a factor of 9.72%;

(e) Implementing other changes the Director considers appropriate.

(2) Establish selective contracting and prior authorization requirements for types of medical assistance the Director identifies.

(C) The Director shall adopt rules under section 5111.02 and 5111.85 of the Revised Code as necessary to implement this section.

(D) This section does not apply to nursing facility and intermediate care facility for the mentally retarded services provided under the Medicaid program.

SECTION 309.30.31. FISCAL YEAR 2012 MEDICARE COPAYMENT FOR DIALYSIS SERVICES PROVIDED TO MEDICAID RECIPIENTS

(A) As used in this section, "dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).

(B) Notwithstanding any conflicting provision of section 5111.021 of the Revised Code or any other conflicting provision of the Revised Code or this act, in fiscal year 2012, for dialysis services provided to a dual eligible individual, the Department of Job and Family Services shall pay under the Medicaid program an amount equal to the Medicare copayment amount that applies to the service, as that amount was paid by the Department immediately prior to the effective date of this section.

SECTION 309.30.32. FISCAL YEAR 2013 MEDICAID RATE FOR DIALYSIS SERVICES

In fiscal year 2013, the Department of Job and Family Services may adjust the Medicaid rates that are paid for dialysis services by an amount sufficient to achieve aggregate savings of not more than $9 million in state share expenditures under the Medicaid program. The aggregate savings shall include any savings that may be achieved through measures taken with

regard to dialysis services under the section of this act titled "REDUCTION IN MEDICAID PAYMENT RATES.

SECTION 309.30.33. HOSPITAL INPATIENT AND OUTPATIENT SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE HOSPITAL INCENTIVE PAYMENT PROGRAM

(A) As used in this section:

(1) "Hospital" has the same meaning as in section 5112.40 of the Revised Code.

(2) "Hospital Assessment Fund" means the fund created under section 5112.45 of the Revised Code.

(3) "Medicaid managed care organization" means an entity under contract pursuant to section 5111.17 of the Revised Code to provide or arrange services for Medicaid recipients who are required or permitted to participate in the Medicaid care management system.

(B) The Department of Job and Family Services shall submit to the United States Secretary of Health and Human Services a Medicaid state plan amendment to do both of the following:

(1) Continue the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program that was established pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th General Assembly, with any modifications necessary to implement the program as described under division (D) of this section;

(2) Create the Medicaid Managed Care Hospital Incentive Payment Program, as described under division (E) of this section.

(C) Of the amounts deposited into the Hospital Assessment Fund in fiscal year 2012 and fiscal year 2013:

(1) Up to $432,432,725 (state and federal) in fiscal year 2012 and up to $415,162,388 (state and federal) in fiscal year 2013 shall be used for the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program;

(2) Up to $162,000,000 (state and federal) in each fiscal year shall be used for the Medicaid Managed Care Hospital Incentive Payment Program;

(3) Up to $176,021,111 (state and federal) in fiscal year 2012 and up to $195,158,394 (state and federal) in fiscal year 2013 shall be used for the program authorized by the section of this act titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES."

(D)(1) If the Medicaid state plan amendment submitted under division (B)(1) of this section is approved, the Department shall implement the

Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program during fiscal year 2012 and fiscal year 2013. Under the Program, subject to division (D)(2) of this section, supplemental Medicaid payments shall be made to hospitals for Medicaid-covered inpatient and outpatient services. The Department shall make the payments through amounts that are made available for the Program under division (C) of this section and any federal financial participation available for the Program.

(2) The Department shall take all actions necessary to cease implementation of the Program if the United States Secretary determines that the assessment imposed under section 5112.41 of the Revised Code is an impermissible healthcare-related tax under section 1903(w) of the "Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C. 1396b(w), as amended.

(E)(1) If the Medicaid state plan amendment submitted under division (B)(2) of this section is approved, the Department shall implement the Medicaid Managed Care Hospital Incentive Payment Program. The purpose of the Program is to increase access to hospital services for Medicaid recipients who are enrolled in Medicaid managed care organizations.

Under the Program, subject to division (E)(3) of this section, funds shall be provided to Medicaid managed care organizations, which shall use the funds to increase payments to hospitals for providing services to Medicaid recipients who are enrolled in the organizations. The Department shall provide the funds through amounts that are made available for the Program under division (C) of this section and any federal financial participation available for the Program.

(2) Not later than July 1, 2012, the Department shall select an actuary to conduct a study of the contracted reimbursement rates between Medicaid managed care organizations and hospitals. The actuary shall determine if a reduction in the capitation rates paid to Medicaid managed care organizations in fiscal year 2013 is appropriate as a result of the contracted reimbursement rates between the organizations and hospitals. The actuary shall notify the Department of its determination.

If the actuary determines that a reduction in the capitation rates paid to Medicaid managed care organizations in fiscal year 2013 will not achieve $22 million in state savings in fiscal year 2013, the state shall receive the difference between what the actuary determines the state will save and $22 million. The Department, in consultation with the Ohio Association of Health Plans and the Ohio Hospital Association, shall establish a methodology under which the difference is paid equally by Medicaid managed care organizations and hospitals in this state.

Notwithstanding anything to the contrary specified in division (E)(3)(b)

or (c) of this section, the Medicaid managed care organizations and hospitals shall pay the amounts determined under the methodology, unless the Department waives the requirement to make the payments. The requirement may be waived if spending for the Medicaid program in fiscal year 2013 is less than the amount that is budgeted for that fiscal year. If payments are made, the amount received by the Department shall be deposited into the state treasury to the credit of the Health Care Compliance Fund created under section 5111.171 of the Revised Code.

(3)(a) The Department shall not provide funds to Medicaid managed care organizations under the Program unless an actuary selected by the Department certifies that the Program would not violate the actuarial soundness of the capitation rates paid to Medicaid managed care organizations.

(b) The Department shall not implement the Program in a manner that causes a hospital to receive less money from the Hospital Assessment Fund than the hospital would have received if the Program were not implemented.

(c) The Department shall not implement the Program in a manner that causes a Medicaid managed care organization to receive a lower capitation payment rate solely because funds are made available to the organization under the Program.

(d) The Department shall take all necessary actions to cease implementation of the Program if the United States Secretary determines that the assessment imposed under section 5112.41 of the Revised Code is an impermissible healthcare-related tax under section 1903(w) of the "Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C. 1396b(w), as amended.

(F) The Director of Budget and Management may authorize additional expenditures from appropriation item 600623, Health Care Federal, appropriation item 600525, Health Care/Medicaid, and appropriation item 600656, Medicaid-Hospital, in order to implement the programs authorized by this section and to implement the section of this act titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES." Any amounts authorized are hereby appropriated.

(G) Nothing in this section reduces payments to children's hospitals authorized under the section of this act titled "CHILDREN'S HOSPITALS SUPPLEMENTAL FUNDING."

SECTION 309.30.35. CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES

The Director of Job and Family Services shall amend rules adopted

under section 5111.02 of the Revised Code as necessary to continue, for fiscal year 2012 and fiscal year 2013, the Medicaid reimbursement rates in effect on June 30, 2011, for Medicaid-covered hospital inpatient services and hospital outpatient services that are paid under the prospective payment system established in those rules.

SECTION 309.30.38. CHILDREN'S HOSPITALS SUPPLEMENTAL FUNDING

(A) As used in this section, "children's hospital" means a children's hospital, as defined in section 3702.51 of the Revised Code, that is located in this state, primarily serves patients eighteen years of age and younger, is subject to the Medicaid prospective payment system for hospitals established in rules adopted under section 5111.02 of the Revised Code, and is excluded from Medicare prospective payment in accordance with 42 C.F.R. 412.23(d).

(B) For fiscal year 2012 and fiscal year 2013, the Director of Job and Family Services shall make additional Medicaid payments to children's hospitals for inpatient services to compensate children's hospitals for the high percentage of Medicaid recipients they serve. The additional payments shall be made under a program modeled after the program the Department of Job and Family Services was required to create for fiscal year 2006 and fiscal year 2007 in Section 206.66.79 of Am. Sub. H.B. 66 of the 126th General Assembly. The program may be the same as the program the Director used for making the payments to children's hospitals for fiscal year 2010 and fiscal year 2011 under Section 309.30.15 of Am. Sub. H.B. 1 of the 128th General Assembly.

(C) All of the following shall be used to make additional Medicaid payments to children's hospitals under division (B) of this section:

(1) Of the foregoing appropriation item 600537, Children's Hospital, up to $6 million in each fiscal year plus the corresponding federal match;

(2) Of the amounts deposited into the Hospital Assessment Fund created under section 5112.45 of the Revised Code, $4.4 million in fiscal year 2012, plus the corresponding federal match, and $4 million in fiscal year 2013, plus the corresponding federal match.

SECTION 309.30.40. MANAGED CARE PERFORMANCE PAYMENT PROGRAM

At the beginning of each quarter, or as soon as possible thereafter, the Director of Job and Family Services shall certify to the Director of Budget

and Management the amount withheld in accordance with section 5111.1711 of the Revised Code for purposes of the Managed Care Performance Payment Program. Upon receiving certification, the Director of Budget and Management shall transfer cash in the amount certified from the General Revenue Fund to the Managed Care Performance Payment Fund. The transferred cash is hereby appropriated. Appropriation item 600525, Health Care/Medicaid, is hereby reduced by the amount of the transfer.

SECTION 309.30.50. COORDINATION OF CARE FOR COVERED FAMILIES AND CHILDREN PENDING MEDICAID MANAGED CARE ENROLLMENT

(A) As used in this section, "Medicaid managed care" means the care management system established under section 5111.16 of the Revised Code.

(B) The departments of Job and Family Services and Health shall work together on the issue of achieving efficiencies in the delivery of medical assistance provided under Medicaid to families and children.

(C) As part of their work under division (B) of this section, the departments shall develop a proposal for coordinating medical assistance provided to families and children under Medicaid while they wait to be enrolled in Medicaid managed care. In developing the proposal, the departments may do the following:

(1) Conduct research on the status of families and children waiting to be enrolled in Medicaid managed care, including research on the reasons for the wait and the utilization of medical assistance during the waiting period;

(2) Conduct a review of ways to help families and children receive medical assistance in the most appropriate setting while they wait to be enrolled in Medicaid managed care;

(3) Develop recommendations for a coordinated, cost-effective system of helping families and children waiting to be enrolled in Medicaid managed care find the medical assistance they need during the waiting period;

(4) For the purpose of reducing the waiting period for enrollment in Medicaid managed care, develop recommendations for improving the enrollment processes.

(D) As part of the work that is done under division (B) of this section, the Department of Job and Family Services may submit to the United States Secretary of Health and Human Services a request for a Medicaid state plan amendment to authorize payment for Medicaid-reimbursable targeted case management services that are provided in connection with the Help Me Grow Program and for services provided under the Program. Each quarter during fiscal year 2012 and fiscal year 2013 following approval of the

Medicaid state plan amendment, the Department of Job and Family Services shall certify to the Director of Budget and Management the state and federal share of the amount the Department of Job and Family Services has expended that quarter for services under this section. On receipt of each quarterly certification to the Director of Budget and Management shall decrease appropriation from appropriation item 440459, Help Me Grow, an amount equal to the state share of the certified expenditures and increase appropriation item 600525, Health Care/Medicaid by an equal amount and adjust the Federal share accordingly. This transfer is not intended to reduce General Revenue Funds appropriated for the Help Me Grow Program, but is done solely for the purpose of drawing down the federal share of Medicaid reimbursement.

SECTION 309.30.53. MEDICAID MANAGED CARE EXEMPTIONS

Notwithstanding section 5111.16 of the Revised Code, as amended by this act, the Department of Job and Family Services shall not include in the care management system established under that section in either fiscal year 2012 or fiscal year 2013 any individual receiving services through the program for medically handicapped children established under section 3701.023 of the Revised Code who has one or more of the following conditions and who was not receiving services through the care management system immediately before the effective date of this section:

(1) Cystic fibrosis;

(2) Hemophilia;

(3) Cancer.

SECTION 309.30.55. PRIOR AUTHORIZATION FOR COMMUNITY MENTAL HEALTH SERVICES

(A) As used in this section, "community mental health services" means mental health services included in the state Medicaid plan pursuant to section 5111.023 of the Revised Code.

(B) For fiscal year 2012 and fiscal year 2013, a Medicaid recipient who is under twenty-one years of age automatically satisfies all requirements for any prior authorization process for community mental health services provided under a component of the Medicaid program administered by the Department of Mental Health pursuant to an interagency agreement authorized by section 5111.91 of the Revised Code if any of the following apply to the recipient:

(1) The recipient is in the temporary custody or permanent custody of a

public children services agency or private child placing agency or is in a planned permanent living arrangement.

(2) The recipient has been placed in protective supervision by a juvenile court.

(3) The recipient has been committed to the Department of Youth Services.

(4) The recipient is an alleged or adjudicated delinquent or unruly child receiving services under the Felony Delinquent Care and Custody Program operated under section 5139.43 of the Revised Code.

SECTION 309.30.60. FISCAL YEAR 2012 MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES

(A) As used in this section:

"Franchise permit fee," "Medicaid days," "nursing facility," and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"Nursing facility services" means nursing facility services covered by the Medicaid program that a nursing facility provides to a resident of the nursing facility who is a Medicaid recipient eligible for Medicaid-covered nursing facility services.

(B) Except as otherwise provided by this section, the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2011, and a valid Medicaid provider agreement during fiscal year 2012 shall be paid, for nursing facility services the nursing facility provides during fiscal year 2012, the rate calculated for the nursing facility under sections 5111.20 to 5111.331 of the Revised Code with the following adjustments:

(1) For the purpose of determining the nursing facility's rate for direct care costs under section 5111.231 of the Revised Code, the nursing facility's semiannual case-mix score for the period beginning July 1, 2011, and ending January 1, 2012, shall be the same as the semiannual case-mix score, as determined under section 5111.232 of the Revised Code, used in calculating the nursing facility's June 30, 2011, rate for direct care costs.

(2) The cost per case mix-unit calculated under section 5111.231 of the Revised Code, the rate for ancillary and support costs calculated under section 5111.24 of the Revised Code, the rate for tax costs calculated under section 5111.242 of the Revised Code, and the rate for capital costs calculated under section 5111.25 of the Revised Code shall each be increased by 5.08 per cent.

(3) The per resident per day rate paid under section 5111.243 of the Revised Code for the franchise permit fee shall be $11.47.

(4) The mean payment used in the calculation of the quality incentive payment made under section 5111.244 of the Revised Code shall be, weighted by Medicaid days, $3.03 per Medicaid day.

(C) If the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2012 is less than 90 per cent of the rate the provider is paid for nursing facility services the nursing facility provides on June 30, 2011, the Department of Job and Family Services, except as provided in division (D) of this section, shall provide for the nursing facility's rate for fiscal year 2012 to be the percentage determined as follows less than its June 30, 2011, rate:

(1) Determine the percentage difference between the nursing facility's June 30, 2011, rate and the rate determined for the nursing facility under division (B) of this section;

(2) Reduce the percentage determined under division (C)(1) of this section by ten percentage points;

(3) Divide the percentage determined under division (C)(2) of this section by two;

(4) Increase the percentage determined under division (C)(3) of this section by ten percentage points.

(D) If the franchise permit fee must be reduced or eliminated to comply with federal law, the Department of Job and Family Services shall reduce the amount it pays providers of nursing facility services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(E) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2011, and a valid Medicaid provider agreement during fiscal year 2012 notwithstanding anything to the contrary in sections 5111.20 to 5111.331 of the Revised Code.

SECTION 309.30.70. FISCAL YEAR 2013 MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES

(A) As used in this section:

"Franchise permit fee," "Medicaid days," "nursing facility," and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"Low resource utilization resident" means a Medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's Medicaid reimbursement rate for direct care costs, is placed in either of the

two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data.

"Nursing facility services" means nursing facility services covered by the Medicaid program that a nursing facility provides to a resident of the nursing facility who is a Medicaid recipient eligible for Medicaid-covered nursing facility services.

(B) Except as otherwise provided by this section, the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2012, and a valid Medicaid provider agreement during fiscal year 2013 shall be paid, for nursing facility services the nursing facility provides during fiscal year 2013, the rate calculated for the nursing facility under sections 5111.20 to 5111.331 of the Revised Code with the following adjustments:

(1) The cost per case mix-unit calculated under section 5111.231 of the Revised Code, the rate for ancillary and support costs calculated under section 5111.24 of the Revised Code, the rate for tax costs calculated under section 5111.242 of the Revised Code, and the rate for capital costs calculated under section 5111.25 of the Revised Code shall each be increased by 5.08 per cent;

(2) The maximum quality incentive payment made under section 5111.244 of the Revised Code shall be $16.44 per Medicaid day.

(C) The rate determined under division (B) of this section shall not be paid for nursing facility services provided to low resource utilization residents. Except as provided in division (D) of this section, the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2012, and a valid Medicaid provider agreement during fiscal year 2013 shall be paid, for nursing facility services the nursing facility provides during fiscal year 2013 to low resource utilization residents, $130.00 per Medicaid day.

(D) If the franchise permit fee must be reduced or eliminated to comply with federal law, the Department of Job and Family Services shall reduce the amount it pays providers of nursing facility services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(E) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2012, and a valid Medicaid provider agreement during fiscal year 2013 notwithstanding anything to the contrary in sections 5111.20 to 5111.331 of the Revised Code.

SECTION 309.30.73. JOINT LEGISLATIVE COMMITTEE FOR UNIFIED LONG-TERM SERVICES AND SUPPORTS

(A) There is hereby created the Joint Legislative Committee for Unified Long-Term Services and Supports. The Committee shall consist of the following members:

(1) Two members of the House of Representatives from the majority party, appointed by the Speaker of the House of Representatives;

(2) One member of the House of Representatives from the minority party, appointed by the Speaker of the House of Representatives;

(3) Two members of the Senate from the majority party, appointed by the President of the Senate;

(4) One member of the Senate from the minority party, appointed by the President of the Senate.

(B) The Speaker of the House of Representatives shall designate one of the members of the Committee appointed under division (A)(1) of this section to serve as co-chairperson of the Committee. The President of the Senate shall designate one of the members of the Committee appointed under division (A)(3) of this section to serve as the other co-chairperson of the Committee. The Committee shall meet at the call of the co-chairpersons. The co-chairpersons may request assistance for the Committee from the Legislative Service Commission.

(C) The Committee may examine the following issues:

(1) The implementation of the dual eligible integrated care demonstration project authorized by section 5111.981 of the Revised Code;

(2) The implementation of a unified long-term services and support Medicaid waiver component under section 5111.864 of the Revised Code;

(3) Providing consumers choices regarding a continuum of services that meet their health-care needs, promote autonomy and independence, and improve quality of life;

(4) Ensuring that long-term care services and supports are delivered in a cost effective and quality manner;

(5) Subjecting county homes, county nursing homes, and district homes operated pursuant to Chapter 5155. of the Revised Code to the franchise permit fee under sections 3721.50 to 3721.58 of the Revised Code;

(6) Other issues of interest to the committee.

(D) The co-chairpersons of the Committee shall provide for the Director of the Office of Ohio Health Plans in the Department of Job and Family Services to testify before the Committee not later than September 30, 2011, and at least quarterly thereafter regarding the issues that the Committee

examines.

SECTION 309.30.80. STUDY OF ICF/MR ISSUES

(A) As used in this section:

"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

"ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code.

"ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services.

(B) The Departments of Job and Family Services and Developmental Disabilities shall study issues regarding Medicaid reimbursement for ICF/MR services. In conducting the study, the Departments shall examine the following:

(1) Revising the Individual Assessment Form Answer Sheet in a manner that provides a more accurate assessment of the acuity and care needs of individuals who need ICF/MR services, especially the acuity and care needs of such individuals who have intensive behavioral or medical needs;

(2) Revising the Medicaid reimbursement formula for ICF/MR services to accomplish the following:

(a) Ensure that reimbursement for capital costs is adequate for maintaining the capital assets of ICFs/MR in a manner that promotes the well-being of the residents;

(b) Provide capital incentives for reducing the capacity of ICFs/MR as necessary to achieve goals regarding the optimal capacity of ICFs/MR;

(c) Ensure that wages paid individuals who provide direct care services to ICF/MR residents are sufficient for ICFs/MR to meet staffing and quality requirements;

(d) Provide incentives for high quality services;

(e) Achieve other goals developed for the purpose of improving the appropriateness and sufficiency of Medicaid reimbursements for ICF/MR services.

(C) The Departments shall examine the issue of revising the Individual Assessment Form Answer Sheet before examining the issue of revising the Medicaid reimbursement formula for ICF/MR services. The Departments shall prepare a report of the study conducted under this section and submit the report to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly.

(D) At the same time that the Departments conduct the study under this section, they shall work with the Governor's Office of Health

Transformation and persons interested in the issue of ICF/MR services to develop recommendations regarding the following:

(1) Goals regarding the ratio of home and community-based services and ICF/MR services provided under the Medicaid program that take into account goals regarding the optimal capacity of ICFs/MR;

(2) The roles and responsibilities of both of the following:

(a) ICFs/MR owned and operated by the Department of Developmental Disabilities;

(b) Providers of home and community-based services.

(3) Simplifying and eliminating duplicate regulations regarding ICFs/MR in a manner that lowers the cost of ICF/MR services.

SECTION 309.30.90. FISCAL YEAR 2012 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR

(A) As used in this section:

"Capped per diem rate" means the per diem rate calculated for an ICF/MR under division (D) of this section.

"Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code.

"Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code.

"ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services.

"Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an ICF/MR that is included in the ICF/MR's Medicaid-certified capacity. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the ICF/MR's per resident per day rate paid for those days.

"Modified per diem rate" means the per diem rate calculated for an ICF/MR under division (C) of this section.

"Unmodified per diem rate" means the per diem rate calculated for an ICF/MR under sections 5111.20 to 5111.331 of the Revised Code.

(B) This section applies to each provider of an ICF/MR to which either of the following applies:

(1) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2011, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2012.

(2) The ICF/MR undergoes a change of operator that takes effect during fiscal year 2012, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on the day immediately preceding the effective date of the change of operator, and the entering operator has a valid Medicaid provider agreement for the ICF/MR during fiscal year 2012.

(C) An ICF/MR's total modified per diem rate for fiscal year 2012 shall be the ICF/MR's total unmodified per diem rate for that fiscal year with the following modifications:

(1) In place of the inflation adjustment otherwise made under section 5111.235 of the Revised Code, the ICF/MR's desk-reviewed, actual, allowable, per diem other protected costs, excluding the franchise permit fee, from calendar year 2010 shall be multiplied by 1.0123.

(2) In place of the maximum cost per case-mix unit established for the ICF/MR's peer group under division (B)(2) of section 5111.23 of the Revised Code, the ICF/MR's maximum costs per case-mix unit shall be the following:

(a) In the case of an ICF/MR with more than eight beds, $108.21;

(b) In the case of an ICF/MR with eight or fewer beds, $102.21.

(3) In place of the inflation adjustment otherwise calculated under division (B)(3) of section 5111.23 of the Revised Code for the purpose of division (C)(2) of that section, an inflation adjustment of 1.0123 shall be used.

(4) In place of the maximum rate for indirect care costs established for the ICF/MR's peer group under division (B) of section 5111.241 of the Revised Code, the maximum rate for indirect care costs for the ICF/MR's peer group shall be the following:

(a) In the case of an ICF/MR with more than eight beds, $68.98;

(b) In the case of an ICF/MR with eight or fewer beds, $59.60.

(5) In place of the inflation adjustment otherwise calculated under division (C)(1) of section 5111.241 of the Revised Code for the purpose of division (A)(1) of that section only, an inflation adjustment of 1.0123 shall be used.

(6) In place of the efficiency incentive otherwise calculated under division (A)(2) of section 5111.241 of the Revised Code, the ICF/MR's efficiency incentive for indirect care costs shall be the following:

(a) In the case of an ICF/MR with more than eight beds, $3.69;

(b) In the case of an ICF/MR with eight or fewer beds, $3.19.

(7) The ICF/MR's efficiency incentive for capital costs, as determined under division (B) of section 5111.251 of the Revised Code, shall be reduced by 50 per cent.

(D) An ICF/MR's total capped per diem rate for fiscal year 2012 shall be the ICF/MR's total unmodified per diem rate for that fiscal year reduced by the percentage by which the mean total unmodified per diem rates for all ICFs/MR in this state for fiscal year 2012, weighted by May 2011 Medicaid days and calculated as of July 1, 2011, exceeds $282.59.

(E) Except as otherwise provided by this section, the provider of an ICF/MR to which this section applies shall be paid, for ICF/MR services the ICF/MR provides during fiscal year 2012, a total per diem rate determined as follows:

(1) Add the ICF/MR's total modified per diem rate to the ICF/MR's total capped per diem rate;

(2) Divide the amount determined under division (E)(1) of this section by two.

(F) If the mean total per diem rate for all ICFs/MR to which this section applies, weighted by May 2011 Medicaid days and determined under division (E) of this section as of July 1, 2011, is other than $282.59, the Department of Job and Family Services shall adjust, for fiscal year 2012, the total per diem rate for each ICF/MR to which this section applies by a percentage that is equal to the percentage by which the mean total per diem rate is greater or less than $282.59.

(G) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of ICF/MR services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(H) The Department of Job and Family Services shall follow this section in determining the rate to be paid providers of ICF/MR services subject to this section notwithstanding anything to the contrary in sections 5111.20 to 5111.331 of the Revised Code.

SECTION 309.33.10. FISCAL YEAR 2013 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR

(A) As used in this section:

"Capped per diem rate" means the per diem rate calculated for an ICF/MR under division (D) of this section.

"Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code.

"Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code.

"ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services.

"Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an ICF/MR that is included in the ICF/MR's Medicaid-certified capacity. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the ICF/MR's per resident per day rate paid for those days.

"Modified per diem rate" means the per diem rate calculated for an ICF/MR under division (C) of this section.

"Unmodified per diem rate" means the per diem rate calculated for an ICF/MR under sections 5111.20 to 5111.331 of the Revised Code.

(B) This section applies to each provider of an ICF/MR to which either of the following applies:

(1) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2012, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2013.

(2) The ICF/MR undergoes a change of operator that takes effect during fiscal year 2013, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on the day immediately preceding the effective date of the change of operator, and the entering operator has a valid Medicaid provider agreement for the ICF/MR during fiscal year 2013.

(C) An ICF/MR's total modified per diem rate for fiscal year 2013 shall be the ICF/MR's total unmodified per diem rate for that fiscal year with the following modifications:

(1) In place of the inflation adjustment otherwise made under section 5111.235 of the Revised Code, the ICF/MR's desk-reviewed, actual, allowable, per diem other protected costs, excluding the franchise permit fee, from calendar year 2011 shall be multiplied by 1.0123.

(2) In place of the maximum cost per case-mix unit established for the ICF/MR's peer group under division (B)(2) of section 5111.23 of the Revised Code, the ICF/MR's maximum costs per case-mix unit shall be the following:

(a) In the case of an ICF/MR with more than eight beds, $108.21;

(b) In the case of an ICF/MR with eight or fewer beds, $102.21.

(3) In place of the inflation adjustment otherwise calculated under division (B)(3) of section 5111.23 of the Revised Code for the purpose of division (C)(2) of that section, an inflation adjustment of 1.0123 shall be

used.

(4) In place of the maximum rate for indirect care costs established for the ICF/MR's peer group under division (B) of section 5111.241 of the Revised Code, the maximum rate for indirect care costs for the ICF/MR's peer group shall be the following:

(a) In the case of an ICF/MR with more than eight beds, $68.98;

(b) In the case of an ICF/MR with eight or fewer beds, $59.60.

(5) In place of the inflation adjustment otherwise calculated under divisions (C)(1) and (2) of section 5111.241 of the Revised Code for the purpose of division (A)(1) of that section only, an inflation adjustment of 1.0123 shall be used.

(6) In place of the efficiency incentive otherwise calculated under division (A)(2) of section 5111.241 of the Revised Code, the ICF/MR's efficiency incentive for indirect care costs shall be the following:

(a) In the case of an ICF/MR with more than eight beds, $3.69;

(b) In the case of an ICF/MR with eight or fewer beds, $3.19.

(7) The ICF/MR's efficiency incentive for capital costs, as determined under division (B) of section 5111.251 of the Revised Code, shall be reduced by 50 per cent.

(D) An ICF/MR's total capped per diem rate for fiscal year 2013 shall be the ICF/MR's total unmodified per diem rate for that fiscal year reduced by the percentage by which the mean total unmodified per diem rates for all ICFs/MR in this state for fiscal year 2013, weighted by May 2012 Medicaid days and calculated as of July 1, 2012, exceeds $282.92.

(E) Except as otherwise provided by this section, the provider of an ICF/MR to which this section applies shall be paid, for ICF/MR services the ICF/MR provides during fiscal year 2013, a total per diem rate determined as follows:

(1) Add the ICF/MR's total modified per diem rate to the ICF/MR's total capped per diem rate;

(2) Divide the amount determined under division (E)(1) of this section by two.

(F) If the mean total per diem rate for all ICFs/MR to which this section applies, weighted by May 2012 Medicaid days and determined under division (E) of this section as of July 1, 2012, is other than $282.92, the Department of Job and Family Services shall adjust, for fiscal year 2013, the total per diem rate for each ICF/MR to which this section applies by a percentage that is equal to the percentage by which the mean total per diem rate is greater or less than $282.92.

(G) If the United States Centers for Medicare and Medicaid Services

requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of ICF/MR services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(H) The Department of Job and Family Services shall follow this section in determining the rate to be paid providers of ICF/MR services subject to this section notwithstanding anything to the contrary in sections 5111.20 to 5111.331 of the Revised Code.

SECTION 309.33.20. ICF/MR AND WAIVER SERVICES TRANSFERRED TO DEPARTMENT OF DEVELOPMENTAL DISABILITIES

The Director of Budget and Management shall establish line items for use by the Department of Developmental Disabilities for purposes regarding the Department's assumption of powers and duties under section 5111.226 of the Revised Code regarding the Medicaid program's coverage of ICF/MR services and, under section 5111.871 of the Revised Code, the Medicaid waiver component known as the Transitions Developmental Disabilities Waiver. The Department of Developmental Disabilities shall certify to the Director of Budget and Management and the Director of Job and Family Services the appropriation amounts, in fiscal year 2012 and fiscal year 2013, necessary for the Department of Developmental Disabilities to fulfill its obligations regarding the new powers and duties without duplicating administration or services that remain with the Department of Job and Family Services.

Once the certification required under this section has been submitted and approved by the Directors of Budget and Management and Job and Family Services, the appropriation items established under this section are hereby appropriated in the amounts approved by the Director of Budget and Management. The Director of Budget and Management may reduce the amount of one or more of the Department of Job and Family Services' appropriation items if the Director determines that the reduction is necessary and appropriate because of the appropriation items established under this section for the Department of Developmental Disabilities. The appropriations are hereby reduced by the amount as determined by the Director of Budget and Management.

SECTION 309.33.30. ADMINISTRATIVE ISSUES RELATED TO

TERMINATION OF MEDICAID WAIVER PROGRAMS

(A) As used in this section, "ODJFS or ODA Medicaid waiver component" means the following:

(1) The Medicaid waiver component of the PASSPORT program created under section 173.40 of the Revised Code;

(2) The Choices program created under section 173.403 of the Revised Code;

(3) The Ohio Home Care program created under section 5111.861 of the Revised Code;

(4) The Ohio Transitions II Aging Carve-Out program created under section 5111.863 of the Revised Code;

(5) The Medicaid waiver component of the Assisted Living program created under section 5111.89 of the Revised Code.

(B) If an ODJFS or ODA Medicaid waiver component is terminated under section 173.40, 173.403, 5111.861, 5111.863, or 5111.89 of the Revised Code, all of the following apply:

(1) All applicable statutes, and all applicable rules, standards, guidelines, or orders issued by the Director or Department of Job and Family Services or Director or Department of Aging before the component is terminated, shall remain in full force and effect on and after that date, but solely for purposes of concluding the component's operations, including fulfilling the Departments' legal obligations for claims arising from the component relating to eligibility determinations, covered medical assistance provided to eligible persons, and recovering erroneous overpayments.

(2) Notwithstanding the termination of the component, the right of subrogation for the cost of medical assistance given under section 5101.58 of the Revised Code to the Department of Job and Family Services and an assignment of the right to medical assistance given under section 5101.59 of the Revised Code to the Department continue to apply with respect to the component and remain in force to the full extent provided under those sections.

(3) The Departments of Job and Family Services and Aging may use appropriated funds to satisfy any claims or contingent claims for medical assistance provided under the component before the component's termination.

(4) Neither department has liability under the component to reimburse any provider or other person for claims for medical assistance rendered under the component after it is terminated.

(C) The Directors of Job and Family Services and Aging may adopt rules in accordance with Chapter 119. of the Revised Code to implement

this section.

SECTION 309.33.40. BEACON QUALITY IMPROVEMENT INITIATIVES

Building on the quality improvement work of the Best Evidence for Advancing Child Health in Ohio Now (BEACON) Council, the Departments of Health, Mental Health, and Job and Family Services, in conjunction with the Governor's Office of Health Transformation, may seek assistance from, and work with, the BEACON Council and hospitals and other provider groups to identify specific targets and initiatives to reduce the cost, and improve the quality, of medical assistance provided under the Medicaid program to children**.** At a minimum, the targets and initiatives shall focus on reducing all of the following:

(A) Avoidable hospitalizations;

(B) Inappropriate emergency room utilization;

(C) Use of multiple medications when not medically indicated;

(D) The state's rate of premature births;

(E) The state's rate of elective, preterm births.

If the Departments of Health, Mental Health, and Job and Family Services identify initiatives under this section, they shall make the initiatives available on their internet web sites. The Departments shall also make a list of hospitals and other provider groups involved in the initiatives available on their internet web sites.

SECTION 309.33.50. EXPANSION AND EVALUATION OF PACE PROGRAM

(A) In order to effectively administer and manage growth within the PACE Program, the Director of Aging, in consultation with the Director of Job and Family Services, may expand the PACE Program to regions of the state beyond those currently served by the PACE Program if all of the following apply:

(1) Funding is available for the expansion.

(2) The Directors of Aging and Job and Family Services mutually determine, taking into consideration the results of the evaluation conducted under division (B) of this section, that the PACE Program is a cost effective alternative to nursing home care.

(3) The United States Centers for Medicare and Medicaid Services agrees to share with the state any savings to the Medicare program resulting from an expansion of the PACE Program.

(B) The Director of Aging shall contract with Miami University's Scripps Gerontology Center for an evaluation of the PACE program.

(C) If the PACE Program is expanded, the Director of Aging may not decrease the number of individuals in Cuyahoga and Hamilton counties and parts of Butler, Clermont, and Warren counties who are participants in the PACE Program below the number of individuals in those counties and parts of counties who were participants in the PACE Program on July 1, 2011.

SECTION 309.33.60. REPEAL OF THE CHILDREN'S BUY-IN PROGRAM

(A) Notwithstanding sections 5101.5211 to 5101.5216 of the Revised Code and all references in the Revised Code to those sections or the Children's Buy-In Program, no person may enroll in the Program on or after the effective date of this section.

Notwithstanding this act's repeal on October 1, 2011, of the statutes under which the Program is operated, persons enrolled in the Program immediately prior to that date may continue to receive services under the Program, as if those statutes were not repealed. Such persons may receive the services through December 31, 2011, as long as they remain eligible for the Program.

(B) Commencing on the effective date of this section, the Director of Job and Family Services shall take steps as necessary to transition persons enrolled in the Program to other health coverage options and otherwise conclude Program operations.

All Program-related rules, standards, guidelines, or orders issued by the Director or Department of Job and Family Services prior to October 1, 2011, shall remain in full force and effect on and after that date, but solely for purposes of concluding the Program's operations. Such purposes include permitting eligible persons to receive services under the Program through December 31, 2011, as authorized by this section, and fulfilling the Department's legal obligations for claims arising from the Program relating to eligibility determinations, covered medical services rendered to eligible persons, and recovering erroneous overpayments.

(C) Notwithstanding this act's repeal of the statutes authorizing the Program, the right of subrogation for the cost of medical services and care given under section 5101.58 of the Revised Code to the Department and an assignment of the right to medical support given under section 5101.59 of the Revised Code to the Department continue to apply with respect to the Program and remain in force to the full extent provided under those sections.

(D) The Department may use appropriated funds to satisfy any claims or

contingent claims for services rendered to Program participants prior to October 1, 2011, and to eligible persons who receive services under the Program through December 31, 2011, as authorized by this section. The Department has no liability under the Program to reimburse any provider or other person for claims for services rendered on or after January 1, 2012.

(E) The Department may adopt rules in accordance with section 111.15 of the Revised Code to implement this section.

SECTION 309.33.70. CONTINUATION OF DISPENSING FEE FOR NONCOMPOUNDED DRUGS

The Medicaid dispensing fee for each noncompounded drug covered by the Medicaid program shall be $1.80 for the period beginning July 1, 2011, and ending on the effective date of a rule, or an amendment to a rule, changing the amount of the fee that the Director of Job and Family Services adopts or amends under section 5111.02 of the Revised Code.

SECTION 309.33.80. MONEY FOLLOWS THE PERSON ENHANCED REIMBURSEMENT FUND

The Money Follows the Person Enhanced Reimbursement Fund, created by Section 751.20 of Am. Sub. H.B. 562 of the 127th General Assembly, shall continue to exist in the state treasury for fiscal year 2012 and fiscal year 2013. The federal payments made to the state under subsection (e) of section 6071 of the "Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, shall be deposited into the fund. The Department of Job and Family Services shall continue to use money deposited into the fund for system reform activities related to the Money Follows the Person demonstration project.

SECTION 309.33.90. MEDICARE PART D

The foregoing appropriation item 600526, Medicare Part D, may be used by the Department of Job and Family Services for the implementation and operation of the Medicare Part D requirements contained in the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon the request of the Department of Job and Family Services, the Director of Budget and Management may transfer the state share of appropriations between appropriation item 600525, Health Care/Medicaid, or appropriation item 600526, Medicare Part D. If the state share of appropriation item 600525,

Health Care/Medicaid, is adjusted, the Director of Budget and Management shall adjust the federal share accordingly. The Department of Job and Family Services shall provide notification to the Controlling Board of any transfers at the next scheduled Controlling Board meeting.

SECTION 309.35.10. REBALANCING LONG-TERM CARE

(A) As used in this section:

"Balancing Incentive Payments Program" means the program established under section 10202 of the Patient Protection and Affordable Care Act.

"Long-term services and supports" has the same meaning as in section 10202(f)(1) of the Patient Protection and Affordable Care Act.

"Non-institutionally-based long-term services and supports" has the same meaning as in section 10202(f)(1)(B) of the Patient Protection and Affordable Care Act.

"Patient Protection and Affordable Care Act" means Public Law 111-148.

(B) The Departments of Job and Family Services, Aging, and Developmental Disabilities shall continue efforts to achieve a sustainable and balanced delivery system for long-term services and supports. In so doing, the Departments shall strive to realize the following goals by June 30, 2013:

(1) Having at least fifty per cent of Medicaid recipients who are sixty years of age or older and need long-term services and supports utilize non-institutionally-based long-term services and supports;

(2) Having at least sixty per cent of Medicaid recipients who are less than sixty years of age and have cognitive or physical disabilities for which long-term services and supports are needed utilize non-institutionally-based long-term services and supports.

(C) If the Department of Job and Family Services determines that participating in the Balancing Incentive Payments Program will assist in achieving the goals specified in division (B) of this section, the Department may apply to the United States Secretary of Health and Human Services to participate in the program. Any funds the state receives as the result of the enhanced federal financial participation provided to states participating in the Balancing Incentive Payments Program shall be deposited into the Balancing Incentive Payments Program Fund, which is hereby created in the state treasury. The Department of Job and Family Services shall use the money in the fund in accordance with section 10202(c)(4) of the Patient Protection and Affordable Care Act.

SECTION 309.35.20. BALANCING INCENTIVE PAYMENTS PROGRAM FUND

The Director of Job and Family Services may seek Controlling Board approval to make expenditures from the Balancing Incentive Payments Program Fund.

SECTION 309.35.30. DUAL ELIGIBLE INTEGRATED CARE DEMONSTRATION PROJECT

The Director of Job and Family Services may seek Controlling Board approval to make expenditures from the Integrated Care Delivery Systems Fund.

SECTION 309.35.40. OHIO ACCESS SUCCESS PROJECT AND IDENTIFICATION OF OVERPAYMENTS

(A) Notwithstanding any limitations in sections 3721.51 and 3721.56 of the Revised Code, in each fiscal year, cash from the Nursing Home Franchise Permit Fee Fund (Fund 5R20) may be used by the Department of Job and Family Services for the following purposes:

(1) Up to $3,000,000 in each fiscal year to fund the state share of audits or limited reviews of Medicaid providers;

(2) Up to $450,000 in each fiscal year to provide one-time transitional benefits under the Ohio Access Success Project that the Director of Job and Family Services may establish under section 5111.97 of the Revised Code.

(B) On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Home and Community-Based Services for the Aged Fund (Fund 4J50) to the Nursing Home Franchise Permit Fee Fund (Fund 5R20). The transferred cash is hereby appropriated. Upon completion of the transfer, Fund 4J50 is abolished. The Director shall cancel any existing encumbrances against appropriation item 600613, Nursing Facility Bed Assessments, and appropriation item 600618, Residential State Supplement Payments, and reestablish them against appropriation item 600608, Medicaid - Nursing Facilities.

SECTION 309.35.50. PROVIDER FRANCHISE FEE OFFSETS

(A) At least quarterly, the Director of Job and Family Services shall certify to the Director of Budget and Management both of the following:

(1) The amount of offsets withheld under section 3721.541 of the Revised Code from payments made from the General Revenue Fund.

(2) The amount of offsets withheld under section 5112.341 of the Revised Code from payments made from the General Revenue Fund.

(B) The Director of Budget and Management may transfer cash from the General Revenue Fund to all of the following:

(1) The Nursing Home Franchise Permit Fee Fund (Fund 5R20), in accordance with section 3721.56 of the Revised Code;

(2) The ICF/MR Bed Assessments Fund (Fund 4K10).

(C) Amounts transferred pursuant to this section are hereby appropriated.

SECTION 309.35.60. TRANSFER OF FUNDS TO THE DEPARTMENT OF DEVELOPMENTAL DISABILITIES

The Department of Job and Family Services may transfer cash in each fiscal year from the ICF/MR Bed Assessments Fund (Fund 4K10) to the Home and Community-Based Services Fund (Fund 4K80), used by the Department of Developmental Disabilities. The amount to be transferred shall be agreed to by both departments. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments. The transfer may be made using an intrastate transfer voucher.

SECTION 309.35.70. HOSPITAL CARE ASSURANCE MATCH

The foregoing appropriation item 600650, Hospital Care Assurance Match, shall be used by the Department of Job and Family Services solely for distributing funds to hospitals under section 5112.08 of the Revised Code.

SECTION 309.35.73. HEALTHCARE COMPLIANCE APPROPRIATION

Notwithstanding the provisions of section 5111.171 of the Revised Code specifying the uses of the HealthCare Compliance Fund, appropriations in appropriation item 600625, HealthCare Compliance, may be used for expenses incurred in implementation or operation of Health Home programs and for the creation, modification, or replacement of any federally funded Medicaid healthcare systems in fiscal year 2012 and fiscal year 2013.

SECTION 309.35.80. HEALTH CARE SERVICES ADMINISTRATION FUND

Of the amount received by the Department of Job and Family Services during fiscal year 2012 and fiscal year 2013 from the first installment of assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code, the Director of Job and Family Services shall deposit $350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U30).

SECTION 309.35.90. TRANSFERS OF OFFSETS TO THE HEALTH CARE SERVICES ADMINISTRATION FUND

(A) As used in this section:

"Hospital offset" means an offset from a hospital's Medicaid payment authorized by section 5112.991 of the Revised Code.

"Vendor offset" means a reduction of a Medicaid payment to a Medicaid provider to correct a previous, incorrect Medicaid payment.

(B) At least quarterly during fiscal year 2012 and fiscal year 2013, the Director of Job and Family Services shall certify to the Director of Budget and Management the amount of hospital offsets and vendor offsets for the period covered by the certification and the particular funds that would have been used to make the extra payments to providers if not for the offsets. The certification shall specify how much extra would have been taken from each of the funds if not for the hospital offsets and vendor offsets.

(C) On receipt of a certification under division (B) of this section, the Director of Budget and Management shall transfer cash from the funds identified in the certification to the Health Care Services Administration Fund (Fund 5U30). The amount transferred from a fund shall equal the amount that would have been taken from the fund if not for the hospital offsets and vendor offsets as specified in the certification. The transferred cash is hereby appropriated.

SECTION 309.37.10. PROVIDER APPLICATION FEES

If receipts credited to the Health Care Services Administration Fund (Fund 5U30) exceed the amounts appropriated from the fund, the Director of Job and Family Services may seek Controlling Board approval to increase the appropriations in appropriation item 600654, Health Care Services

Administration.

SECTION 309.37.20. INTERAGENCY REIMBURSEMENT

The Director of Job and Family Services may request the Director of Budget and Management to increase appropriation item 600655, Interagency Reimbursement. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 309.37.30. MEDICAID PROGRAM SUPPORT FUND - STATE

The foregoing appropriation item 600671, Medicaid Program Support, shall be used by the Department of Job and Family Services to pay for Medicaid services and contracts. The Department may also deposit to the Medicaid Program Support Fund (Fund 5C90) revenues received from other state agencies for Medicaid services under the terms of interagency agreements between the Department and other state agencies.

SECTION 309.37.40. TRANSFERS OF IMD/DSH CASH TO THE DEPARTMENT OF MENTAL HEALTH

The Department of Job and Family Services shall transfer cash from the Medicaid Program Support Fund (Fund 5C90), to the Behavioral Health Medicaid Services Fund (Fund 4X50), used by the Department of Mental Health, in accordance with an interagency agreement that delegates authority from the Department of Job and Family Services to the Department of Mental Health to administer specified Medicaid services. The transfer shall be made using an intrastate transfer voucher.

SECTION 309.37.50. PRESCRIPTION DRUG COVERAGE UNDER MEDICAID MANAGED CARE

(A) As used in this section:

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(2) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.

(B) Not later than October 1, 2011, the Department of Job and Family Services shall enter into new contracts or amend existing contracts with health insuring corporations, pursuant to section 5111.17 of the Revised Code, as the Department considers necessary to require, in accordance with

section 5111.172 of the Revised Code, as amended by this act, that each health insuring corporation participating in the Medicaid care management system include coverage of prescription drugs for the Medicaid recipients who are enrolled in the health insuring corporation.

(C) For a period of thirty days immediately following the effective date of the inclusion of prescription drug coverage under a new or amended contract with a health insuring corporation pursuant to division (B) of this section, if, immediately prior to the effective date of the coverage, a Medicaid recipient enrolled in the health insuring corporation was being treated with a controlled substance prescribed by a licensed health professional authorized to prescribe drugs, and the drug is not an antidepressant or antipsychotic described in division (B)(2) of section 5111.172 of the Revised Code, as amended by this act, the health insuring corporation shall provide coverage of the controlled substance without using drug utilization or management techniques, including any prior authorization requirements, that are more stringent than the utilization or management techniques, if any, that the Medicaid recipient was subject to immediately prior to the effective date of the coverage.

(D) For a period of ninety days immediately following the effective date of the inclusion of prescription drug coverage under a new or amended contract with a health insuring corporation pursuant to division (B) of this section, if, immediately prior to the effective date of the coverage, a Medicaid recipient enrolled in the health insuring corporation was being treated with a drug prescribed by a licensed health professional authorized to prescribe drugs, and the drug is not a controlled substance and the drug is not an antidepressant or antipsychotic described in division (B)(2) of section 5111.172 of the Revised Code, as amended by this act, the health insuring corporation shall provide coverage of the drug without using drug utilization or management techniques, including any prior authorization requirements, that are more stringent than the utilization or management techniques, if any, that the Medicaid recipient was subject to immediately prior to the effective date of the coverage.

(E) For a period of one hundred twenty days immediately following the effective date of the inclusion of prescription drug coverage under a new or amended contract with a health insuring corporation pursuant to division (B) of this section, both of the following apply:

(1) If, immediately prior to the effective date of the coverage, a Medicaid recipient enrolled in the health insuring corporation was being treated with an antidepressant or antipsychotic described in division (B)(2) of section 5111.172 of the Revised Code, as amended by this act, the health

insuring corporation shall provide coverage of the drug without imposing a prior authorization requirement.

(2) Notwithstanding division (B)(3) of section 5111.172 of the Revised Code, as amended by this act, the health insuring corporation shall permit the health professional who was prescribing the drug to continue prescribing the drug for the Medicaid recipient, regardless of whether the prescriber is a psychiatrist as described in division (B)(3)(a) or (b) of that section.

SECTION 309.37.53. PHYSICIAN ASSISTANT MEDICAID PROVIDER AGREEMENTS, CLAIMS SUBMISSIONS, AND FISCAL YEAR 2013 REIMBURSEMENT RATES

(A) With respect to section 5111.053 of the Revised Code, as enacted by this act, regarding Medicaid provider agreements for physician assistants and submission of Medicaid claims for physician assistant services, the Department of Job and Family Services shall implement the provisions of that section when the Department determines that the computer system improvements necessary to implement those provisions are in place. The Department shall ensure that the necessary improvements are in place not later than July 1, 2012.

(B) The Medicaid reimbursement rates for services provided by physician assistants during fiscal year 2013 shall not be greater than the Medicaid reimbursement rates for such services provided on June 30, 2012.

SECTION 309.40. FAMILY STABILITY

SECTION 309.40.10. FOOD STAMPS TRANSFER

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management may transfer up to $1,000,000 cash from the Food Stamp Program Fund (Fund 3840), to the Food Assistance Fund (Fund 5ES0).

SECTION 309.40.20. NAME OF FOOD STAMP PROGRAM

The Director of Job and Family Services is not required to amend rules regarding the Food Stamp Program to change the name of the program to the Supplemental Nutrition Assistance Program. The Director may refer to the program as the Food Stamp Program or the Food Assistance Program in rules and documents of the Department of Job and Family Services.

SECTION 309.40.30. OHIO ASSOCIATION OF SECOND HARVEST FOOD BANKS

The foregoing appropriation item 600540, Second Harvest Food Banks, shall be used to provide funds to the Ohio Association of Second Harvest Food Banks to purchase and distribute food products.

Notwithstanding section 5101.46 of the Revised Code and any other provision in this bill, in addition to funds designated for the Ohio Association of Second Harvest Food Banks in this section, in fiscal year 2012 and fiscal year 2013, the Director of Job and Family Services shall provide assistance from eligible funds to the Ohio Association of Second Harvest Food Banks in an amount up to or equal to the assistance provided in state fiscal year 2011 from all funds used by the Department, except the General Revenue Fund.

Eligible nonfederal expenditures made by member food banks of the Association shall be counted by the Department of Job and Family Services toward the TANF maintenance of effort requirements of 42 U.S.C. 609(a)(7). The Director of Job and Family Services shall enter into an agreement with the Ohio Association of Second Harvest Food Banks, in accordance with sections 5101.80 and 5101.801 of the Revised Code, to carry out the requirements under this section.

SECTION 309.40.40. PUBLIC ASSISTANCE ACTIVITIES/TANF MOE

The foregoing appropriation item 600658, Public Assistance Activities, shall be used by the Department of Job and Family Services to meet the TANF maintenance of effort requirements of 42 U.S.C. 609(a)(7). When the state is assured that it will meet the maintenance of effort requirement, the Department of Job and Family Services may use funds from appropriation item 600658, Public Assistance Activities, to support public assistance activities.

SECTION 309.40.50. INDEPENDENT LIVING INITIATIVE

Of the foregoing appropriation item 600689, TANF Block Grant, up to $2,000,000 in each fiscal year shall be used, in accordance with sections 5101.80 and 5101.801 of the Revised Code, to support the Independent Living Initiative, including life skills training and work supports for older children in foster care and those who have recently aged out of foster care.

SECTION 309.40.60. KINSHIP PERMANENCY INCENTIVE PROGRAM

Of the foregoing appropriation item 600689, TANF Block Grant, $1,200,000 in each fiscal year shall be used to support the activities of the Kinship Permanency Incentive Program established in section 5101.802 of the Revised Code.

SECTION 309.40.63. OHIO COMMISSION ON FATHERHOOD

Of the foregoing appropriation item 600689, TANF Block Grant, $1,000,000 in each fiscal year shall be provided to the Ohio Commission on Fatherhood.

SECTION 309.40.70. SWIPE CARD PILOT PROGRAM

During fiscal year 2012 and fiscal year 2013, if the Department of Job and Family Services implements a program that utilizes a swipe card system and point of service device to track attendance and submit invoices for payment for publicly funded child care, both of the following apply:

(A) Misuse of the system by a child care provider participating in the program constitutes a reason for which the provider's license or certification may be revoked.

(B) Misuse of the system by a caretaker parent participating in the program constitutes a reason for which the caretaker parent may lose eligibility for publicly funded child care.

SECTION 309.50. CHILD WELFARE

SECTION 309.50.10. DIFFERENTIAL RESPONSE

In accordance with an independent evaluation of the Ohio Alternative Response Pilot Program that recommended statewide implementation, the Department of Job and Family Services shall plan the statewide expansion of the Ohio Alternative Response Pilot Program on a county by county basis, through a schedule determined by the Department. The program shall be known as the "differential response" approach as defined in section 2151.011 of the Revised Code. Notwithstanding provisions of Chapter 2151. of the Revised Code that refer to "differential response," "traditional response," and "alternative response," those provisions shall become

effective on the scheduled date of expansion of the differential response approach to that county. Prior to statewide implementation, the Department may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of this section.

SECTION 309.50.20. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN

In collaboration with the county family and children first council, a county department of job and family services or public children services agency that receives an allocation from the Department of Job and Family Services from the foregoing appropriation item 600523, Children and Families Services, or 600533, Child, Family, and Adult Community & Protective Services, may transfer a portion of either or both allocations to a flexible funding pool as authorized by the section of this act titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL."

SECTION 309.50.30. CHILD, FAMILY, AND ADULT COMMUNITY AND PROTECTIVE SERVICES

(A) The foregoing appropriation item 600533, Child, Family, and Adult Community & Protective Services, shall be distributed to each county department of job and family services using the formula the Department of Job and Family Services uses when distributing Title XX funds to county departments of job and family services under section 5101.46 of the Revised Code. County departments shall use the funds distributed to them under this section as follows, in accordance with the written plan of cooperation entered into under section 307.983 of the Revised Code:

(1) To assist individuals achieve or maintain self-sufficiency, including by reducing or preventing dependency among individuals with family income not exceeding two hundred per cent of the federal poverty guidelines;

(2) Subject to division (B) of this section, to respond to reports of abuse, neglect, or exploitation of children and adults, including through the differential response approach program developed under Section 309.50.10 of this act;

(3) To provide outreach and referral services regarding home and community-based services to individuals at risk of placement in a group home or institution, regardless of the individuals' family income and without need for a written application;

(4) To provide outreach, referral, application assistance, and other

services to assist individuals receive assistance, benefits, or services under Medicaid; Title IV-A programs, as defined in section 5101.80 of the Revised Code; the Supplemental Nutrition Assistance Program; and other public assistance programs.

(B) Protective services may be provided to a child or adult as part of a response, under division (A)(2) of this section, to a report of abuse, neglect, or exploitation without regard to a child or adult's family income and without need for a written application. The protective services may be provided if the case record documents circumstances of actual or potential abuse, neglect, or exploitation.

SECTION 309.50.33. CHILDREN AND FAMILY SERVICES ACTIVITIES

The foregoing appropriation item 600609, Children and Family Services Activities, shall be used to expend miscellaneous foundation funds and grants to support children and family services activities.

SECTION 309.50.40. ADOPTION ASSISTANCE LOAN

Of the foregoing appropriation item 600634, Adoption Assistance Loan, the Department of Job and Family Services may use up to ten per cent for administration of adoption assistance loans pursuant to section 3107.018 of the Revised Code.

SECTION 309.60. UNEMPLOYMENT COMPENSATION

SECTION 309.60.10. FEDERAL UNEMPLOYMENT PROGRAMS

All unexpended funds remaining at the end of fiscal year 2011 that were appropriated and made available to the state under section 903(d) of the Social Security Act, as amended, in the foregoing appropriation item 600678, Federal Unemployment Programs (Fund 3V40), are hereby appropriated to the Department of Job and Family Services. Upon the request of the Director of Job and Family Services, the Director of Budget and Management may increase the appropriation for fiscal year 2012 by the amount remaining unspent from the fiscal year 2011 appropriation and may increase the appropriation for fiscal year 2013 by the amount remaining unspent from the fiscal year 2012 appropriation. The appropriation shall be used under the direction of the Department of Job and Family Services to pay for administrative activities for the Unemployment Insurance Program,

employment services, and other allowable expenditures under section 903(d) of the Social Security Act, as amended.

The amounts obligated pursuant to this section shall not exceed at any time the amount by which the aggregate of the amounts transferred to the account of the state under section 903(d) of the Social Security Act, as amended, exceeds the aggregate of the amounts obligated for administration and paid out for benefits and required by law to be charged against the amounts transferred to the account of the state.

SECTION 309.60.20. UNEMPLOYMENT COMPENSATION INTEREST CONTINGENCY FUND

The General Health and Human Service Pass-Through Fund (Fund 5HC0) is hereby renamed the Unemployment Compensation Interest Contingency Fund. On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer $23,000,000 cash from the Child and Adult Protective Services Fund (Fund 5GV0), used by the Department of Job and Family Services, to the Unemployment Compensation Interest Contingency Fund. The Director of Budget and Management may seek Controlling Board approval to establish appropriations for payment of interest costs paid to the United States Secretary of the Treasury for the repayment of accrued interest related to federal unemployment account borrowing.

SECTION 311.10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW

General Revenue Fund

GRF 029321 Operating Expenses	$ 435,168	$ 435,168
TOTAL GRF General Revenue Fund	$ 435,168	$ 435,168
TOTAL ALL BUDGET FUND GROUPS	$ 435,168	$ 435,168

OPERATING GUIDANCE

The Chief Administrative Officer of the House of Representatives and the Clerk of the Senate shall determine, by mutual agreement, which of them shall act as fiscal agent for the Joint Committee on Agency Rule Review. Members of the Committee shall be paid in accordance with section 101.35 of the Revised Code.

OPERATING EXPENSES

On July 1, 2011, or as soon as possible thereafter, the Executive Director of the Joint Committee on Agency Rule Review may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 029321,

Operating Expenses, at the end of fiscal year 2011 to be reappropriated to fiscal year 2012. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2012.

On July 1, 2012, or as soon as possible thereafter, the Executive Director of the Joint Committee on Agency Rule Review may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 029321, Operating Expenses, at the end of fiscal year 2012 to be reappropriated to fiscal year 2013. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2013.

SECTION 313.10. JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund

GRF	018321	Operating Expenses	$ 720,000	$	720,000
TOTAL GRF General Revenue Fund			$ 720,000	$	720,000

General Services Fund Group

4030	018601	Ohio Jury Instructions	$ 350,000	$	350,000
TOTAL GSF General Services Fund Group			$ 350,000	$	350,000
TOTAL ALL BUDGET FUND GROUPS			$ 1,070,000	$	1,070,000

OHIO JURY INSTRUCTIONS FUND

The Ohio Jury Instructions Fund (Fund 4030) shall consist of grants, royalties, dues, conference fees, bequests, devises, and other gifts received for the purpose of supporting costs incurred by the Judicial Conference of Ohio in its activities as a part of the judicial system of the state as determined by the Judicial Conference Executive Committee. Fund 4030 shall be used by the Judicial Conference of Ohio to pay expenses incurred in its activities as a part of the judicial system of the state as determined by the Judicial Conference Executive Committee. All moneys accruing to Fund 4030 in excess of $350,000 in fiscal year 2012 and in excess of $350,000 in fiscal year 2013 are hereby appropriated for the purposes authorized.

No money in Fund 4030 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board.

SECTION 315.10. JSC THE JUDICIARY/SUPREME COURT

General Revenue Fund

GRF	005321	Operating Expenses - Judiciary/Supreme Court	$ 133,704,620	$	132,565,410
GRF	005406	Law Related Education	$ 236,172	$	236,172
GRF	005409	Ohio Courts Technology Initiative	$ 2,150,000	$	2,150,000
TOTAL GRF General Revenue Fund			$ 136,090,792	$	134,951,582

General Services Fund Group

6720	005601	Continuing Judicial Education	$ 172,142	$ 169,420
TOTAL GSF General Services Fund Group			$ 172,142	$ 169,420
Federal Special Revenue Fund Group				
3J00	005603	Federal Grants	$ 1,653,317	$ 1,605,717
TOTAL FED Federal Special Revenue Fund Group			$ 1,653,317	$ 1,605,717
State Special Revenue Fund Group				
4C80	005605	Attorney Services	$ 3,718,328	$ 3,695,192
5HT0	005617	Court Interpreter Certification	$ 39,000	$ 39,000
5T80	005609	Grants and Awards	$ 50,000	$ 50,000
6A80	005606	Supreme Court Admissions	$ 1,223,340	$ 1,205,056
TOTAL SSR State Special Revenue Fund Group			$ 5,030,668	$ 4,989,248
TOTAL ALL BUDGET FUND GROUPS			$ 142,946,919	$ 141,715,967

OPERATING EXPENSES - JUDICIARY/SUPREME COURT

Of the foregoing appropriation item 005321, Operating Expenses - Judiciary/Supreme Court, up to $206,770 in each fiscal year may be used to support the functions of the State Criminal Sentencing Council.

LAW-RELATED EDUCATION

The foregoing appropriation item 005406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs.

OHIO COURTS TECHNOLOGY INITIATIVE

The foregoing appropriation item 005409, Ohio Courts Technology Initiative, shall be used to fund an initiative by the Supreme Court to facilitate the exchange of information and warehousing of data by and between Ohio courts and other justice system partners through the creation of an Ohio Courts Network, the delivery of technology services to courts throughout the state, including the provision of hardware, software, and the development and implementation of educational and training programs for judges and court personnel, and operation of the Commission on Technology and the Courts by the Supreme Court for the promulgation of statewide rules, policies, and uniform standards, and to aid in the orderly adoption and comprehensive use of technology in Ohio courts.

CONTINUING JUDICIAL EDUCATION

The Continuing Judicial Education Fund (Fund 6720) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005601, Continuing Judicial Education, shall be used to pay expenses for continuing education

courses for judges and court personnel. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 6720 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 6720 shall be credited to the fund.

FEDERAL GRANTS

The Federal Grants Fund (Fund 3J00) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the United States Government or other entities that receive the moneys directly from the United States Government and distribute those moneys to the Supreme Court (The Judiciary). The foregoing appropriation item 005603, Federal Grants, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 3J00 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on money in Fund 3J00 shall be credited or transferred to the General Revenue Fund.

ATTORNEY SERVICES

The Attorney Services Fund (Fund 4C80), formerly known as the Attorney Registration Fund, shall consist of money received by the Supreme Court (The Judiciary) pursuant to the Rules for the Government of the Bar of Ohio. In addition to funding other activities considered appropriate by the Supreme Court, the foregoing appropriation item 005605, Attorney Services, may be used to compensate employees and to fund appropriate activities of the following offices established by the Supreme Court: the Office of Disciplinary Counsel, the Board of Commissioners on Grievances and Discipline, the Clients' Security Fund, and the Attorney Services Division. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 4C80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 4C80 shall be credited to the fund.

COURT INTERPRETER CERTIFICATION

The Court Interpreter Certification Fund (Fund 5HT0) shall consist of money received by the Supreme Court (The Judiciary) pursuant to Rules 80 through 87 of the Rules of Superintendence for the Courts of Ohio. The

foregoing appropriation item 005617, Court Interpreter Certification, shall be used to provide training, to provide the written examination, and to pay language experts to rate, or grade, the oral examinations of those applying to become certified court interpreters. If it is determined by the Administrative Director that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 5HT0 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 5HT0 shall be credited to the fund.

GRANTS AND AWARDS

The Grants and Awards Fund (Fund 5T80) shall consist of grants and other money awarded to the Supreme Court (The Judiciary) by the State Justice Institute, the Division of Criminal Justice Services, or other entities. The foregoing appropriation item 005609, Grants and Awards, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 5T80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on money in Fund 5T80 shall be credited or transferred to the General Revenue Fund.

SUPREME COURT ADMISSIONS

The foregoing appropriation item 005606, Supreme Court Admissions, shall be used to compensate Supreme Court employees who are primarily responsible for administering the attorney admissions program under the Rules for the Government of the Bar of Ohio, and to fund any other activities considered appropriate by the court. Moneys shall be deposited into the Supreme Court Admissions Fund (Fund 6A80) under the Supreme Court Rules for the Government of the Bar of Ohio. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 6A80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 6A80 shall be credited to the fund.

SECTION 317.10. LEC LAKE ERIE COMMISSION

Federal Special Revenue Fund Group

3EP0	780603	Lake Erie Federal Grants	$ 95,750	$	95,750
TOTAL FED		Federal Special Revenue Fund	$ 95,750	$	95,750

Group						
State Special Revenue Fund Group						
4C00	780601	Lake Erie Protection Fund	$	400,000	$	400,000
5D80	780602	Lake Erie Resources Fund	$	261,783	$	250,143
TOTAL SSR State Special Revenue Fund Group			$	661,783	$	650,143
TOTAL ALL BUDGET FUND GROUPS			$	757,533	$	745,893

SECTION 319.10. LRS LEGAL RIGHTS SERVICE

General Revenue Fund						
GRF	054321	Support Services	$	97,255	$	24,314
GRF	054401	Ombudsman	$	142,003	$	35,750
TOTAL GRF General Revenue Fund			$	239,258	$	60,064
General Services Fund Group						
5M00	054610	Settlements	$	181,352	$	32,839
TOTAL GSF General Services Fund Group			$	181,352	$	32,839
Federal Special Revenue Fund Group						
3050	054602	Protection and Advocacy - Developmentally Disabled	$	1,662,991	$	415,748
3AG0	054613	Protection and Advocacy - Voter Accessibility	$	135,000	$	33,752
3B80	054603	Protection and Advocacy - Mentally Ill	$	1,152,677	$	288,170
3CA0	054615	Work Incentives Planning and Assistance	$	355,000	$	88,752
3N30	054606	Protection and Advocacy - Individual Rights	$	591,112	$	147,779
3N90	054607	Assistive Technology	$	135,000	$	33,751
3R90	054616	Developmental Disability Publications	$	130,000	$	32,500
3T20	054609	Client Assistance Program	$	435,000	$	108,752
3X10	054611	Protection and Advocacy - Beneficiaries of Social Security	$	235,000	$	58,752
3Z60	054612	Protection and Advocacy - Traumatic Brain Injury	$	151,624	$	37,907
TOTAL FED Federal Special Revenue Fund Group			$	4,983,404	$	1,245,863
State Special Revenue Fund Group						
5AE0	054614	Grants and Contracts	$	74,600	$	18,652
TOTAL SSR State Special Revenue Fund Group			$	74,600	$	18,652
TOTAL ALL BUDGET FUND GROUPS			$	5,478,614	$	1,357,418

SECTION 319.20. CONVERSION OF LEGAL RIGHTS SERVICE TO A NONPROFIT ENTITY

(A) Not later than December 31, 2011, the administrator of the Legal Rights Service, in consultation with the Legal Rights Service Commission,

shall establish a nonprofit entity to provide advocacy services and a client assistance program for people with disabilities. The nonprofit entity shall be established in such a manner that the entity is in compliance with all federal law regarding a protection and advocacy system, including 42 U.S.C. 15041 to 15045, and all federal law regarding a client assistance program, including 29 U.S.C. 732.

The Legal Rights Service may subcontract with the nonprofit entity to perform any functions that the Legal Rights Service is permitted or required to perform.

(B) Not later than September 30, 2012, the Governor shall designate the nonprofit entity established under division (A) of this section to serve as the state's protection and advocacy system. On October 1, 2012, pursuant to section 5123.60 of the Revised Code, as enacted by this act, the nonprofit entity is the Ohio Protection and Advocacy System.

(C) Effective October 1, 2012, the Legal Rights Service, the Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service are abolished.

Any aspect of the function of the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service commenced, but not completed on October 1, 2012 shall be completed by the nonprofit entity in the same manner, and with the same effect, as if completed by the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service as they existed immediately prior to October 1, 2012. No validation, cure, right, privilege, remedy, obligation, or liability pertaining to the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service is lost or impaired by reason of the abolishment of the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service. Each such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the nonprofit entity established under division (A) of this section.

Any action or proceeding that is related to the functions or duties of the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service pending on September 30, 2012, is not affected by the abolishment of the Legal Rights Service, the Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service and shall be prosecuted or defended in the name of the nonprofit entity. In all such actions and proceedings the nonprofit entity, on application to the court, shall be substituted as a party.

(D) After the Legal Rights Service is abolished, all employee personnel records of the Legal Rights Service shall be retained by the Office of Budget and Management according to the applicable retention schedules and then transferred to the Department of Administrative Services to be kept permanently.

All fiscal records of the Legal Rights Service shall be retained by the Office of Budget and Management until state and federal audits are conducted, audit reports are released, and all discrepancies are resolved. The records shall then be destroyed according to the applicable retention schedules.

All other general administrative and information technology records of the Legal Rights Service shall be retained by the Office of Budget and Management in accordance with applicable retention schedules.

(E) When the Legal Rights Service is abolished on October 1, 2012, all equipment and assets of the Legal Rights Service shall be transferred to the Ohio Protection and Advocacy System. The Office of Budget and Management shall designate the employment positions, if any, to be transferred to the System.

The Legal Rights Service and the nonprofit entity established to serve as the Ohio Protection and Advocacy System shall enter into an agreement to transfer any designated positions and all equipment and assets to the entity by October 1, 2012, or as soon as possible thereafter. The agreement may include provisions to transfer property and any other provisions necessary for the continued administration of Legal Rights Service activities.

(F) The foregoing appropriation items 054321, Support Services, and 054401, Ombudsman, may be used to support the costs of transitioning the Ohio Legal Rights Service into a nonprofit entity.

(G) By October 1, 2012, the Director of Budget and Management shall distribute any remaining cash balances in funds used by the Legal Rights Service to the nonprofit entity designated as the state's protection and advocacy system. To facilitate this transfer, on or before September 30, 2012, the Director of the Legal Rights Service shall certify to the Director of Budget and Management an estimate of the cash balance in each fund used by the Legal Rights Service to be transferred to the nonprofit entity. Upon receipt of the certification, the Director of Budget and Management may distribute the certified amounts to the nonprofit entity. Not more than sixty days after certifying the estimated amount, the nonprofit entity shall certify to the Director of Budget and Management the actual cash balances. If the actual amounts are more than the amounts that were transferred, the Director of Budget and Management shall disburse the difference to the nonprofit

entity. The Director of Budget and Management may transfer cash between any funds used by the Legal Rights Service to fulfill the requirements of this section.

On or after October 1, 2012, notwithstanding any provision of law to the contrary, the Director of Budget and Management may transfer cash between any funds that were used by the Legal Rights Service, create new funds, or abolish existing funds used by the Legal Rights Service in order to financially manage the abolition of that agency.

SECTION 321.10. JLE JOINT LEGISLATIVE ETHICS COMMITTEE

General Revenue Fund				
GRF	028321	Legislative Ethics Committee	$ 550,000	$ 550,000
TOTAL GRF General Revenue Fund			$ 550,000	$ 550,000
General Services Fund Group				
4G70028601		Joint Legislative Ethics Committee	$ 100,000	$ 100,000
TOTAL GSF General Services Fund Group			$ 100,000	$ 100,000
TOTAL ALL BUDGET FUND GROUPS			$ 650,000	$ 650,000

SECTION 323.10. LSC LEGISLATIVE SERVICE COMMISSION

General Revenue Fund				
GRF	035321	Operating Expenses	$ 15,117,700	$ 15,117,700
GRF	035402	Legislative Fellows	$ 1,022,120	$ 1,022,120
GRF	035405	Correctional Institution Inspection Committee	$ 438,900	$ 438,900
GRF	035407	Legislative Task Force on Redistricting	$ 590,000	$ 750,000
GRF	035409	National Associations	$ 460,560	$ 460,560
GRF	035410	Legislative Information Systems	$ 3,661,250	$ 3,661,250
GRF	035411	Ohio Constitutional Modernization Commission	$ 50,000	$ 50,000
TOTAL GRF General Revenue Fund			$ 21,340,530	$ 21,500,530
General Services Fund Group				
4100	035601	Sale of Publications	$ 10,000	$ 10,000
4F60	035603	Legislative Budget Services	$ 200,000	$ 200,000
5EF0	035607	Legislative Agency Telephone Usage	$ 30,000	$ 30,000
TOTAL GSF General Services Fund Group			$ 240,000	$ 240,000
TOTAL ALL BUDGET FUND GROUPS			$ 21,580,530	$ 21,740,530

OPERATING EXPENSES

On July 1, 2011, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035321, Operating Expenses, at the end of fiscal year 2011 to be reappropriated to fiscal year 2012. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2012.

On July 1, 2012, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035321, Operating Expenses, at the end of fiscal year 2012 to be reappropriated to fiscal year 2013. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2013.

LEGISLATIVE TASK FORCE ON REDISTRICTING

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 035407, Legislative Task Force on Redistricting, at the end of fiscal year 2011 is hereby reappropriated to the Legislative Service Commission for the same purpose for fiscal year 2012.

LEGISLATIVE INFORMATION SYSTEMS

On July 1, 2011, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035410, Legislative Information Systems, at the end of fiscal year 2011 to be reappropriated to fiscal year 2012. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2012.

On July 1, 2012, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035410, Legislative Information Systems, at the end of fiscal year 2012 to be reappropriated to fiscal year 2013. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2013.

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

The foregoing appropriation item 035411, Ohio Constitutional Modernization Commission, shall be used to support the operation and expenses of the Ohio Constitutional Modernization Commission under sections 103.61 to 103.67 of the Revised Code.

SECTION 325.10. LIB STATE LIBRARY BOARD

General Revenue Fund					
GRF	350321	Operating Expenses	$ 5,057,312	$	5,057,364
GRF	350401	Ohioana Rental Payments	$ 124,437	$	124,437
GRF	350502	Regional Library Systems	$ 582,469	$	582,469
TOTAL GRF General Revenue Fund			$ 5,764,218	$	5,764,270
General Services Fund Group					
1390	350602	Intra-Agency Service Charges	$ 9,000	$	9,000
4590	350603	Library Service Charges	$ 2,986,424	$	2,986,180
4S40	350604	Ohio Public Library Information Network	$ 5,689,401	$	5,689,788
5GB0	350605	Library for the Blind	$ 1,274,194	$	1,274,194
5GG0	350606	Gates Foundation Grants	$ 6,000	$	0
TOTAL GSF General Services Fund Group			$ 9,965,019	$	9,959,162
Federal Special Revenue Fund Group					
3130	350601	LSTA Federal	$ 5,879,314	$	5,879,314
TOTAL FED Federal Special Revenue Fund Group			$ 5,879,314	$	5,879,314
TOTAL ALL BUDGET FUND GROUPS			$ 21,608,551	$	21,602,746

OHIOANA RENTAL PAYMENTS

The foregoing appropriation item 350401, Ohioana Rental Payments, shall be used to pay the rental expenses of the Martha Kinney Cooper Ohioana Library Association under section 3375.61 of the Revised Code.

REGIONAL LIBRARY SYSTEMS

The foregoing appropriation item 350502, Regional Library Systems, shall be used to support regional library systems eligible for funding under sections 3375.83 and 3375.90 of the Revised Code.

OHIO PUBLIC LIBRARY INFORMATION NETWORK

(A) The foregoing appropriation item 350604, Ohio Public Library Information Network, shall be used for an information telecommunications network linking public libraries in the state and such others as may participate in the Ohio Public Library Information Network (OPLIN).

The Ohio Public Library Information Network Board of Trustees created under section 3375.65 of the Revised Code may make decisions regarding use of the foregoing appropriation item 350604, Ohio Public Library Information Network.

(B) Of the foregoing appropriation item 350604, Ohio Public Library Information Network, up to $81,000 in each fiscal year shall be used to help local libraries use filters to screen out obscene and illegal internet materials.

The OPLIN Board shall research and assist or advise local libraries with regard to emerging technologies and methods that may be effective means to control access to obscene and illegal materials. The OPLIN Director shall

provide written reports upon request within ten days to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate on any steps being taken by OPLIN and public libraries in the state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

(C) The Ohio Public Library Information Network, INFOhio, and OhioLINK shall, to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

LIBRARY FOR THE BLIND

The foregoing appropriation item 350605, Library for the Blind, shall be used for the statewide Talking Book Program to assist the blind and disabled.

TRANSFER TO OPLIN TECHNOLOGY FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer $3,689,401 in cash in fiscal year 2012 and $3,689,788 in cash in fiscal year 2013 from the Public Library Fund (Fund 7065) to the OPLIN Technology Fund (Fund 4S40).

TRANSFER TO LIBRARY FOR THE BLIND FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer $1,274,194 cash in each fiscal year from the Public Library Fund (Fund 7065) to the Library for the Blind Fund (Fund 5GB0).

SECTION 327.10. LCO LIQUOR CONTROL COMMISSION

Liquor Control Fund Group					
7043	970321	Operating Expenses	$ 753,933	$	754,146
TOTAL LCF Liquor Control Fund Group			$ 753,933	$	754,146
TOTAL ALL BUDGET FUND GROUPS			$ 753,933	$	754,146

SECTION 329.10. LOT STATE LOTTERY COMMISSION

State Lottery Fund Group					
2310	950604	Charitable Gaming Oversight	$ 1,946,000	$	1,946,000

7044	950100	Personal Services	$ 26,000,000	$ 26,000,000
7044	950200	Maintenance	$ 13,558,000	$ 13,266,150
7044	950300	Equipment	$ 4,810,440	$ 4,465,690
7044	950402	Advertising Contracts	$ 21,756,000	$ 21,756,000
7044	950403	Gaming Contracts	$ 46,476,608	$ 47,359,732
7044	950500	Problem Gambling Subsidy	$ 350,000	$ 350,000
7044	950601	Direct Prize Payments	$ 131,995,700	$ 133,263,456
8710	950602	Annuity Prizes	$ 77,206,258	$ 77,641,283
TOTAL SLF State Lottery Fund Group			$ 324,099,006	$ 326,048,311
TOTAL ALL BUDGET FUND GROUPS			$ 324,099,006	$ 326,048,311

OPERATING EXPENSES

Notwithstanding sections 127.14 and 131.35 of the Revised Code, the Controlling Board may, at the request of the State Lottery Commission, authorize expenditures from the State Lottery Fund in excess of the amounts appropriated, up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets. Upon the approval of the Controlling Board, the additional amounts are hereby appropriated.

DIRECT PRIZE PAYMENTS

Any amounts, in addition to the amounts appropriated in appropriation item 950601, Direct Prize Payments, that the Director of the State Lottery Commission determines to be necessary to fund prizes are hereby appropriated.

ANNUITY PRIZES

Upon request of the State Lottery Commission, the Director of Budget and Management may transfer cash from the State Lottery Fund (Fund 7044) to the Deferred Prizes Trust Fund (Fund 8710) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 8710) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any amounts, in addition to the amounts appropriated in appropriation item 950602, Annuity Prizes, that the Director of the State Lottery Commission determines to be necessary to fund deferred prizes and interest earnings are hereby appropriated.

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND

The Director of Budget and Management shall transfer an amount greater than or equal to $717,500,000 in fiscal year 2012 and $680,500,000 in fiscal year 2013 from the State Lottery Fund to the Lottery Profits Education Fund (Fund 7017). Transfers from the State Lottery Fund to the Lottery Profits Education Fund shall represent the estimated net income from operations for the Commission in fiscal year 2012 and fiscal year 2013. Transfers by the Director of Budget and Management to the Lottery Profits Education Fund shall be administered as the statutes direct.

SECTION 331.10. MHC MANUFACTURED HOMES COMMISSION

General Services Fund Group

4K90	996609	Operating Expenses	$ 652,922	$ 642,267
TOTAL GSF General Services Fund Group			$ 652,922	$ 642,267
TOTAL ALL BUDGET FUND GROUPS			$ 652,922	$ 642,267

SECTION 333.10. MED STATE MEDICAL BOARD

General Services Fund Group

5C60	883609	Operating Expenses	$ 9,292,393	$ 9,172,062
TOTAL GSF General Services Fund Group			$ 9,292,393	$ 9,172,062
TOTAL ALL BUDGET FUND GROUPS			$ 9,292,393	$ 9,172,062

SECTION 335.10. AMB OHIO MEDICAL TRANSPORTATION BOARD

General Services Fund Group

4K90	915604	Operating Expenses	$ 493,641	$ 493,856
TOTAL GSF General Services Fund Group			$ 493,641	$ 493,856
TOTAL ALL BUDGET FUND GROUPS			$ 493,641	$ 493,856

SECTION 337.10. DMH DEPARTMENT OF MENTAL HEALTH

General Revenue Fund

GRF	332401	Forensic Services	$ 3,244,251	$ 3,244,251
GRF	333321	Central Administration	$ 16,000,000	$ 16,000,000
GRF	333402	Resident Trainees	$ 450,000	$ 450,000
GRF	333403	Pre-Admission Screening Expenses	$ 486,119	$ 486,119
GRF	333415	Lease-Rental Payments	$ 18,394,250	$ 19,907,900
GRF	333416	Research Program Evaluation	$ 421,724	$ 421,998
GRF	334412	Hospital Services	$ 194,918,888	$ 192,051,209
GRF	334506	Court Costs	$ 584,210	$ 584,210
GRF	335405	Family & Children First	$ 1,386,000	$ 1,386,000
GRF	335419	Community Medication Subsidy	$ 8,963,818	$ 8,963,818
GRF	335501	Mental Health Medicaid Match	$ 186,400,000	$ 0
GRF	335505	Local Mental Health Systems of Care	$ 49,963,776	$ 59,087,955
GRF	335506	Residential State Supplement	$ 4,702,875	$ 4,702,875
TOTAL GRF General Revenue Fund			$ 485,915,911	$ 307,286,335

General Services Fund Group

1490	333609	Central Office Operating	$ 1,343,190	$ 1,343,190
1490	334609	Hospital - Operating	$ 28,190,000	$ 28,190,000

		Expenses		
1500	334620	Special Education	$ 150,000	$ 150,000
4P90	335604	Community Mental Health Projects	$ 4,061,100	$ 250,000
1510	336601	Office of Support Services	$ 129,770,770	$ 129,779,822
TOTAL GSF General Services Fund Group			$ 163,515,060	$ 159,713,012
Federal Special Revenue Fund Group				
3240	333605	Medicaid/Medicare	$ 154,500	$ 154,500
3A60	333608	Federal Miscellaneous	$ 140,000	$ 140,000
3A70	333612	Social Services Block Grant	$ 50,000	$ 50,000
3A80	333613	Federal Grant - Administration	$ 4,717,000	$ 4,717,000
3A90	333614	Mental Health Block Grant - Administration	$ 748,470	$ 748,470
3B10	333635	Community Medicaid Expansion	$ 13,691,682	$ 13,691,682
3240	334605	Medicaid/Medicare	$ 28,200,000	$ 28,200,000
3A60	334608	Federal Miscellaneous	$ 200,000	$ 200,000
3A80	334613	Federal Letter of Credit	$ 200,000	$ 200,000
3A60	335608	Federal Miscellaneous	$ 2,170,000	$ 2,170,000
3A70	335612	Social Services Block Grant	$ 8,400,000	$ 8,400,000
3A80	335613	Federal Grant - Community Mental Health Board Subsidy	$ 2,500,000	$ 2,500,000
3A90	335614	Mental Health Block Grant	$ 14,200,000	$ 14,200,000
3B10	335635	Community Medicaid Expansion	$ 346,200,000	$ 0
TOTAL FED Federal Special Revenue Fund Group			$ 421,571,652	$ 75,371,652
State Special Revenue Fund Group				
2320	333621	Family and Children First Administration	$ 448,286	$ 432,197
4850	333632	Mental Health Operating	$ 134,233	$ 134,233
4X50	333607	Behavioral Health Medicaid Services	$ 3,000,624	$ 3,000,624
5V20	333611	Non-Federal Miscellaneous	$ 100,000	$ 100,000
4850	334632	Mental Health Operating	$ 2,477,500	$ 2,477,500
5AU0	335615	Behavioral Healthcare	$ 6,690,000	$ 6,690,000
6320	335616	Community Capital Replacement	$ 350,000	$ 350,000
TOTAL SSR State Special Revenue Fund Group			$ 13,200,643	$ 13,184,554
TOTAL ALL BUDGET FUND GROUPS			$ 1,084,203,266	$ 555,555,553

SECTION 337.10.10. FORENSIC SERVICES

The foregoing appropriation item 332401, Forensic Services, shall be used to provide forensic psychiatric evaluations to courts of common pleas and to conduct evaluations of patients of forensic status in facilities operated or designated by the Department of Mental Health prior to conditional release to the community. A portion of this appropriation may be allocated through community mental health boards to certified community agencies in

accordance with a distribution methodology as determined by the Director of Mental Health.

In addition, appropriation item 332401, Forensic Services, may be used to provide forensic monitoring and tracking of individuals on conditional release and forensic training, and to support projects that assist courts and law enforcement to identify and develop appropriate alternative services to incarceration for nonviolent mentally ill offenders, and to provide specialized re-entry services to offenders leaving prisons and jails.

SECTION 337.20.10. RESIDENCY TRAINEESHIP PROGRAMS

The foregoing appropriation item 333402, Resident Trainees, shall be used to fund training agreements entered into by the Director of Mental Health for the development of curricula and the provision of training programs to support public mental health services.

SECTION 337.20.20. PRE-ADMISSION SCREENING EXPENSES

The foregoing appropriation item 333403, Pre-Admission Screening Expenses, shall be used to ensure that uniform statewide methods for pre-admission screening are in place for persons who have severe mental illness and are referred for long-term Medicaid certified nursing facility placement. Pre-admission screening includes the following activities: pre-admission assessment, consideration of continued stay requests, discharge planning and referral, and adjudication of appeals and grievance procedures.

SECTION 337.20.30. LEASE-RENTAL PAYMENTS

The foregoing appropriation item 333415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Mental Health under leases and agreements made under section 154.20 of the Revised Code. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 154. of the Revised Code.

SECTION 337.20.50. HOSPITAL SERVICES

The foregoing appropriation item 334412, Hospital Services, shall be used for the operation of the Department of Mental Health State Regional Psychiatric Hospitals, including, but not limited to, all aspects involving

civil and forensic commitment, treatment, and discharge as determined by the Director of Mental Health. A portion of this appropriation may be used by the Department of Mental Health to create, purchase, or contract for the custody, supervision, control, and treatment of persons committed to the Department of Mental Health in other clinically appropriate environments, consistent with public safety.

SECTION 337.20.60. FISCAL YEARS 2012 AND 2013 ALLOCATIONS OF STATE HOSPITAL FUNDS TO ADAMHS BOARDS

(A) As used in this section:

"Bed day" means a day for which a person receives inpatient hospitalization services in a state regional psychiatric hospital.

"State regional psychiatric hospital" means a hospital that the Department of Mental Health maintains, operates, manages, and governs under section 5119.02 of the Revised Code for the care and treatment of mentally ill persons.

(B) For fiscal years 2012 and 2013 and notwithstanding section 5119.62 of the Revised Code, the Director of Mental Health shall allocate a portion of the foregoing appropriation item 334412, Hospital Services, to boards of alcohol, drug addiction, and mental health services. In consultation with the boards, the Director shall establish a methodology to be used in allocating the funds to boards. The allocation methodology shall include as factors at least the per diem cost of inpatient hospitalization services at state regional psychiatric hospitals and the estimated number of bed days that each board will incur in fiscal years 2012 and 2013 in carrying out their duties under division (A)(12) of section 340.03 of the Revised Code. The Director may require each board to provide the Director with an estimate of the number of bed days the board will incur in fiscal years 2012 and 2013 for such purpose.

(C) All of the following apply to the funds allocated to a board under this section:

(1) Subject to divisions (C)(2) and (3) of this section, the board shall use the funds to pay for expenditures the board incurs in fiscal years 2012 and 2013 under division (A)(12) of section 340.03 of the Revised Code in paying for inpatient hospitalization services provided by state regional psychiatric hospitals to persons involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code.

(2) If the amount of the funds allocated to the board and used for the purpose specified in division (C)(1) of this section exceeds the amount that

the board needs to pay for its expenditures identified in division (C)(1) of this section, the Director may permit the board to use the excess funds for the board's community mental health plan developed under division (A)(1)(c) of section 340.03 of the Revised Code.

(3) If the Director approves, the board may have a portion of the funds deposited into the Department of Mental Health Risk Fund.

(D) Notwithstanding the amendment by this act to section 5119.62 of the Revised Code, the Department of Mental Health Risk Fund shall continue to exist in the state treasury for the purpose of this section until it is no longer needed. In addition to the money that is in the fund on the effective date of this section, the fund shall consist of money deposited into it pursuant to division (C)(3) of this section and all the fund's investment earnings. Money in the fund shall be used in accordance with guidelines that the Director shall develop in consultation with representatives of the boards.

SECTION 337.30.20. COMMUNITY MEDICATION SUBSIDY

The foregoing appropriation item 335419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs. This appropriation may be allocated to community mental health boards in accordance with a distribution methodology determined by the Director of Mental Health.

SECTION 337.30.30. MENTAL HEALTH MEDICAID MATCH

(A) As used in this section, "community mental health Medicaid services" means services provided under the component, or aspect of the component, of the Medicaid program that the Department of Mental Health administers pursuant to a contract entered into with the Department of Job and Family Services under section 5111.91 of the Revised Code.

(B) Subject to division (C) of this section, the foregoing appropriation item 335501, Mental Health Medicaid Match, shall be used by the Department of Mental Health to make payments for community mental health Medicaid services.

(C) For state fiscal year 2012, the Department shall allocate foregoing appropriation item 335501, Mental Health Medicaid Match, to boards of alcohol, drug addiction, and mental health services in accordance with a distribution methodology the Department shall establish. Notwithstanding sections 5111.911 and 5111.912 of the Revised Code, the boards shall use

the funds allocated to them under this section to pay claims for community mental health Medicaid services provided during fiscal year 2012. The boards shall use all federal financial participation that the Department of Mental Health receives for claims paid for community mental health Medicaid services provided during fiscal year 2012 as the first payment source to pay claims for community mental health Medicaid services provided during fiscal year 2012. The boards are not required to use any funds other than the funds allocated to them under this section and the federal financial participation received for claims for community mental health Medicaid services provided during fiscal year 2012 to pay for such claims.

(D) The Department shall enter into an agreement with each board regarding the issue of paying claims that are for community mental health Medicaid services provided before July 1, 2011, and submitted for payment on or after that date. Such claims shall be paid in accordance with the agreements. A board shall receive the federal financial participation received for claims for community mental health Medicaid services that were provided before July 1, 2011, and paid by the board.

SECTION 337.30.40. LOCAL MENTAL HEALTH SYSTEMS OF CARE

The foregoing appropriation item 335505, Local Mental Health Systems of Care, shall be used by community mental health boards to purchase mental health services permitted under Chapter 340. of the Revised Code.

SECTION 337.30.50. RESIDENTIAL STATE SUPPLEMENT

(A)(1) On July 1, 2011, the Residential State Supplement Program is transferred from the Department of Aging to the Department of Mental Health. The transferred program is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the program as it was operated immediately prior to July 1, 2011. The transfer shall not affect persons receiving payments under the program on July 1, 2011.

(2) Any business of the program commenced but not completed before July 1, 2011 shall be completed by the Department of Mental Health. The business shall be completed in the same manner, and with the same effect, as if completed by the Department of Aging immediately prior to July 1, 2011. No validation, cure, right, privilege, remedy, obligation, or liability pertaining to the program is lost or impaired by reason of the program's

transfer to the Department of Mental Health. Each such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the Department of Mental Health pursuant to sections 5119.69, 5119.691, and 5119.692 of the Revised Code.

(3) All rules, orders, and determinations pertaining to the program as it was operated immediately prior to July 1, 2011 continue in effect as rules, orders, and determinations of the Department of Mental Health until modified or rescinded by the Department of Mental Health. If necessary to ensure the integrity of the numbering system of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules to reflect the transfer of the Residential State Supplement Program from the Department of Aging to the Department of Mental Health.

(4) Any action or proceeding that is related to the functions or duties of the Residential State Supplement Program pending on July 1, 2011 is not affected by the transfer of the program and shall be prosecuted or defended in the name of the Department of Mental Health. In all such actions and proceedings, the Department of Mental Health, on application to the court, shall be substituted as a party.

(B) On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer $2.8 million cash from the General Revenue Fund to the Residential State Supplement Fund (Fund 5CH0) to be used for the Residential State Supplement program. The transferred cash is hereby appropriated.

(C) The foregoing appropriation item 335506, Residential State Supplement, and the Residential State Supplement Fund (Fund 5CH0), may be used by the Department of Mental Health to provide training for adult care facilities serving residents with mental illness, to transfer cash to the Nursing Home Franchise Permit Fee Fund (Fund 5R20) used by the Department of Job and Family Services, and to make benefit payments to residential state supplement recipients. Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment, and for determining the amount per month the eligible resident will receive, shall be as follows:

(1) $927 for a residential care facility, as defined in section 3721.01 of the Revised Code;

(2) $927 for an adult group home, as defined in section 5119.70 of the Revised Code;

(3) $824 for an adult foster home, as defined in section 5119.692 of the Revised Code;

(4) $824 for an adult family home, as defined in section 5119.70 of the

Revised Code;

(5) $824 for a residential facility, as identified in division (C)(1)(c) of section 5119.69 of the Revised Code; and

(6) $618 for community mental health housing services, as identified in division (C)(1)(d) of section 5119.69 of the Revised Code.

The Department of Mental Health shall reflect these amounts in any applicable rules the Department adopts under section 5119.69 of the Revised Code.

SECTION 337.30.60. BEHAVIORAL HEALTH MEDICAID SERVICES

The Department of Mental Health shall administer specified Medicaid services as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 333607, Behavioral Health Medicaid Services, may be used to make payments for free-standing psychiatric hospital inpatient services as defined in an interagency agreement with the Department of Job and Family Services.

SECTION 337.30.70. FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL

A county family and children first council may establish and operate a flexible funding pool in order to assure access to needed services by families, children, and older adults in need of protective services. The operation of the flexible funding pools shall be subject to the following restrictions:

(A) The county council shall establish and operate the flexible funding pool in accordance with formal guidance issued by the Family and Children First Cabinet Council;

(B) The county council shall produce an annual report on its use of the pooled funds. The annual report shall conform to a format prescribed in the formal guidance issued by the Family and Children First Cabinet Council;

(C) Unless otherwise restricted, funds transferred to the flexible funding pool may include state general revenues allocated to local entities to support the provision of services to families and children;

(D) The amounts transferred to the flexible funding pool shall be limited to amounts that can be redirected without impairing the achievement of the objectives for which the initial allocation is designated; and

(E) Each amount transferred to the flexible funding pool from a specific allocation shall be approved for transfer by the director of the local agency that was the original recipient of the allocation.

SECTION 337.30.75. TRANSITION FOR CURRENTLY CERTIFIED ADULT FOSTER HOMES

On July 1, 2011, the certification of adult foster homes is transferred from the Department of Aging to the Department of Mental Health. A certification that was issued by the Director of Aging to an adult foster home under former section 175.36 of the Revised Code and that is current and valid on the effective date of section 5119.692 of the Revised Code, as enacted by this act, is deemed to be a certificate issued by the Director of Mental Health under those sections.

Any business regarding the certification of adult foster homes commenced but not completed before July 1, 2011 shall be completed by the Department of Mental Health. The business shall be completed in the same manner, and with the same effect, as if completed by the Department of Aging immediately prior to July 1, 2011.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of this act's transfer of responsibility to the Department of Mental Health, from the Department of Aging, for the certification of adult foster homes.

Each such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the Department of Mental Health pursuant to section 5119.692 of the Revised Code.

All rules, orders, and determinations pertaining to the certification of adult foster homes as it was operated immediately prior to July 1, 2011 shall continue in effect as rules, orders, and determinations of the Department of Mental Health until modified or rescinded by the Department of Mental Health. If necessary to ensure the integrity of the numbering system of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules to reflect the transfer of the certification of adult foster homes from the Department of Aging to the Department of Mental Health.

Any action or proceeding that is related to the functions or duties of the certification of adult foster homes pending on July 1, 2011 is not affected by the transfer of the certification and shall be prosecuted or defended in the name of the Department of Mental Health. In all such actions and proceedings, the Department of Mental Health, on application to the court, shall be substituted as a party.

SECTION 337.30.80. TRANSITION FOR CURRENTLY LICENSED

ADULT CARE FACILITIES

On July 1, 2011, the licensing of adult care facilities is transferred from the Department of Health to the Department of Mental Health. A license that was issued by the Director of Health to an adult care facility under former Chapter 3722. of the Revised Code and that is current and valid on the effective date of sections 5119.70 to 5119.88 of the Revised Code, as enacted by this act, is deemed to be a license issued by the Director of Mental Health under those sections.

Any business regarding the licensing of adult care facilities commenced but not completed before July 1, 2011 shall be completed by the Department of Mental Health. The business shall be completed in the same manner, and with the same effect, as if completed by the Department of Health immediately prior to July 1, 2011.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of this act's transfer of responsibility to the Department of Mental Health, from the Department of Health, for the licensing of adult care facilities. Each such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the Department of Mental Health pursuant to sections 5119.70 to 5119.88 of the Revised Code.

All rules, orders, and determinations pertaining to the licensing of adult care facilities as it was operated immediately prior to July 1, 2011 shall continue in effect as rules, orders, and determinations of the Department of Mental Health until modified or rescinded by the Department of Mental Health. If necessary to ensure the integrity of the numbering system of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules to reflect the transfer of the licensing of adult care facilities from the Department of Health to the Department of Mental Health.

Any action or proceeding that is related to the functions or duties of the licensing of adult care facilities pending on July 1, 2011 is not affected by the transfer of the licensing and shall be prosecuted or defended in the name of the Department of Mental Health. In all such actions and proceedings, the Department of Mental Health, on application to the court, shall be substituted as a party.

SECTION 337.30.90. BEHAVIORAL HEALTH DOCUMENTATION REDUCTION

(A) As used in this section:

(1) "Community behavioral health services and programs" means both of the following:

(a) Community mental health services certified by the Director of Mental Health under section 5119.611 of the Revised Code;

(b) Alcohol and drug addiction programs certified by the Department of Alcohol and Drug Addiction Services under section 3793.06 of the Revised Code.

(2) "Residential facility" has the same meaning as in section 5119.22 of the Revised Code.

(B) Not later than December 31, 2011, the Directors of Mental Health and Alcohol and Drug Addiction Services, or their designees, shall, in consultation with persons interested in the issues of residential facilities and community behavioral health services and programs, do all of the following:

(1) Identify areas of duplicative and unnecessary documentation requirements associated with licensing residential facilities and certifying community behavioral health services and programs;

(2) Align the documentation standards of the Departments of Mental Health and Alcohol and Drug Addiction Services;

(3) Streamline the Departments' standards regarding residential facilities and community behavioral health services and programs with federal standards;

(4) Promote the integration of behavioral and physical health in residential facilities and community behavioral health services and programs.

SECTION 337.40.10. TRANSFER FROM FACILITIES ESTABLISHMENT

Notwithstanding Chapter 166. of the Revised Code, on July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer $5 million cash from the Facilities Establishment Fund (Fund 7037) to the General Revenue Fund.

SECTION 339.10. MIH COMMISSION ON MINORITY HEALTH

General Revenue Fund

GRF	149321	Operating Expenses	$ 423,588	$ 408,990
GRF	149501	Minority Health Grants	$ 1,061,600	$ 1,061,600
GRF	149502	Lupus Program	$ 110,047	$ 110,047
TOTAL GRF General Revenue Fund			$ 1,595,235	$ 1,580,637

Federal Special Revenue Fund Group

3J90	149602	Federal Grants	$ 140,000	$ 140,000
TOTAL FED Federal Special Revenue Fund Group			$ 140,000	$ 140,000

State Special Revenue Fund Group

4C20	149601	Minority Health Conference	$ 25,000	$	25,000
TOTAL SSR State Special Revenue Fund Group			$ 25,000	$	25,000
TOTAL ALL BUDGET FUND GROUPS			$ 1,760,235	$	1,745,637

SECTION 341.10. CRB MOTOR VEHICLE COLLISION REPAIR REGISTRATION BOARD

General Services Fund Group

4K90	865601	Operating Expenses	$ 331,841	$	324,292
TOTAL GSF General Services Fund Group			$ 331,841	$	324,292
TOTAL ALL BUDGET FUND GROUPS			$ 331,841	$	324,292

SECTION 343.10. DNR DEPARTMENT OF NATURAL RESOURCES

General Revenue Fund

GRF	725401	Wildlife-GRF Central Support	$ 1,800,000	$	1,800,000
GRF	725413	Lease Rental Payments	$ 20,568,600	$	19,734,700
GRF	725456	Canal Lands	$ 135,000	$	135,000
GRF	725502	Soil and Water Districts	$ 2,900,000	$	2,900,000
GRF	725903	Natural Resources General Obligation Debt Service	$ 5,375,300	$	25,209,100
GRF	727321	Division of Forestry	$ 4,878,338	$	4,880,000
GRF	729321	Office of Information Technology	$ 194,118	$	197,117
GRF	730321	Division of Parks and Recreation	$ 30,000,000	$	30,000,000
GRF	736321	Division of Engineering	$ 3,024,459	$	3,025,078
GRF	737321	Division of Soil and Water Resources	$ 4,982,961	$	4,983,356
GRF	741321	Division of Natural Areas and Preserves	$ 1,200,000	$	1,200,000
TOTAL GRF General Revenue Fund			$ 75,058,776	$	94,064,351

General Services Fund Group

1550	725601	Departmental Projects	$ 3,365,651	$	2,725,484
1570	725651	Central Support Indirect	$ 5,854,167	$	5,857,800
2040	725687	Information Services	$ 4,659,276	$	4,643,835
2070	725690	Real Estate Services	$ 50,000	$	50,000
2230	725665	Law Enforcement Administration	$ 2,106,776	$	2,126,432
2270	725406	Parks Projects Personnel	$ 436,500	$	436,500
4300	725671	Canal Lands	$ 907,618	$	907,879
4D50	725618	Recycled Materials	$ 50,000	$	50,000
4S90	725622	NatureWorks Personnel	$ 400,358	$	400,358
4X80	725662	Water Resources Council	$ 138,011	$	138,005
5100	725631	Maintenance - State-owned Residences	$ 303,611	$	303,611
5160	725620	Water Management	$ 2,541,565	$	2,559,292
6350	725664	Fountain Square Facilities Management	$ 3,544,623	$	3,548,445
6970	725670	Submerged Lands	$ 836,162	$	848,546

TOTAL GSF General Services Fund Group			$ 25,194,318	$ 24,596,187
Federal Special Revenue Fund Group				
3320	725669	Federal Mine Safety Grant	$ 258,102	$ 258,102
3B30	725640	Federal Forest Pass-Thru	$ 600,000	$ 600,000
3B40	725641	Federal Flood Pass-Thru	$ 600,000	$ 600,000
3B50	725645	Federal Abandoned Mine Lands	$ 21,007,667	$ 21,207,667
3B60	725653	Federal Land and Water Conservation Grants	$ 1,150,000	$ 1,150,000
3B70	725654	Reclamation - Regulatory	$ 3,200,000	$ 3,200,000
3P10	725632	Geological Survey - Federal	$ 692,401	$ 692,401
3P20	725642	Oil and Gas-Federal	$ 234,509	$ 234,509
3P30	725650	Coastal Management - Federal	$ 3,290,633	$ 3,290,633
3P40	725660	Federal - Soil and Water Resources	$ 1,213,048	$ 1,209,957
3R50	725673	Acid Mine Drainage Abatement/Treatment	$ 2,025,001	$ 2,025,001
3Z50	725657	Federal Recreation and Trails	$ 1,850,000	$ 1,850,000
TOTAL FED Federal Special Revenue Fund Group			$ 36,121,361	$ 36,318,270
State Special Revenue Fund Group				
4J20	725628	Injection Well Review	$ 130,899	$ 128,466
4M70	725686	Wildfire Suppression	$ 100,000	$ 100,000
4U60	725668	Scenic Rivers Protection	$ 100,000	$ 100,000
5090	725602	State Forest	$ 7,891,747	$ 7,058,793
5110	725646	Ohio Geological Mapping	$ 704,777	$ 705,130
5120	725605	State Parks Operations	$ 32,284,117	$ 31,550,444
5140	725606	Lake Erie Shoreline	$ 1,502,654	$ 1,505,983
5180	725643	Oil and Gas Permit Fees	$ 5,821,970	$ 5,623,645
5180	725677	Oil and Gas Well Plugging	$ 800,000	$ 800,000
5210	725627	Off-Road Vehicle Trails	$ 143,490	$ 143,490
5220	725656	Natural Areas and Preserves	$ 546,580	$ 546,639
5260	725610	Strip Mining Administration Fee	$ 2,000,000	$ 2,000,000
5270	725637	Surface Mining Administration	$ 1,940,977	$ 1,941,532
5290	725639	Unreclaimed Land Fund	$ 2,004,180	$ 2,004,180
5310	725648	Reclamation Forfeiture	$ 1,423,000	$ 1,423,000
5320	725644	Litter Control and Recycling	$ 4,926,730	$ 4,911,575
5860	725633	Scrap Tire Program	$ 1,497,645	$ 1,497,645
5B30	725674	Mining Regulation	$ 28,135	$ 28,135
5BV0	725658	Heidelberg Water Quality Lab	$ 250,000	$ 250,000
5BV0	725683	Soil and Water Districts	$ 8,000,000	$ 8,000,000
5CU0	725647	Mine Safety	$ 3,000,000	$ 3,000,000
5EJ0	725608	Forestry Law Enforcement	$ 1,000	$ 1,000
5EK0	725611	Natural Areas & Preserves Law Enforcement	$ 1,000	$ 1,000
5EL0	725612	Wildlife Law Enforcement	$ 12,000	$ 12,000
5EM0	725613	Park Law Enforcement	$ 34,000	$ 34,000
5EN0	725614	Watercraft Law Enforcement	$ 2,500	$ 2,500

5HK0	725625	Ohio Nature Preserves	$ 1,000	$ 1,000
6150	725661	Dam Safety	$ 925,344	$ 926,028
TOTAL SSR State Special Revenue Fund Group			$ 76,073,745	$ 74,296,185
Clean Ohio Conservation Fund Group				
7061	725405	Clean Ohio Operating	$ 300,775	$ 300,775
TOTAL CLF Clean Ohio Conservation Fund Group			$ 300,775	$ 300,775
Wildlife Fund Group				
5P20	725634	Wildlife Boater Angler Administration	$ 4,000,000	$ 4,000,000
7015	740401	Division of Wildlife Conservation	$ 52,721,044	$ 51,669,158
8150	725636	Cooperative Management Projects	$ 120,449	$ 120,449
8160	725649	Wetlands Habitat	$ 966,885	$ 966,885
8170	725655	Wildlife Conservation Checkoff Fund	$ 3,240,000	$ 3,240,000
8180	725629	Cooperative Fisheries Research	$ 1,500,000	$ 1,500,000
8190	725685	Ohio River Management	$ 128,584	$ 128,584
TOTAL WLF Wildlife Fund Group			$ 62,676,962	$ 61,625,076
Waterways Safety Fund Group				
7086	725414	Waterways Improvement	$ 5,692,601	$ 5,693,671
7086	725418	Buoy Placement	$ 52,182	$ 52,182
7086	725501	Waterway Safety Grants	$ 120,000	$ 120,000
7086	725506	Watercraft Marine Patrol	$ 576,153	$ 576,153
7086	725513	Watercraft Educational Grants	$ 366,643	$ 366,643
7086	739401	Division of Watercraft	$ 18,040,593	$ 17,552,370
TOTAL WSF Waterways Safety Fund Group			$ 24,848,172	$ 24,361,019
Accrued Leave Liability Fund Group				
4M80	725675	FOP Contract	$ 20,219	$ 20,219
TOTAL ALF Accrued Leave Liability Fund Group			$ 20,219	$ 20,219
Holding Account Redistribution Fund Group				
R017	725659	Performance Cash Bond Refunds	$ 296,263	$ 296,263
R043	725624	Forestry	$ 2,000,000	$ 2,154,750
TOTAL 090 Holding Account Redistribution Fund Group			$ 2,296,263	$ 2,451,013
TOTAL ALL BUDGET FUND GROUPS			$ 302,590,591	$ 318,033,095

SECTION 343.20. CENTRAL SUPPORT INDIRECT

With the exception of the Division of Wildlife, whose direct and indirect central support charges shall be paid out of the General Revenue Fund from the foregoing appropriation item 725401, Wildlife-GRF Central Support, the Department of Natural Resources, with approval of the Director

of Budget and Management, shall utilize a methodology for determining each division's payments into the Central Support Indirect Fund (Fund 1570). The methodology used shall contain the characteristics of administrative ease and uniform application in compliance with federal grant requirements. It may include direct cost charges for specific services provided. Payments to Fund 1570 shall be made using an intrastate transfer voucher.

SECTION 343.30. WELL LOG FILING FEES

The Chief of the Division of Soil and Water Resources shall deposit fees forwarded to the Division pursuant to section 1521.05 of the Revised Code into the Departmental Services – Intrastate Fund (Fund 1550) for the purposes described in that section.

SECTION 343.40. LEASE RENTAL PAYMENTS

The foregoing appropriation item 725413, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code.

CANAL LANDS

The foregoing appropriation item 725456, Canal Lands, shall be used to transfer funds to the Canal Lands Fund (Fund 4300) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management.

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2011, through June 30, 2013, on obligations issued under sections 151.01 and 151.05 of the Revised Code.

SECTION 343.40.10. LAW ENFORCEMENT ADMINISTRATION

The foregoing appropriation item 725665, Law Enforcement Administration, shall be used to cover the cost of support, coordination, and

oversight of the Department of Natural Resources' law enforcement functions. The Law Enforcement Administration Fund (Fund 2230) shall consist of cash transferred to it via intrastate transfer voucher from other funds as determined by the Director of Natural Resources and the Director of Budget and Management.

SECTION 343.40.20. FOUNTAIN SQUARE

The foregoing appropriation item 725664, Fountain Square Facilities Management, shall be used for payment of repairs, renovation, utilities, property management, and building maintenance expenses for the Fountain Square complex. Cash transferred by intrastate transfer vouchers from various department funds and rental income received by the Department of Natural Resources shall be deposited into the Fountain Square Facilities Management Fund (Fund 6350).

SECTION 343.40.30. SOIL AND WATER DISTRICTS

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may use appropriation item 725683, Soil and Water Districts, to pay any soil and water conservation district an annual amount not to exceed $40,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district.

TRANSFER OF FUNDS FOR OIL AND GAS DIVISION OPERATIONS

During fiscal years 2012 and 2013, the Director of Budget and Management may, in consultation with the Director of Natural Resources, transfer such cash as necessary from the General Revenue Fund to the Oil and Gas Well Fund (Fund 5180) for handling the increased regulatory work related to the expansion of oil and gas drilling that will occur before receipts from this activity are deposited into Fund 5180. Once funds from severance taxes, application and permitting fees, and other sources have accrued to Fund 5180 in such amounts as are deemed sufficient to sustain expanded operations, the Director of Budget and Management, in consultation with the Director of Natural Resources, shall establish a schedule for repaying the transferred funds from Fund 5180 to the General Revenue Fund.

OIL AND GAS WELL PLUGGING

The foregoing appropriation item 725677, Oil and Gas Well Plugging, shall be used exclusively for the purposes of plugging wells and to properly restore the land surface of idle and orphan oil and gas wells pursuant to section 1509.071 of the Revised Code. No funds from the appropriation item shall be used for salaries, maintenance, equipment, or other administrative purposes, except for those costs directly attributed to the plugging of an idle or orphan well. This appropriation item shall not be used to transfer cash to any other fund or appropriation item.

LITTER CONTROL AND RECYCLING

Of the foregoing appropriation item 725644, Litter Control and Recycling, up to $1,500,000 may be used in each fiscal year for the administration of the Recycling and Litter Prevention Program.

SECTION 343.40.40. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 725405, Clean Ohio Operating, shall be used by the Department of Natural Resources in administering Clean Ohio Trail Fund (Fund 7061) projects pursuant to section 1519.05 of the Revised Code.

SECTION 343.40.50. WATERCRAFT MARINE PATROL

Of the foregoing appropriation item 739401, Division of Watercraft, up to $200,000 in each fiscal year shall be expended for the purchase of equipment for marine patrols qualifying for funding from the Department of Natural Resources pursuant to section 1547.67 of the Revised Code. Proposals for equipment shall accompany the submission of documentation for receipt of a marine patrol subsidy pursuant to section 1547.67 of the Revised Code and shall be loaned to eligible marine patrols pursuant to a cooperative agreement between the Department of Natural Resources and the eligible marine patrol.

SECTION 343.40.60. TRANSFER FOR CAESAR CREEK MARINA

On July 1, 2011, or as soon as possible thereafter, the Director of Natural Resources may request the Director of Budget and Management to transfer up to $4,000,000 in cash from the Watercraft Revolving Loan Fund (Fund 5AW0) to the Waterways Safety Fund (Fund 7086) to support a marina project at Caesar Creek State Park.

SECTION 343.50. PARKS CAPITAL EXPENSES FUND

The Director of Natural Resources shall submit to the Director of Budget and Management the estimated design, engineering, and planning costs of capital-related work to be done by Department of Natural Resources staff for parks projects within the Ohio Parks and Recreation Improvement Fund (Fund 7035). If the Director of Budget and Management approves the estimated costs, the Director may release appropriations from appropriation item C725E6, Project Planning, Fund 7035, for those purposes. Upon release of the appropriations, the Department of Natural Resources shall pay for these expenses from the Parks Capital Expenses Fund (Fund 2270). Expenses paid from Fund 2270 shall be reimbursed by Fund 7035 using an intrastate transfer voucher.

NATUREWORKS CAPITAL EXPENSES FUND

The Department of Natural Resources shall periodically prepare and submit to the Director of Budget and Management the estimated design, planning, and engineering costs of capital-related work to be done by Department of Natural Resources staff for each capital improvement project within the Ohio Parks and Natural Resources Fund (Fund 7031). If the Director of Budget and Management approves the estimated costs, the Director may release appropriations from appropriation item C725E5, Project Planning, in Fund 7031, for those purposes. Upon release of the appropriations, the Department of Natural Resources shall pay for these expenses from the Capital Expenses Fund (Fund 4S90). Expenses paid from Fund 4S90 shall be reimbursed by Fund 7031 by using an intrastate transfer voucher.

SECTION 345.10. NUR STATE BOARD OF NURSING

General Services Fund Group

4K90	884609	Operating Expenses	$	6,943,322	$	6,680,896
5AC0	884602	Nurse Education Grant Program	$	1,373,506	$	1,373,506
5P80	884601	Nursing Special Issues	$	5,000	$	5,000
TOTAL GSF General Services Fund Group			$	8,321,828	$	8,059,402
TOTAL ALL BUDGET FUND GROUPS			$	8,321,828	$	8,059,402

SECTION 347.10. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD

General Services Fund Group

4K90	890609	Operating Expenses	$ 874,087	$	866,169
TOTAL GSF General Services Fund Group			$ 874,087	$	866,169
TOTAL ALL BUDGET FUND GROUPS			$ 874,087	$	866,169

SECTION 349.10. OLA OHIOANA LIBRARY ASSOCIATION

General Revenue Fund

GRF	355501	Library Subsidy	$ 120,000	$	120,000
TOTAL GRF General Revenue Fund			$ 120,000	$	120,000
TOTAL ALL BUDGET FUND GROUPS			$ 120,000	$	120,000

SECTION 351.10. ODB OHIO OPTICAL DISPENSERS BOARD

General Services Fund Group

4K90	894609	Operating Expenses	$ 357,039	$	347,300
TOTAL GSF General Services Fund Group			$ 357,039	$	347,300
TOTAL ALL BUDGET FUND GROUPS			$ 357,039	$	347,300

SECTION 353.10. OPT STATE BOARD OF OPTOMETRY

General Services Fund Group

4K90	885609	Operating Expenses	$ 356,914	$	347,278
TOTAL GSF General Services Fund Group			$ 356,914	$	347,278
TOTAL ALL BUDGET FUND GROUPS			$ 356,914	$	347,278

SECTION 355.10. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS

General Services Fund Group

4K90	973609	Operating Expenses	$ 126,340	$	114,218
TOTAL GSF General Services Fund Group			$ 126,340	$	114,218
TOTAL ALL BUDGET FUND GROUPS			$ 126,340	$	114,218

SECTION 357.10. UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD

Agency Fund Group

6910	810632	PUSTRCB Staff	$ 1,162,179	$	1,123,014
TOTAL AGY Agency Fund Group			$ 1,162,179	$	1,123,014
TOTAL ALL BUDGET FUND GROUPS			$ 1,162,179	$	1,123,014

SECTION 359.10. PRX STATE BOARD OF PHARMACY

General Services Fund Group						
4A50	887605	Drug Law Enforcement	$	150,000	$	150,000
4K90	887609	Operating Expenses	$	6,608,498	$	6,701,285
TOTAL GSF General Services Fund Group			$	6,758,498	$	6,851,285
Federal Special Revenue Fund Group						
3CT0	887606	2008 Developing/Enhancing PMP	$	70,775	$	0
3DV0	887607	Enhancing Ohio's PMP	$	169,888	$	2,379
3EY0	887603	Administration of PMIX Hub	$	320,637	$	66,335
3EZ0	887610	NASPER 10	$	164,459		27,710
TOTAL FED Federal Special Revenue Fund Group			$	725,759	$	96,424
TOTAL ALL BUDGET FUND GROUPS			$	7,484,257	$	6,947,709

SECTION 361.10. PSY STATE BOARD OF PSYCHOLOGY

General Services Fund Group						
4K90	882609	Operating Expenses	$	525,394	$	535,406
TOTAL GSF General Services Fund Group			$	525,394	$	535,406
TOTAL ALL BUDGET FUND GROUPS			$	525,394	$	535,406

SECTION 363.10. PUB OHIO PUBLIC DEFENDER COMMISSION

General Revenue Fund						
GRF	019401	State Legal Defense Services	$	2,610,272	$	3,020,855
GRF	019403	Multi-County: State Share	$	338,931	$	406,626
GRF	019404	Trumbull County - State Share	$	99,321	$	119,158
GRF	019405	Training Account	$	50,000	$	50,000
GRF	019501	County Reimbursement	$	2,565,398	$	3,077,786
TOTAL GRF General Revenue Fund			$	5,663,922	$	6,674,425
General Services Fund Group						
4070	019604	County Representation	$	231,076	$	231,754
4080	019605	Client Payments	$	1,052,919	$	953,492
5CX0	019617	Civil Case Filing Fee	$	708,654	$	705,713
TOTAL GSF General Services Fund Group			$	1,992,649	$	1,890,959
Federal Special Revenue Fund Group						
3S80	019608	Federal Representation	$	341,733	$	263,431
TOTAL FED Federal Special Revenue Fund Group			$	341,733	$	263,431
State Special Revenue Fund Group						
4C70	019601	Multi-County: County Share	$	3,324,009	$	3,333,014
4N90	019613	Gifts and Grants	$	35,000	$	35,000
4X70	019610	Trumbull County - County Share	$	974,069	$	976,612
5740	019606	Civil Legal Aid	$	24,000,000	$	27,000,000
5DY0	019618	Indigent Defense Support - County Share	$	42,195,000	$	43,125,000
5DY0	019619	Indigent Defense Support	$	6,521,723	$	6,096,759

		Fund - State Office		
TOTAL SSR State Special Revenue Fund Group			$ 77,049,801	$ 80,566,385
TOTAL ALL BUDGET FUND GROUPS			$ 85,048,105	$ 89,395,200

INDIGENT DEFENSE OFFICE

The foregoing appropriation items 019404, Trumbull County - State Share, and 019610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.

MULTI-COUNTY OFFICE

The foregoing appropriation items 019403, Multi-County: State Share, and 019601, Multi-County: County Share, shall be used to support the Office of the Ohio Public Defender's Multi-County Branch Office Program.

TRAINING ACCOUNT

The foregoing appropriation item 019405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for private appointed counsel who represent at least one indigent defendant at no cost and for state and county public defenders and attorneys who contract with the Ohio Public Defender to provide indigent defense services.

FEDERAL REPRESENTATION

The foregoing appropriation item 019608, Federal Representation, shall be used to receive reimbursements from the federal courts when the Ohio Public Defender provides representation in federal court cases and to support representation in such cases.

SECTION 365.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO

General Services Fund Group				
5F60	870622	Utility and Railroad Regulation	$ 30,637,234	$ 31,638,708
5F60	870624	NARUC/NRRI Subsidy	$ 158,000	$ 158,000
5F60	870625	Motor Transportation Regulation	$ 4,976,641	$ 5,971,218
5Q50	870626	Telecommunications Relay Service	$ 5,000,000	$ 5,000,000
TOTAL GSF General Services Fund Group			$ 40,771,875	$ 42,767,926
Federal Special Revenue Fund Group				
3330	870601	Gas Pipeline Safety	$ 597,959	$ 597,959
3500	870608	Motor Carrier Safety	$ 7,351,660	$ 7,351,660
3CU0	870627	Electric Market Modeling	$ 91,183	$ 0
3EA0	870630	Energy Assurance Planning	$ 384,000	$ 384,000
3ED0	870631	State Regulators Assistance	$ 231,824	$ 231,824
3V30	870604	Commercial Vehicle Information Systems/Networks	$ 100,000	$ 100,000

TOTAL FED Federal Special Revenue Fund Group			$ 8,756,626	$ 8,665,443
State Special Revenue Fund Group				
4A30	870614	Grade Crossing Protection Devices-State	$ 1,347,357	$ 1,347,357
4L80	870617	Pipeline Safety-State	$ 181,992	$ 181,992
4S60	870618	Hazardous Material Registration	$ 450,395	$ 450,395
4S60	870621	Hazardous Materials Base State Registration	$ 373,346	$ 373,346
4U80	870620	Civil Forfeitures	$ 277,347	$ 277,496
5590	870605	Public Utilities Territorial Administration	$ 3,880	$ 3,880
5600	870607	Special Assessment	$ 97,000	$ 97,000
5610	870606	Power Siting Board	$ 631,508	$ 631,618
5BP0	870623	Wireless 9-1-1 Administration	$ 36,440,000	$ 18,220,000
5HD0	870629	Radioactive Waste Transportation	$ 98,800	$ 98,800
6380	870611	Biofuels/Municipal Waste Technology	$ 570	$ 0
6610	870612	Hazardous Materials Transportation	$ 898,800	$ 898,800
TOTAL SSR State Special Revenue Fund Group			$ 40,800,995	$ 22,580,684
TOTAL ALL BUDGET FUND GROUPS			$ 90,329,496	$ 74,014,053

COMMUNITY-VOICEMAIL SERVICE PILOT PROGRAM

The Community-voicemail Service Pilot Program assessments authorized by Section 6 of Sub. S.B. 162 of the 128th General Assembly shall cease. These assessments shall be refunded without interest to those assessed under the program by the Public Utilities Commission within 60 days of the effective date of this section.

SECTION 367.10. PWC PUBLIC WORKS COMMISSION

General Revenue Fund				
GRF	150904	Conservation General Obligation Debt Service	$ 21,953,000	$ 29,297,300
GRF	150907	State Capital Improvements General Obligation Debt Service	$ 106,770,600	$ 215,571,100
TOTAL GRF General Revenue Fund			$ 128,723,600	$ 244,868,400
Clean Ohio Conservation Fund Group				
7056	150403	Clean Ohio Operating Expenses	$ 300,000	$ 288,980
TOTAL 056 Clean Ohio Conservation Fund Group			$ 300,000	$ 288,980
TOTAL ALL BUDGET FUND GROUPS			$ 129,023,600	$ 245,157,380

CONSERVATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150904, Conservation General

Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, at the times they are required to be made for obligations issued under sections 151.01 and 151.09 of the Revised Code.

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150907, State Capital Improvements General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, at the times they are required to be made for obligations issued under sections 151.01 and 151.08 of the Revised Code.

CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 150403, Clean Ohio Operating Expenses, shall be used by the Ohio Public Works Commission in administering Clean Ohio Conservation Fund (Fund 7056) projects pursuant to sections 164.20 to 164.27 of the Revised Code.

REIMBURSEMENT TO THE GENERAL REVENUE FUND

(A) On or before July 15, 2013, the Director of the Public Works Commission shall certify to the Director of Budget and Management the following:

(1) The total amount disbursed from appropriation item 700409, Farmland Preservation, during the FY 2012-FY 2013 biennium; and

(2) The amount of interest earnings that have been credited to the Clean Ohio Conservation Fund (Fund 7056) that are in excess of the amount needed for other purposes as calculated by the Director of the Public Works Commission.

(B) If the Director of Budget and Management determines under division (A)(2) of this section that there are excess interest earnings, the Director of Budget and Management shall, on or before July 15, 2013, transfer the excess interest earnings to the General Revenue Fund in an amount equal to the total amount disbursed under division (A)(1) of this section from the Clean Ohio Conservation Fund (Fund 7056).

SECTION 369.10. RAC STATE RACING COMMISSION

State Special Revenue Fund Group

5620	875601	Thoroughbred Race Fund	$ 1,796,328	$ 1,696,456
5630	875602	Standardbred Development Fund	$ 1,697,418	$ 1,697,452
5640	875603	Quarter Horse Development Fund	$ 1,000	$ 1,000
5650	875604	Racing Commission	$ 3,095,331	$ 2,934,178

		Operating		
5C40	875607	Simulcast Horse Racing Purse	$ 12,000,000	$ 12,000,000
TOTAL SSR State Special Revenue Fund Group			$ 18,590,078	$ 18,329,087
Holding Account Redistribution Fund Group				
R021	875605	Bond Reimbursements	$ 100,000	$ 100,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 100,000	$ 100,000
TOTAL ALL BUDGET FUND GROUPS			$ 18,690,078	$ 18,429,087

SECTION 371.10. BOR BOARD OF REGENTS

General Revenue Fund

GRF 235321	Operating Expenses	$ 2,300,000	$ 2,300,000
GRF 235401	Lease Rental Payments	$ 83,151,600	$ 57,634,400
GRF 235402	Sea Grants	$ 285,000	$ 285,000
GRF 235406	Articulation and Transfer	$ 2,000,000	$ 2,000,000
GRF 235408	Midwest Higher Education Compact	$ 95,000	$ 95,000
GRF 235409	Information System	$ 800,000	$ 800,000
GRF 235414	State Grants and Scholarship Administration	$ 1,230,000	$ 1,230,000
GRF 235417	Ohio Learning Network	$ 2,532,688	$ 2,532,688
GRF 235428	Appalachian New Economy Partnership	$ 737,366	$ 737,366
GRF 235433	Economic Growth Challenge	$ 440,000	$ 440,000
GRF 235438	Choose Ohio First Scholarship	$ 15,750,085	$ 15,750,085
GRF 235443	Adult Basic and Literacy Education - State	$ 7,302,416	$ 7,302,416
GRF 235444	Post-Secondary Adult Career-Technical Education	$ 15,317,547	$ 15,317,547
GRF 235474	Area Health Education Centers Program Support	$ 900,000	$ 900,000
GRF 235501	State Share of Instruction	$ 1,735,530,031	$ 1,751,225,497
GRF 235502	Student Support Services	$ 632,974	$ 632,974
GRF 235504	War Orphans Scholarships	$ 4,787,833	$ 4,787,833
GRF 235507	OhioLINK	$ 6,100,000	$ 6,100,000
GRF 235508	Air Force Institute of Technology	$ 1,740,803	$ 1,740,803
GRF 235510	Ohio Supercomputer Center	$ 3,347,418	$ 3,347,418
GRF 235511	Cooperative Extension Service	$ 22,220,910	$ 22,220,910
GRF 235514	Central State Supplement	$ 11,503,651	$ 10,928,468
GRF 235515	Case Western Reserve University School of Medicine	$ 2,146,253	$ 2,146,253
GRF 235519	Family Practice	$ 3,166,185	$ 3,166,185
GRF 235520	Shawnee State Supplement	$ 2,448,523	$ 2,326,097
GRF 235524	Police and Fire Protection	$ 107,814	$ 107,814
GRF 235525	Geriatric Medicine	$ 522,151	$ 522,151
GRF 235526	Primary Care Residencies	$ 1,500,000	$ 1,500,000
GRF 235535	Ohio Agricultural Research and Development Center	$ 33,100,000	$ 33,100,000
GRF 235536	The Ohio State University Clinical Teaching	$ 9,668,941	$ 9,668,941

GRF	235537	University of Cincinnati Clinical Teaching	$	7,952,573	$	7,952,573
GRF	235538	University of Toledo Clinical Teaching	$	6,198,600	$	6,198,600
GRF	235539	Wright State University Clinical Teaching	$	3,011,400	$	3,011,400
GRF	235540	Ohio University Clinical Teaching	$	2,911,212	$	2,911,212
GRF	235541	Northeast Ohio Medical University Clinical Teaching	$	2,994,178	$	2,994,178
GRF	235552	Capital Component	$	20,638,274	$	20,638,274
GRF	235555	Library Depositories	$	1,440,342	$	1,440,342
GRF	235556	Ohio Academic Resources Network	$	3,172,519	$	3,172,519
GRF	235558	Long-term Care Research	$	195,300	$	195,300
GRF	235563	Ohio College Opportunity Grant	$	80,284,265	$	80,284,265
GRF	235572	The Ohio State University Clinic Support	$	766,533	$	766,533
GRF	235599	National Guard Scholarship Program	$	16,912,271	$	18,143,293
GRF	235909	Higher Education General Obligation Debt Service	$	108,262,500	$	201,555,000
TOTAL GRF General Revenue Fund			$	2,226,105,156	$	2,310,109,335
General Services Fund Group						
2200	235614	Program Approval and Reauthorization	$	1,311,567	$	1,457,959
4560	235603	Sales and Services	$	199,250	$	199,250
5JC0	235649	Co-op Internship Program	$	12,000,000	$	12,000,000
5JC0	235667	Ohio College Opportunity Grant-Proprietary	$	6,000,000	$	6,000,000
5JC0	235668	Air Force Institute of Technology - Defense/Aerospace Graduate Studies Institute	$	4,000,000	$	4,000,000
TOTAL GSF General Services Fund Group			$	23,510,817	$	23,657,209
Federal Special Revenue Fund Group						
3120	235609	Tech Prep	$	183,850	$	183,850
3120	235611	Gear-up Grant	$	3,900,000	$	3,900,000
3120	235612	Carl D. Perkins Grant/Plan Administration	$	912,961	$	912,961
3120	235617	Improving Teacher Quality Grant	$	3,200,000	$	3,200,000
3120	235641	Adult Basic and Literacy Education - Federal	$	14,835,671	$	14,835,671
3120	235659	Race to the Top Scholarship Program	$	2,400,000	$	3,780,000
3120	235660	Race to the Top Educator Preparation Reform Initiative	$	448,000	$	1,120,000
3120	235661	Americorps Grant	$	260,000	$	260,000
3H20	235608	Human Services Project	$	3,500,000	$	3,500,000
3N60	235638	College Access Challenge	$	4,381,431	$	4,381,431

		Grant		
TOTAL FED Federal Special Revenue Fund Group			$ 34,021,913	$ 36,073,913
State Special Revenue Fund Group				
4E80	235602	Higher Educational Facility Commission Administration	$ 29,100	$ 29,100
5FR0	235640	Joyce Foundation Grant	$ 919,719	$ 919,719
5FR0	235647	Developmental Education Initiatives	$ 135,000	$ 135,000
5FR0	235657	Win-Win Grant	$ 37,000	$ 15,000
5P30	235663	Variable Savings Plan	$ 8,946,994	$ 9,072,136
6450	235664	Guaranteed Savings Plan	$ 900,293	$ 907,514
6820	235606	Nursing Loan Program	$ 891,320	$ 891,320
TOTAL SSR State Special Revenue Fund Group			$ 11,859,426	$ 11,969,789
Third Frontier Research & Development Fund Group				
7011	235634	Research Incentive Third Frontier Fund	$ 8,000,000	$ 8,000,000
TOTAL 011 Third Frontier Research & Development Fund Group			$ 8,000,000	$ 8,000,000
TOTAL ALL BUDGET FUND GROUPS			$ 2,303,497,312	$ 2,389,810,246

SECTION 371.10.10. LEASE RENTAL PAYMENTS

The foregoing appropriation item 235401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Chancellor of the Board of Regents under leases and agreements made under section 154.21 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code.

SECTION 371.10.20. SEA GRANTS

The foregoing appropriation item 235402, Sea Grants, shall be used as required matching Funds by The Ohio State University's Sea Grant program to enhance the economic value, public utilization, and responsible management of Lake Erie and Ohio's coastal resources.

SECTION 371.10.30. ARTICULATION AND TRANSFER

The foregoing appropriation item 235406, Articulation and Transfer, shall be used by the Chancellor of the Board of Regents to maintain and expand the work of the Articulation and Transfer Council to develop a system of transfer policies to ensure that students at state institutions of higher education can transfer and have coursework apply to their majors and

degrees at any other state institution of higher education without unnecessary duplication or institutional barriers under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

SECTION 371.10.40. MIDWEST HIGHER EDUCATION COMPACT

The foregoing appropriation item 235408, Midwest Higher Education Compact, shall be distributed by the Chancellor of the Board of Regents under section 3333.40 of the Revised Code.

SECTION 371.10.50. INFORMATION SYSTEM

The foregoing appropriation item 235409, Information System, shall be used by the Chancellor of the Board of Regents to support the development and implementation of information technology solutions designed to improve the performance and services of the Chancellor of the Board of Regents and the University System of Ohio. Information technology solutions shall be provided by the Ohio Academic Research Network (OARnet).

SECTION 371.10.60. STATE GRANTS AND SCHOLARSHIP ADMINISTRATION

The foregoing appropriation item 235414, State Grants and Scholarship Administration, shall be used by the Chancellor of the Board of Regents to administer the following student financial aid programs: Ohio College Opportunity Grant, Ohio War Orphans' Scholarship, Nurse Education Assistance Loan Program, Ohio Safety Officers College Memorial Fund, and any other student financial aid programs created by the General Assembly. The appropriation item also shall be used to support all state financial aid audits and student financial aid programs created by Congress, and to provide fiscal services for the Ohio National Guard Scholarship Program.

SECTION 371.10.70. OHIO LEARNING NETWORK

The foregoing appropriation item 235417, Ohio Learning Network, shall be used by the Chancellor of the Board of Regents to support the continued implementation of the Ohio Learning Network, a consortium organized under division (U) of section 3333.04 of the Revised Code to expand access to dual enrollment opportunities for high school students, as well as adult and higher education opportunities through technology. The

funds shall be used by the Ohio Learning Network to develop and promote learning and assessment through the use of technology, to test and provide advice on emerging learning-directed technologies, and to facilitate cost-effectiveness through shared educational technology investments.

Of the foregoing appropriation item 235417, Ohio Learning Network, up to $250,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to fund staff support and operations of the Ohio Digital Learning Task Force established in Section 371.60.80 of this act.

SECTION 371.10.80. APPALACHIAN NEW ECONOMY PARTNERSHIP

The foregoing appropriation item 235428, Appalachian New Economy Partnership, shall be distributed to Ohio University to continue a multi-campus and multi-agency coordinated effort to link Appalachia to the new economy. Ohio University shall use these funds to provide leadership in the development and implementation of initiatives in the areas of entrepreneurship, management, education, and technology.

SECTION 371.10.90. ECONOMIC GROWTH CHALLENGE

The foregoing appropriation item 235433, Economic Growth Challenge, shall be used for administrative expenses of the Research Incentive Program and other economic advancement initiatives undertaken by the Chancellor of the Board of Regents.

The Chancellor of the Board of Regents shall use any appropriation transfer to the foregoing appropriation item 235433, Economic Growth Challenge, to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code, in order to strengthen academic research for pursuing Ohio's economic development goals.

SECTION 371.20.10. CHOOSE OHIO FIRST SCHOLARSHIP

The foregoing appropriation item 235438, Choose Ohio First Scholarship, shall be used to operate the program prescribed in sections 3333.60 to 3333.70 of the Revised Code.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235438, Choose Ohio First Scholarship, at the end of fiscal year 2012 is hereby reappropriated to the Board of Regents for

the same purpose for fiscal year 2013.

SECTION 371.20.20. ADULT BASIC AND LITERACY EDUCATION

The foregoing appropriation item 235443, Adult Basic and Literacy Education - State, shall be used to support the adult basic and literacy education instructional grant program and state leadership program. The supported programs shall satisfy the state match and maintenance of effort requirements for the state-administered grant program.

SECTION 371.20.30. POST-SECONDARY ADULT CAREER-TECHNICAL EDUCATION

The foregoing appropriation item 235444, Post-Secondary Adult Career-Technical Education, shall be used by the Chancellor of the Board of Regents in each fiscal year to provide post-secondary adult career-technical education under sections 3313.52 and 3313.53 of the Revised Code.

SECTION 371.20.40. AREA HEALTH EDUCATION CENTERS

The foregoing appropriation item 235474, Area Health Education Centers Program Support, shall be used by the Chancellor of the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program.

SECTION 371.20.50. STATE SHARE OF INSTRUCTION FORMULAS

The Chancellor of the Board of Regents shall establish procedures to allocate the foregoing appropriation item 235501, State Share of Instruction, based on the formulas, enrollment, course completion, degree attainment, and student achievement factors in the instructional models set out in this section.

(A) FULL-TIME EQUIVALENT (FTE) ENROLLMENTS AND COMPLETIONS

(1) As soon as possible during each fiscal year of the biennium ending June 30, 2013, in accordance with instructions of the Board of Regents, each state-assisted institution of higher education shall report its actual enrollment, consistent with the definitions in the Higher Education Information (HEI) system's enrollment files, to the Chancellor of the Board of Regents.

(2) In defining the number of full-time equivalent students for state subsidy purposes, the Chancellor of the Board of Regents shall exclude all undergraduate students who are not residents of Ohio, except those charged in-state fees in accordance with reciprocity agreements made under section 3333.17 of the Revised Code or employer contracts entered into under section 3333.32 of the Revised Code.

(3) In calculating the core subsidy entitlements for university branch and main campuses, the Chancellor of the Board of Regents shall use the following count of FTE students:

(a) The subsidy eligible enrollments by model shall equal only those FTE students who successfully complete the course as defined and reported through the Higher Education Information (HEI) system course enrollment file;

(b) For those undergraduate FTE students with successful course completions, identified in division (A)(3)(a) of this section, that had an expected family contribution less than 2190 or were determined to have been in need of remedial education shall be defined as at-risk students and shall have their eligible completions weighted by the following:

(i) Campus-specific course completion rates by model;

(ii) Campus-specific course completion indexes, where the indexes are calculated based upon the number of at-risk students enrolled during the 2009-2010 academic year; and

(iii) A statewide average at-risk course completion weight determined for each subsidy model. The statewide average at-risk course completion weight shall be determined by calculating the difference between the percentage of traditional students who complete a course and the percentage of at-risk students who complete the same course.

(4) In calculating the core subsidy entitlements for Medical II models only, students repeating terms may be no more than five per cent of current year enrollment.

(5) In calculating the core subsidy entitlements for students enrolled in state-supported law schools, subsidy eligible FTE completions shall be limited to students identified as residents of Ohio.

(B) TOTAL COSTS PER FULL-TIME EQUIVALENT STUDENT

For purposes of calculating state share of instruction allocations, the total instructional costs per full-time equivalent student shall be:

Model	Fiscal Year 2012	Fiscal Year 2013
ARTS AND HUMANITIES 1	$8,000	$8,207
ARTS AND HUMANITIES 2	$10,757	$11,036

ARTS AND HUMANITIES 3	$13,853	$14,212
ARTS AND HUMANITIES 4	$20,228	$20,751
ARTS AND HUMANITIES 5	$32,605	$33,449
ARTS AND HUMANITIES 6	$38,027	$39,011
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	$7,124	$7,308
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	$8,164	$8,376
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	$10,430	$10,700
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	$12,406	$12,727
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	$19,267	$19,765
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	$22,684	$23,272
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	$29,426	$30,188
MEDICAL 1	$51,214	$52,539
MEDICAL 2	$46,876	$48,089
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 1	$7,306	$7,495
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 2	$10,242	$10,507
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 3	$12,242	$12,559
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 4	$15,592	$15,995
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 5	$20,250	$20,774
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 6	$22,357	$22,935
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 7	$28,000	$28,724
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 8	$37,731	$38,707
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 9	$52,676	$54,039

Doctoral I and Doctoral II models shall be allocated in accordance with division (D)(2) of this section.

(C) SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICAL, AND GRADUATE WEIGHTS

For the purpose of implementing the recommendations of the State Share of Instruction Consultation and the Higher Education Funding Study Council that priority be given to maintaining state support for science, technology, engineering, mathematics, medicine, and graduate programs, the costs in division (B) of this section shall be weighted by the amounts provided below:

Model	Fiscal Year 2012	Fiscal Year 2013
ARTS AND HUMANITIES 1	1.0000	1.0000
ARTS AND HUMANITIES 2	1.0000	1.0000
ARTS AND HUMANITIES 3	1.0000	1.0000
ARTS AND HUMANITIES 4	1.0000	1.0000
ARTS AND HUMANITIES 5	1.0425	1.0425
ARTS AND HUMANITIES 6	1.0425	1.0425
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	1.0425	1.0425
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	1.0425	1.0425
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	1.0425	1.0425
MEDICAL 1	1.6456	1.6456
MEDICAL 2	1.7462	1.7462
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 1	1.0000	1.0000
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 2	1.0017	1.0017
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 3	1.6150	1.6150
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 4	1.6920	1.6920

SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 5	1.4222	1.4222
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 6	1.8798	1.8798
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 7	1.4380	1.4380
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 8	1.5675	1.5675
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 9	1.1361	1.1361

(D) CALCULATION OF STATE SHARE OF INSTRUCTION FORMULA ENTITLEMENTS AND ADJUSTMENTS

(1) Of the foregoing appropriation item 235501, State Share of Instruction, 7.5 per cent of the fiscal year 2012 appropriation and 10 per cent of the fiscal year 2013 appropriation for state-supported community colleges, state community colleges, and technical colleges shall be allocated to colleges in proportion to their share of college student success factors as adopted by the Chancellor of the Board of Regents in formal communication to the Controlling Board on August 30, 2010.

(2) Of the foregoing appropriation item 235501, State Share of Instruction, up to 12.89 per cent of the appropriation for university main campuses in each fiscal year shall be reserved for support of doctoral programs to implement the funding recommendations made by representatives of the universities. The amount so reserved shall be referred to as the doctoral set-aside.

The doctoral set-aside shall be allocated to universities as follows:

(a) 70 per cent of the doctoral set-aside in fiscal year 2012 and 60 per cent of the doctoral set-aside in fiscal year 2013 shall be allocated to universities in proportion to their share of the total number of Doctoral I equivalent FTEs as calculated on an institutional basis using the greater of the two-year or five-year FTEs for the period fiscal year 1994 through fiscal year 1998 with annualized FTEs for fiscal years 1994 through 1997 and all-term FTEs for fiscal year 1998 as adjusted to reflect the effects of doctoral review and subsequent changes in Doctoral I equivalent enrollments. For the purposes of this calculation, Doctoral I equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

(b) 15 per cent of the doctoral set-aside in fiscal year 2012 and 20 per cent of the doctoral set-aside in fiscal year 2013 shall be allocated to universities in proportion to each campus's share of the total statewide

doctoral degrees, weighted by the cost of the doctoral discipline. In calculating each campus's doctoral degrees the Chancellor of the Board of Regents shall use the three-year average doctoral degrees awarded for the three-year period ending in the prior year.

(c) 7.5 per cent of the doctoral set-aside in fiscal year 2012 and 10 per cent of the doctoral set-aside in fiscal year 2013 shall be allocated to universities in proportion to their share of research grant activity, using a data collection method that is reviewed and approved by the presidents of Ohio's doctoral degree granting universities. In the event that the data collection method is not available, funding for this component shall be allocated to universities in proportion to their share of research grant activity published by the National Science Foundation. Grant awards from the Department of Health and Human Services shall be weighted at 50 per cent.

(d) 7.5 per cent of the doctoral set-aside in fiscal year 2012 and 10 per cent of the doctoral set-aside in fiscal year 2013 shall be allocated to universities based on other quality measures that contribute to the advancement of quality doctoral programs. These other quality measures shall be identified by the Chancellor in consultation with universities. If for any reason metrics for distributing the quality component of the doctoral set-aside are not identified prior to the fiscal year allocation process, this portion of the doctoral set-aside funds shall be allocated to universities based on division (D)(2)(a) of this section.

(3) Of the foregoing appropriation item 235501, State Share of Instruction, 7.01 per cent of the appropriation for university main campuses in each fiscal year shall be reserved for support of Medical II FTEs. The amount so reserved shall be referred to as the medical II set-aside.

The medical II set-aside shall be allocated to universities in proportion to their share of the total number of Medical II FTEs as calculated in division (A) of this section, weighted by model cost.

The Northeast Ohio Medical University may use funds from the addition of 35 medical students resulting from its partnership with Cleveland State University to establish the Northeast Ohio Medical University academic campus at Cleveland State University to enable 50 per cent or more of the medical curriculum to be based in Cleveland at Cleveland State University, local hospitals, and community- and neighborhood-based primary care clinics. Cleveland State University shall not receive state capital appropriations to pay for facilities for the academic campus.

(4) Of the foregoing appropriation item 235501, State Share of Instruction, 1.61 per cent of the appropriation for university main campuses

in each fiscal year shall be reserved for support of Medical I FTEs. The amount so reserved shall be referred to as the medical I set-aside.

The medical I set-aside shall be allocated to universities in proportion to their share of the total number of Medical I FTEs as calculated in division (A) of this section.

(5) Of the foregoing appropriation item 235501, State Share of Instruction, 15 per cent of the fiscal year 2012 appropriation for university main campuses and 20 per cent of the fiscal year 2013 appropriation for university main campuses shall be reserved for support of associate, baccalaureate, master's, and professional level degree attainment.

The degree attainment funding shall be allocated to universities in proportion to each campus's share of the total statewide degrees granted, weighted by the cost of the degree programs.

In calculating the subsidy entitlements for degree attainment at university main campuses, the Chancellor of the Board of Regents shall use the following count of degrees and degree costs:

(a) For those associate degrees awarded by a state-supported university, the subsidy eligible degrees granted are defined as only those earned by students attending a university that received funding under GRF appropriation item 235418, Access Challenge, in fiscal year 2009.

(b) In calculating each campus's count of degrees, the Chancellor of the Board of Regents shall use the three-year average associate, baccalaureate, master's, and professional degrees awarded for the three-year period ending in the prior year.

(c) Eligible associate degrees defined in division (D)(5)(a) of this section and all bachelor's degrees earned by a student that either had an expected family contribution less than 2190, was determined to have been in need of remedial education, is Native American, African American, or Hispanic, or is at least age 26 at the time of graduation, shall be defined as degrees earned by an at-risk student and shall be weighted by the following:

(i) A campus-specific degree completion index, where the index is calculated based on the number of at-risk students enrolled during a two-year degree cohort beginning in fiscal year 2000 or 2001 and earning a degree in eight years or less; and

(ii) A statewide average at-risk completion weight determined by calculating the difference between the percentage of traditional students who earned a degree and the percentage of at-risk students who earned a degree during the same time period.

(6) Each campus's state share of instruction base formula earnings shall be determined as follows:

(a) For each campus in each fiscal year, the instructional costs shall be determined by multiplying the amounts listed above in divisions (B) and (C) of this section by (i) average subsidy-eligible FTEs for the two-year period ending in the prior year for all models except Doctoral I and Doctoral II; and (ii) average subsidy-eligible FTEs for the five-year period ending in the prior year for all models except Doctoral I and Doctoral II.

(b) The Chancellor of the Board of Regents shall compute the two calculations listed in division (D)(6)(a) of this section and use the greater amount as each campus's instructional costs.

(c) The Chancellor of the Board of Regents shall compute a uniform state share of instructional costs for each sector.

(i) For the state-supported community colleges, state community colleges, and technical colleges, the Chancellor of the Board of Regents shall compute the uniform state share of instructional costs by dividing the sector level appropriation total as determined by the Chancellor in division (A)(1) of Section 371.20.60 of this act and adjusted pursuant to divisions (B) and (C) of Section 371.20.60 of this act, less the student college success allocation as described in division (D)(1) of this section, by the sum of all eligible campuses' instructional costs as calculated in division (D)(6)(b) of this section.

(ii) For the state-supported university branch campuses, the Chancellor of the Board of Regents shall compute the uniform state share of instructional costs by dividing the sector level appropriation, as determined by the Chancellor in division (A)(2) of Section 371.20.60 of this act and adjusted pursuant to division (B) of Section 371.20.60 of this act by the sum of all campuses' instructional costs as calculated in division (D)(6)(b) of this section.

(iii) For the state-supported university main campuses, the Chancellor of the Board of Regents shall compute the uniform state share of instructional costs by dividing the sector level appropriation, as determined by the Chancellor in division (A)(3) of Section 371.20.60 of this act and adjusted pursuant to division (B) of Section 371.20.60 of this act, less the doctoral set-aside, less the medical I set-aside, less the medical II set-aside, and less the degree attainment funding as calculated in divisions (D)(2) to (5) of this section, by the sum of all campuses' instructional costs as calculated in division (D)(6)(b) of this section.

(d) The formula entitlement for each sector's campuses shall be determined by multiplying the uniform state share of instructional costs calculated in division (D)(6)(c) of this section by the campus's instructional cost determined in division (D)(6)(b) of this section.

(7) In addition to the student success allocation, doctoral set-aside, medical I set-aside, medical II set-aside, and the degree attainment allocation determined in divisions (D)(1) to (5) of this section and the formula entitlement determined in division (D)(6) of this section, an allocation based on facility-based plant operations and maintenance (POM) subsidy shall be made. For each eligible campus, the amount of the POM allocation in each fiscal year shall be distributed based on what each campus received in the fiscal year 2009 POM allocation.

Any POM allocations required by this division shall be funded by proportionately reducing formula entitlement earnings, including the POM allocations, for all campuses in that sector.

(8) STABILITY IN STATE SHARE OF INSTRUCTION FUNDING

(a) In addition to and after the adjustments noted above, in fiscal year 2012, no campus shall receive a state share of instruction allocation that is less than the lesser of the following two amounts, net of funding for the medical II set-aside:

(i) The prior year's state share of instruction amount reduced by 3 per cent, or

(ii) The prior year's state share of instruction amount reduced by a percentage equal to the percentage change from the prior year in the campus's sector's state share of instruction funding minus three percentage points. Funds shall be made available to support this allocation by proportionately reducing formula entitlement earnings from those campuses, within each sector, that are not receiving stability funding.

(b) In fiscal year 2013, in addition to and after the adjustments noted above, no campus shall receive a state share of instruction allocation that is less than the lesser of the following two amounts, net of funding for the medical II set-aside:

(i) The prior year's state share of instruction amount reduced by 4 per cent, or

(ii) The prior year's state share of instruction amount reduced by a percentage equal to the percentage change from the prior year in the campus's sector's state share of instruction funding minus four percentage points. Funds shall be made available to support this allocation by proportionately reducing formula entitlement earnings from those campuses, within each sector, that are not receiving stability funding.

(c) For main campus universities that operate a medical school, in fiscal year 2012 no campus shall receive an allocation for the medical II set-aside that is less than the lesser of the following amounts:

(i) The prior year's allocation for the medical II set-aside reduced by 2

per cent, or

(ii) The prior year's allocation for the medical II set-aside reduced by a percentage equal to the percentage change from the prior year in the total medical II set-aside minus two percentage points. Funds shall be made available to support this allocation by proportionately reducing formula entitlement earnings from public medical schools, within each sector, that are not receiving stability funding.

(d) In fiscal year 2013, no main campus university that operates a medical school shall receive an allocation for the medical II set-aside that is less than 97 per cent of the prior year's allocation for the medical II set-aside. Funds shall be made available to support this allocation by proportionately reducing formula entitlement earnings from public medical schools, within each sector, that are not receiving stability funding.

(9) CAPITAL COMPONENT DEDUCTION

After all other adjustments have been made, state share of instruction earnings shall be reduced for each campus by the amount, if any, by which debt service charged in Am. H.B. 748 of the 121st General Assembly, Am. Sub. H.B. 850 of the 122nd General Assembly, Am. Sub. H.B. 640 of the 123rd General Assembly, H.B. 675 of the 124th General Assembly, Am. Sub. H.B. 16 of the 126th General Assembly, Am. Sub. H.B. 699 of the 126th General Assembly, Am. Sub. H.B. 496 of the 127th General Assembly, and Am. Sub. H.B. 562 of the 127th General Assembly for that campus exceeds that campus's capital component earnings. The sum of the amounts deducted shall be transferred to appropriation item 235552, Capital Component, in each fiscal year.

(E) EXCEPTIONAL CIRCUMSTANCES

Adjustments may be made to the state share of instruction payments and other subsidies distributed by the Chancellor of the Board of Regents to state-assisted colleges and universities for exceptional circumstances. No adjustments for exceptional circumstances may be made without the recommendation of the Chancellor and the approval of the Controlling Board.

(F) APPROPRIATION REDUCTIONS TO THE STATE SHARE OF INSTRUCTION

The standard provisions of the state share of instruction calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation item 235501, State Share of Instruction, before the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.

Any reductions made to appropriation item 235501, State Share of

Instruction, after the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION

The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the first six months of the fiscal year shall be based upon the state share of instruction appropriation estimates made for the various institutions of higher education according to the Chancellor of the Board of Regents enrollment estimates. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Chancellor.

SECTION 371.20.60. STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2012 AND 2013

(A) The foregoing appropriation item 235501, State Share of Instruction, shall be distributed according to the section of this act entitled "STATE SHARE OF INSTRUCTION FORMULAS."

(1) Of the foregoing appropriation item 235501, State Share of Instruction, $400,039,672 in fiscal year 2012 and $403,657,477 in fiscal year 2013 shall be distributed to state-supported community colleges, state community colleges, and technical colleges.

(2) Of the foregoing appropriation item 235501, State Share of Instruction, $115,139,824 in fiscal year 2012 and $116,181,104 in fiscal year 2013 shall be distributed to state-supported university branch campuses.

(3) Of the foregoing appropriation item 235501, State Share of Instruction, $1,220,350,535 in fiscal year 2012 and $1,231,386,916 in fiscal year 2013 shall be distributed to state-supported university main campuses.

(B) Of the amounts earmarked in division (A) of this section, $60,996,059 in each fiscal year shall be distributed to eligible colleges and universities based on each campus's share of the appropriation item 235418, Access Challenge, in fiscal year 2009.

(C) Of the amount earmarked in division (A)(1) of this section, $10,323,056 in each fiscal year shall be distributed among state-supported community colleges, state community colleges, and technical colleges in an amount equal to the amount each institution received in fiscal year 2009 from the supplemental tuition subsidy earmarked under Section 375.30.25 of

H.B. 119 of the 127th General Assembly.

(D) The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Chancellor of the Board of Regents.

SECTION 371.20.65. TRANSFER OF INSTRUCTIONAL SUBSIDIES BETWEEN UNIVERSITIES

Notwithstanding any provision of law to the contrary, in consultation with the Chancellor of the Board of Regents, a state-supported university may request to transfer state share of instruction subsidy allocations of the foregoing appropriation item 235501, State Share of Instruction, between a university main campus and any university branch campus for which the university main campus is affiliated to best accomplish institutional goals and objectives. At the request of the Chancellor of the Board of Regents, the Director of Budget and Management may transfer the requested amounts of state share of instruction appropriation allocations between affiliated university branch campuses and university main campuses.

SECTION 371.20.70. RESTRICTION ON FEE INCREASES

The boards of trustees of state-assisted institutions of higher education shall restrain increases in in-state undergraduate instructional and general fees. Each state university, university branch, and the Northeast Ohio Medical University shall not increase its in-state undergraduate instructional and general fees more than 3.5 per cent over what the institution charged for the preceding academic year.

Each community college, state community college, and technical college shall not increase its in-state undergraduate instructional and general fees by more than $200 more than the institution charged for the preceding academic year.

These limitations shall not apply to increases required to comply with institutional covenants related to their obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the effective date of this section with respect to which the institution had identified such fee increases as the source of funds. Any increase required by such covenants and any such mandates, obligations, or commitments shall be reported by the Chancellor of the Board of Regents to

the Controlling Board. These limitations may also be modified by the Chancellor of the Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Chancellor of the Board of Regents.

SECTION 371.20.80. HIGHER EDUCATION - BOARD OF TRUSTEES

(A) Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus undergraduate courses of study and such master's degree courses of study as may be approved by the Chancellor of the Board of Regents.

(B) In providing instructional and other services to students, boards of trustees of state-assisted institutions of higher education shall supplement state subsidies with income from charges to students. Except as otherwise provided in this act, each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed student services facilities used for the benefit of enrolled students. The instructional fee and the general fee shall encompass all charges for services assessed uniformly to all enrolled students. Each board may also establish special purpose fees, service charges, and fines as required; such special purpose fees and service charges shall be for services or benefits furnished individual students or specific categories of students and shall not be applied uniformly to all enrolled students. A tuition surcharge shall be paid by all students who are not residents of Ohio.

The board of trustees of a state-assisted institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees.

Each state-assisted institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

(C) The boards of trustees of state-assisted institutions of higher

education shall ensure that faculty members devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per academic term per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Chancellor of the Board of Regents.

(D) The authority of government vested by law in the boards of trustees of state-assisted institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the exclusive prerogative of boards of trustees. Any delegation of authority by a board of trustees in other areas of responsibility shall be accompanied by appropriate standards of guidance concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

SECTION 371.20.90. STUDENT SUPPORT SERVICES

The foregoing appropriation item 235502, Student Support Services, shall be distributed by the Chancellor of the Board of Regents to Ohio's state-assisted colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

SECTION 371.30.10. WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Chancellor of the Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235504, War Orphans Scholarships, at the end of fiscal year 2012 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2013.

SECTION 371.30.20. OHIOLINK

The foregoing appropriation item 235507, OhioLINK, shall be used by the Chancellor of the Board of Regents to support OhioLINK, a consortium organized under division (U) of section 3333.04 of the Revised Code to serve as the state's electronic library information and retrieval system, which provides access statewide to an extensive set of electronic databases and resources and the library holdings of Ohio's public and participating private nonprofit colleges and universities, and the State Library of Ohio.

SECTION 371.30.30. AIR FORCE INSTITUTE OF TECHNOLOGY

The foregoing appropriation item 235508, Air Force Institute of Technology, shall be used by the director of the Air Force Institute to: (A) strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio; and (B) support the Dayton Area Graduate Studies Institute, an engineering graduate consortium of Wright State University, the University of Dayton, and the Air Force Institute of Technology, with the participation of the University of Cincinnati and The Ohio State University.

SECTION 371.30.40. OHIO SUPERCOMPUTER CENTER

The foregoing appropriation item 235510, Ohio Supercomputer Center, shall be used by the Chancellor of the Board of Regents to support the operation of the Ohio Supercomputer Center, a consortium organized under division (U) of section 3333.04 of the Revised Code, located at The Ohio State University. The Ohio Supercomputer Center is a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate.

Funds shall be used, in part, to support the Ohio Supercomputer Center's Computational Science Initiative, which includes its industrial outreach program, Blue Collar Computing, and its School of Computational Science. These collaborations between the Ohio Supercomputer Center and Ohio's colleges and universities shall be aimed at making Ohio a leader in using computer modeling to promote economic development.

SECTION 371.30.50. COOPERATIVE EXTENSION SERVICE

The foregoing appropriation item 235511, Cooperative Extension

Service, shall be disbursed through the Chancellor of the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code.

SECTION 371.30.60. CENTRAL STATE SUPPLEMENT

The Chancellor of the Board of Regents shall, in consultation with Central State University, develop a plan whereby the foregoing appropriation item 235514, Central State Supplement, shall be used in a manner consistent with the goals of increasing enrollment, improving course completion, and increasing the number of degrees conferred. The Chancellor shall submit a summary of the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor by December 31, 2011.

The foregoing appropriation item 235514, Central State Supplement, shall be disbursed by the Chancellor of the Board of Regents to Central State University. The first two disbursements in fiscal year 2012 shall be made on a quarterly basis. Beginning January 1, 2012, the funds shall be disbursed to Central State University in accordance with the plan developed by the Chancellor under this section.

The Chancellor shall monitor the implementation of the plan and the use of funds. Central State University shall provide any information requested by the Chancellor related to the implementation of the plan. If the Chancellor determines that Central State University's use of supplemental funds is not in accordance with the plan or if the plan is not having the desired effect, the Chancellor may notify Central State University that the plan is suspended. Upon receiving such notice, Central State University shall avoid all unnecessary expenditures under the plan. The Chancellor shall notify the Controlling Board of the suspension of the plan and within sixty days prepare a new plan for the use of any remaining funds.

SECTION 371.30.70. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE

The foregoing appropriation item 235515, Case Western Reserve University School of Medicine, shall be disbursed to Case Western Reserve University through the Chancellor of the Board of Regents in accordance with agreements entered into under section 3333.10 of the Revised Code, provided that the state support per full-time medical student shall not exceed that provided to full-time medical students at state universities.

SECTION 371.30.80. FAMILY PRACTICE

The Chancellor of the Ohio Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235519, Family Practice.

SECTION 371.30.90. SHAWNEE STATE SUPPLEMENT

The Chancellor of the Board of Regents shall, in consultation with Shawnee State University, develop a plan whereby the foregoing appropriation item 235520, Shawnee State Supplement, shall be used in a manner consistent with the goals of improving course completion, increasing the number of degrees conferred, and furthering the university's mission of service to the Appalachian region. The Chancellor shall submit a summary of the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor by December 31, 2011.

The foregoing appropriation item 235520, Shawnee State Supplement, shall be disbursed by the Chancellor of the Board of Regents to Shawnee State University. The first two disbursements in fiscal year 2012 shall be made on a quarterly basis. Beginning January 1, 2012, the funds shall be disbursed to Shawnee State University in accordance with the plan developed by the Chancellor under this section.

The Chancellor shall monitor the implementation of the plan and the use of funds. Shawnee State University shall provide any information requested by the Chancellor related to the implementation of the plan. If the Chancellor determines that Shawnee State University's use of supplemental funds is not in accordance with the plan or if the plan is not having the desired effect, the Chancellor may notify Shawnee State University that the plan is suspended. Upon receiving such notice, Shawnee State University shall avoid all unnecessary expenditures under the plan. The Chancellor shall notify the Controlling Board of the suspension of the plan and within sixty days prepare a new plan for the use of any remaining funds.

SECTION 371.40.10. POLICE AND FIRE PROTECTION

The foregoing appropriation item 235524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire

protection for the central campus of the state-affiliated university located therein.

SECTION 371.40.20. GERIATRIC MEDICINE

The Chancellor of the Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235525, Geriatric Medicine.

SECTION 371.40.30. PRIMARY CARE RESIDENCIES

The Chancellor of the Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235526, Primary Care Residencies.

The foregoing appropriation item 235526, Primary Care Residencies, shall be distributed in each fiscal year of the biennium, based on whether or not the institution has submitted and gained approval for a plan. If the institution does not have an approved plan, it shall receive five per cent less funding per student than it would have received from its annual allocation. The remaining funding shall be distributed among those institutions that meet or exceed their targets.

SECTION 371.40.40. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER

The foregoing appropriation item 235535, Ohio Agricultural Research and Development Center, shall be disbursed through the Chancellor of the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code. The Ohio Agricultural Research and Development Center shall not be required to remit payment to The Ohio State University during the biennium ending June 30, 2013, for cost reallocation assessments. The cost reallocation assessments include, but are not limited to, any assessment on state appropriations to the Center.

The Ohio Agricultural Research and Development Center, an entity of the College of Food, Agricultural, and Environmental Sciences of The Ohio State University, shall further its mission of enhancing Ohio's economic development and job creation by continuing to internally allocate on a competitive basis appropriated funding of programs based on demonstrated performance. Academic units, faculty, and faculty-driven programs shall be evaluated and rewarded consistent with agreed-upon performance

expectations as called for in the College's Expectations and Criteria for Performance Assessment.

SECTION 371.40.50. STATE UNIVERSITY CLINICAL TEACHING

The foregoing appropriation items 235536, The Ohio State University Clinical Teaching; 235537, University of Cincinnati Clinical Teaching; 235538, University of Toledo Clinical Teaching; 235539, Wright State University Clinical Teaching; 235540, Ohio University Clinical Teaching; and 235541, Northeast Ohio Medical University Clinical Teaching, shall be distributed through the Chancellor of the Board of Regents.

SECTION 371.40.60. CAPITAL COMPONENT

The foregoing appropriation item 235552, Capital Component, shall be used by the Chancellor of the Board of Regents to implement the capital funding policy for state-assisted colleges and universities established in Am. H.B. 748 of the 121st General Assembly. Appropriations from this item shall be distributed to all campuses for which the estimated campus debt service attributable to new qualifying capital projects is less than the campus's formula-determined capital component allocation. Campus allocations shall be determined by subtracting the estimated campus debt service attributable to new qualifying capital projects from the campus's formula-determined capital component allocation. Moneys distributed from this appropriation item shall be restricted to capital-related purposes.

Any campus for which the estimated campus debt service attributable to qualifying capital projects is greater than the campus's formula-determined capital component allocation shall have the difference subtracted from its State Share of Instruction allocation in each fiscal year. Appropriation equal to the sum of all such amounts except that of the Ohio Agricultural Research and Development Center shall be transferred from appropriation item 235501, State Share of Instruction, to appropriation item 235552, Capital Component. Appropriation equal to any estimated Ohio Agricultural Research and Development Center debt service attributable to qualifying capital projects that is greater than the Center's formula-determined capital component allocation shall be transferred from appropriation item 235535, Ohio Agricultural Research and Development Center, to appropriation item 235552, Capital Component.

SECTION 371.40.70. LIBRARY DEPOSITORIES

The foregoing appropriation item, 235555, Library Depositories, shall be distributed to the state's five regional depository libraries for the cost-effective storage of and access to lesser-used materials in university library collections. The depositories shall be administrated by the Chancellor of the Board of Regents, or by OhioLINK at the discretion of the Chancellor.

SECTION 371.40.80. OHIO ACADEMIC RESOURCES NETWORK (OARNET)

The foregoing appropriation item 235556, Ohio Academic Resources Network, shall be used by the Chancellor of the Board of Regents to support the operations of the Ohio Academic Resources Network, a consortium organized under division (U) of section 3333.04 of the Revised Code, which shall include support for Ohio's colleges and universities in maintaining and enhancing network connections, using new network technologies to improve research, education, and economic development programs, and sharing information technology services. To the extent network capacity is available, OARnet shall support allocating bandwidth to eligible programs directly supporting Ohio's economic development.

SECTION 371.40.90. LONG-TERM CARE RESEARCH

The foregoing appropriation item 235558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.

SECTION 371.50.10. OHIO COLLEGE OPPORTUNITY GRANT

(A) Except as provided in division (C) of this section:

Of the foregoing appropriation item 235563, Ohio College Opportunity Grant, $37,000,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to award need-based financial aid to students enrolled in eligible four-year public institutions of higher education, excluding early college high school and post-secondary enrollment option participants.

Of the foregoing appropriation item 235563, Ohio College Opportunity Grant, $41,000,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to award need-based financial aid to students enrolled in eligible private nonprofit institutions of higher education, excluding early college high school and post-secondary enrollment option participants.

The remainder of the foregoing appropriation item 235563, Ohio College Opportunity Grant, shall be used by the Chancellor of the Board of

Regents to award needs-based financial aid to students enrolled in eligible private for-profit career colleges and schools.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235563, Ohio College Opportunity Grant, at the end of fiscal year 2012 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2013.

(B)(1) As used in this section:

(a) "Eligible institution" means any institution described in divisions (B)(2)(a) to (c) of section 3333.122 of the Revised Code.

(b) The three "sectors" of institutions of higher education consist of the following:

(i) State colleges and universities, community colleges, state community colleges, university branches, and technical colleges;

(ii) Eligible private nonprofit institutions of higher education;

(iii) Eligible private for-profit career colleges and schools.

(2) If the Chancellor determines that the amounts appropriated for support of the Ohio College Opportunity Grant program are inadequate to provide grants to all eligible students as calculated under division (D) of section 3333.122 of the Revised Code, the Chancellor may create a distribution formula for fiscal year 2012 and fiscal year 2013 based on the formula used in fiscal year 2011, or may follow methods established in division (C)(1)(a) or (b) of section 3333.122 of the Revised Code. The Chancellor shall notify the Controlling Board of the distribution method. Any formula calculated under this division shall be complete and established to coincide with the start of the 2011-2012 academic year.

(C) Prior to determining the amount of funds available to award under this section and section 3333.122 of the Revised Code, the Chancellor shall use the foregoing appropriation item 235563, Ohio College Opportunity Grant, to pay for renewals or partial renewals of scholarships students receive under the Ohio Academic Scholarship Program under sections 3333.21 and 3333.22 of the Revised Code. In paying for scholarships under this division, the Chancellor shall deduct funds from the allocations made under division (A) of this section. Deductions shall be proportionate to the amounts allocated to each sector from the total amounts appropriated for each sector under the foregoing appropriation item 235563, Ohio College Opportunity Grant, and the foregoing appropriation item 235667, Ohio College Opportunity Grant - Proprietary.

In each fiscal year, the Chancellor shall not distribute or obligate or commit to be distributed an amount greater than what is appropriated under the foregoing appropriation item 235563, Ohio College Opportunity Grant.

(D) The Chancellor shall establish, and post on the Ohio Board of Regents' web site, award tables based on any formulas created under division (B) of this section. The Chancellor shall notify students and institutions of any reductions in awards under this section.

On or before August 31, 2011, the Chancellor of the Board of Regents shall submit award tables to the Controlling Board for the 2011-2012 academic year and allocations of Ohio College Opportunity Grant awards not already specified in section 3333.122 of the Revised Code.

(E) Notwithstanding section 3333.122 of the Revised Code, no student shall be eligible to receive an Ohio College Opportunity Grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years, less the number of semesters or quarters in which the student received an Ohio Instructional Grant.

SECTION 371.50.20. THE OHIO STATE UNIVERSITY CLINIC SUPPORT

The foregoing appropriation item 235572, The Ohio State University Clinic Support, shall be distributed through the Chancellor of the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

SECTION 371.50.30. NATIONAL GUARD SCHOLARSHIP PROGRAM

The Chancellor of the Board of Regents shall disburse funds from appropriation item 235599, National Guard Scholarship Program. During each fiscal year, the Chancellor of the Board of Regents, within ten days of cancellation, may certify to the Director of Budget and Management the amount of canceled prior-year encumbrances in appropriation item 235599, National Guard Scholarship Program. Upon receipt of the certification, the Director of Budget and Management may transfer cash in an amount up to the amount certified from the General Revenue Fund to the National Guard Scholarship Reserve Fund (Fund 5BM0). The Chancellor of the Board of Regents shall seek Controlling Board approval to authorize additional expenditures for appropriation item 235623, National Guard Scholarship Reserve Fund. Upon approval of the Controlling Board, the additional amounts are hereby appropriated. The Chancellor of the Board of Regents shall disburse funds from appropriation item 235623, National Guard Scholarship Reserve Fund.

SECTION 371.50.40. PLEDGE OF FEES

Any new pledge of fees, or new agreement for adjustment of fees, made in the biennium ending June 30, 2013, to secure bonds or notes of a state-assisted institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Chancellor of the Board of Regents, unless approved in a previous biennium.

SECTION 371.50.50. HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 235909, Higher Education General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, for obligations issued under sections 151.01 and 151.04 of the Revised Code.

SECTION 371.50.60. SALES AND SERVICES

The Chancellor of the Board of Regents is authorized to charge and accept payment for the provision of goods and services. Such charges shall be reasonably related to the cost of producing the goods and services. Except as otherwise provided by law, no charges may be levied for goods or services that are produced as part of the routine responsibilities or duties of the Chancellor. All revenues received by the Chancellor of the Board of Regents shall be deposited into Fund 4560, and may be used by the Chancellor of the Board of Regents to pay for the costs of producing the goods and services.

SECTION 371.50.61. CO-OP INTERNSHIP PROGRAM

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to support the operations of Ohio University's Voinovich School.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year, shall be used by the Chancellor of the Board of Regents to support the operations of The Ohio State University's John Glenn School of Public Affairs.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the Bliss Institute of

Applied Politics at the University of Akron.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the Center for Public Management and Regional Affairs at Miami University.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the Washington Center Internship Program.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the Maxine Goodman Levin College of Urban Affairs at Cleveland State University.

Of the foregoing appropriation item 235649, Co-op Internship Program, $75,000 in each fiscal year shall be used to support the University of Cincinnati Internship Program.

SECTION 371.50.63. OHIO COLLEGE OPPORTUNITY GRANT - PROPRIETARY

The foregoing appropriation item 235667, Ohio College Opportunity Grant - Proprietary, shall be used by the Chancellor of the Board of Regents to award needs-based financial aid to students enrolled in eligible private for-profit career colleges and schools, pursuant to section 3333.122 of the Revised Code and section 371.50.10 of this act.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235667, Ohio College Opportunity Grant - Proprietary, at the end of fiscal year 2012 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2013.

In each fiscal year, the Chancellor shall not distribute or obligate or commit to be distributed an amount greater than what is appropriated under the foregoing appropriation item 235667, Ohio College Opportunity Grant - Proprietary.

SECTION 371.50.65. AIR FORCE INSTITUTE OF TECHNOLOGY – DEFENSE/AEROSPACE GRADUATE STUDIES INSTITUTE

The foregoing appropriation item 235668, Air Force Institute of Technology – Defense/Aerospace Graduate Studies Institute, shall be used by the Defense/Aerospace Graduate Studies Institute to strengthen regional job training, equip Ohio's workforce with needed skills, and strengthen the research and educational linkages among Department of Defense facilities in Ohio, institutions of higher education in Ohio, and available industry jobs in Ohio. These funds shall be matched by private industry partners or the

Department of Defense in the aggregate amount of $2,500,000 over the FY 2012 - FY 2013 biennium.

SECTION 371.50.70. HIGHER EDUCATIONAL FACILITY COMMISSION ADMINISTRATION

The foregoing appropriation item 235602, Higher Educational Facility Commission Administration, shall be used by the Chancellor of the Board of Regents for operating expenses related to the Chancellor of the Board of Regents' support of the activities of the Ohio Higher Educational Facility Commission. Upon the request of the Chancellor, the Director of Budget and Management shall transfer up to $29,100 cash in fiscal year 2012 and up to $29,100 cash in fiscal year 2013 from the HEFC Operating Expenses Fund (Fund 4610) to the HEFC Administration Fund (Fund 4E80).

SECTION 371.50.80. NURSING LOAN PROGRAM

The foregoing appropriation item 235606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to $167,580 in each fiscal year may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

SECTION 371.50.90. VETERANS PREFERENCES

The Chancellor of the Board of Regents shall work with the Department of Veterans Services to develop specific veterans preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans preference laws.

SECTION 371.60.10. STATE NEED-BASED FINANCIAL AID RECONCILIATION

By the first day of August in each fiscal year, or as soon as possible thereafter, the Chancellor of the Board of Regents shall certify to the Director of Budget and Management the amount necessary to pay any outstanding prior year obligations to higher education institutions for the state's need-based financial aid programs. The amounts certified are hereby appropriated to appropriation item 235618, State Need-based Financial Aid Reconciliation, from revenues received in the State Need-based Financial Aid Reconciliation Fund (Fund 5Y50).

SECTION 371.60.20. (A) As used in this section:

(1) "Board of trustees" includes the managing authority of a university branch district.

(2) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) The board of trustees of any state institution of higher education, notwithstanding any rule of the institution to the contrary, may adopt a policy providing for mandatory furloughs of employees, including faculty, to achieve spending reductions necessitated by institutional budget deficits.

SECTION 371.60.40. EFFICIENCY ADVISORY COMMITTEE

The Chancellor of the Board of Regents shall establish an efficiency advisory committee for the purpose of generating optimal efficiency plans for campuses, identifying shared services opportunities, and sharing best practices. The efficiency advisory committee shall also attempt to reduce the cost of textbooks and other education resource materials. The committee shall meet at the call of the Chancellor or the Chancellor's designee, but at least quarterly. Each state institution of higher education shall designate an employee to serve as its efficiency officer responsible for the evaluation and improvement of operational efficiencies on campus. Each efficiency officer shall serve on the efficiency advisory committee.

SECTION 371.60.50. TEXTBOOK AFFORDABILITY

Each state institution of higher education shall submit to the Chancellor of the Board of Regents by December 31, 2011, a plan to reduce the cost to students of textbooks and other education resource materials.

SECTION 371.60.60. TUITION TRUST AUTHORITY APPROPRIATION LINE ITEM TRANSFER

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management, upon request by the Chancellor of the Board of Regents, shall cancel any existing encumbrances against appropriation item 095602, Variable Savings Plans, and re-establish them against appropriation item 235663, Variable Savings Plans. The re-established encumbrance amounts are hereby appropriated.

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management, upon request by the Chancellor of the Board of

Regents, shall cancel any existing encumbrances against appropriation item 095601, Guaranteed Savings Plan, and re-establish them against appropriation item 235664, Guaranteed Savings Plan. The re-established encumbrance amounts are hereby appropriated.

SECTION 371.60.70. (A) Notwithstanding anything to the contrary in sections 3333.81 to 3333.88 of the Revised Code, the distance learning clearinghouse required to be established under those sections shall be located at the Ohio Resource Center for Mathematics, Science, and Reading administered by the College of Education and Human Ecology at The Ohio State University. The College shall provide access to its online repository of educational content to offer courses from multiple providers at competitive prices for Ohio students in grades kindergarten to twelve.

(B) The College shall review the content of each course offered to assess the course's alignment with the academic standards adopted under division (A) of section 3301.079 of the Revised Code and shall publish its determination about the degree of alignment.

(C) The College shall indicate, for each course offered, the academic credit that a student may reasonably expect to earn upon successful completion of the course. However, in accordance with section 3333.85 of the Revised Code, the school district or school in which the student is enrolled retains full authority to determine the credit awarded to the student.

(D) As prescribed by section 3333.84 of the Revised Code, the fee charged for a course shall be set by the course provider. The College may retain a percentage of the fee to offset the cost of maintaining the course repository.

(E) The College may establish policies to protect the proprietary interest in or intellectual property of the educational content and courses that are housed in the course repository. The College may require end users to agree to the terms of any such policies prior to accessing the repository.

SECTION 371.60.80. (A) The Ohio Digital Learning Task Force is hereby established to develop a strategy for the expansion of digital learning that enables students to customize their education, produces cost savings, and meets the needs of Ohio's economy. The Task Force shall consist of the following members:

(1) The Chancellor of the Ohio Board of Regents or the Chancellor's designee;

(2) The Superintendent of Public Instruction or the Superintendent's

designee;

(3) The Director of the Governor's Office of 21st Century Education or the Director's designee;

(4) Up to six members appointed by the Governor, who shall be representatives of school districts or community schools, established under Chapter 3314. of the Revised Code, that are high-performing of their type and have demonstrated the ability to incorporate technology into the classroom successfully;

(5) A member appointed by the President of the Senate;

(6) A member appointed by the Speaker of the House of Representatives.

(B) Members of the Task Force shall be appointed not later than sixty days after the effective date of this section. Vacancies on the Task Force shall be filled in the same manner as the original appointments. Members shall serve without compensation.

(C) The Governor shall designate the chairperson of the Task Force. All meetings of the Task Force shall be held at the call of the chairperson.

(D) The Task Force shall do all of the following:

(1) Request information from textbook publishers about the development of digital textbooks and other new digital content distribution methods for use by primary, secondary, and post-secondary schools and institutions and examine that information;

(2) Examine potential cost savings and efficiency of utilizing digital textbooks and other new digital content distribution methods in primary, secondary, and post-secondary schools and institutions;

(3) Examine potential academic benefits of utilizing digital textbooks and other new digital content distribution methods, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the integration of formative and other online assessments;

(4) Examine digital content pilot programs and initiatives currently operating at primary, secondary, and post-secondary schools and institutions in Ohio, including, but not limited to, those financed in part with federal funds;

(5) Examine any state-level initiatives to provide or facilitate use of digital content in primary, secondary, and post-secondary schools and institutions in Ohio.

(E) The Task Force shall make recommendations regarding all of the following:

(1) The creation of high quality digital content and instruction in grades

kindergarten to twelve for free access by public and nonpublic schools and students receiving home instruction;

(2) High quality professional development for teachers and principals providing online instruction or blended learning programs;

(3) Funding strategies that create incentives for high performance, innovation, and options in course providers and delivery;

(4) Student assessment and accountability;

(5) Infrastructure to support digital learning;

(6) Mobile learning and mobile learning applications;

(7) The clearinghouse established under section 3333.82 of the Revised Code;

(8) Ways to align the resources and digital learning initiatives of state agencies and offices;

(9) Methods for removing redundancy and inefficiency in, and for providing coordination, of all digital learning programs, including the provision of free online instruction to public and nonpublic schools on a statewide basis;

(10) Methods of addressing future changes in technology and learning.

(E) Not later than March 1, 2012, the Task Force shall issue a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Upon issuance of its report, the Task Force shall cease to exist.

SECTION 371.60.90. Not later than six months after the effective date of this section, the Chancellor of the Ohio Board of Regents shall do both of the following:

(A) Take steps to facilitate full implementation of any digital textbook and digital content pilot programs currently planned at any state institutions of higher education in Ohio;

(B) Take steps to ensure that those pilot programs examine the potential cost savings and efficiencies of digital content and the potential academic benefits, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the integration of formative and other online assessments.

SECTION 371.70.10. On July 1, 2011, or as soon as possible thereafter, the Chancellor of the Board of Regents shall pay to The Ohio State University an amount equal to the cash balance in the OSU Highway/Transportation Research Fund (Fund 6490). The amount of the

payment is hereby appropriated from Fund 6490. Upon completion of the payment, Fund 6490 is hereby abolished and the Chancellor of the Board of Regents shall cancel any existing encumbrances against appropriation item 235607, The Ohio State University Highway/Transportation Research.

SECTION 371.70.20. An amount equal to the unexpended, unencumbered, previously released balance of capital appropriation item C38816, Penta Renovations, at the end of fiscal year 2010 is hereby reappropriated and released to the same appropriation item for fiscal year 2012, to be used to support the campus renovation program at Owens Community College. This amount represents the amount of fiscal year 2010 capital encumbrances that were inadvertently canceled and does not represent a new capital appropriation.

SECTION 373.10. DRC DEPARTMENT OF REHABILITATION AND CORRECTION

General Revenue Fund						
GRF	501321	Institutional Operations	$	909,547,156	$	866,592,589
GRF	501403	Prisoner Compensation	$	8,599,255	$	8,599,255
GRF	501405	Halfway House	$	43,637,069	$	43,622,104
GRF	501406	Lease Rental Payments	$	42,863,100	$	104,301,500
GRF	501407	Community Nonresidential Programs	$	25,859,382	$	25,839,390
GRF	501408	Community Misdemeanor Programs	$	14,906,800	$	14,906,800
GRF	501501	Community Residential Programs - CBCF	$	62,692,785	$	62,477,785
GRF	502321	Mental Health Services	$	58,525,816	$	51,778,513
GRF	503321	Parole and Community Operations	$	68,197,272	$	63,783,848
GRF	504321	Administrative Operations	$	21,996,504	$	20,085,474
GRF	505321	Institution Medical Services	$	209,231,014	$	195,241,961
GRF	506321	Institution Education Services	$	20,237,576	$	18,086,492
GRF	507321	Institution Recovery Services	$	5,786,109	$	5,375,737
TOTAL GRF General Revenue Fund			$	1,492,079,838	$	1,480,691,448
General Services Fund Group						
1480	501602	Services and Agricultural	$	3,579,250	$	3,584,263
2000	501607	Ohio Penal Industries	$	38,000,000	$	38,000,000
4830	501605	Property Receipts	$	182,723	$	182,086
4B00	501601	Sewer Treatment Services	$	2,145,630	$	2,157,682
4D40	501603	Prisoner Programs	$	14,900,000	$	14,900,000
4L40	501604	Transitional Control	$	1,168,843	$	1,213,120
4S50	501608	Education Services	$	2,376,041	$	2,359,775
5710	501606	Training Academy Receipts	$	125,000	$	125,000

5930	501618	Laboratory Services	$ 6,665,137	$ 6,664,729
5AF0	501609	State and Non-Federal Awards	$ 1,440,000	$ 1,440,000
5H80	501617	Offender Financial Responsibility	$ 2,000,000	$ 2,000,000
5L60	501611	Information Technology Services	$ 600,000	$ 600,000
TOTAL GSF General Services Fund Group			$ 73,182,624	$ 73,226,655
Federal Special Revenue Fund Group				
3230	501619	Federal Grants	$ 9,013,558	$ 9,180,703
TOTAL FED Federal Special Revenue Fund Group			$ 9,013,558	$ 9,180,703
TOTAL ALL BUDGET FUND GROUPS			$ 1,574,276,020	$ 1,563,098,806

TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL SENTENCING REFORMS

For the purposes of implementing criminal sentencing reforms, and notwithstanding any other provision of law to the contrary, the Director of Budget and Management, at the request of the Director of Rehabilitation and Correction, may transfer up to $14,000,000 in appropriations, in each of fiscal years 2012 and 2013, from appropriation item 501321, Institutional Operations, to any combination of appropriation items 501405, Halfway House; 501407, Community Residential Programs; 501408, Community Misdemeanor Programs; and 501501, Community Residential Programs - CBCF.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 501406, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Rehabilitation and Correction to the Ohio Building Authority under the primary leases and agreements for those buildings made under Chapter 152. of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 152. of the Revised Code.

OSU MEDICAL CHARGES

Notwithstanding section 341.192 of the Revised Code, at the request of the Department of Rehabilitation and Correction, The Ohio State University Medical Center, including the James Cancer Hospital and Solove Research Institute and the Richard M. Ross Heart Hospital, shall provide necessary care to persons who are confined in state adult correctional facilities. The provision of necessary care shall be billed to the Department at a rate not to exceed the authorized reimbursement rate for the same service established by the Department of Job and Family Services under the Medical Assistance Program.

SECTION 375.10. RSC REHABILITATION SERVICES COMMISSION

General Revenue Fund				
GRF	415402	Independent Living Council	$ 252,000	$ 252,000
GRF	415406	Assistive Technology	$ 26,618	$ 26,618
GRF	415431	Office for People with Brain Injury	$ 126,567	$ 126,567
GRF	415506	Services for People with Disabilities	$ 12,777,884	$ 12,777,884
GRF	415508	Services for the Deaf	$ 28,000	$ 28,000
TOTAL GRF General Revenue Fund			$ 13,211,069	$ 13,211,069
General Services Fund Group				
4670	415609	Business Enterprise Operating Expenses	$ 1,308,431	$ 1,303,090
TOTAL GSF General Services Fund Group			$ 1,308,431	$ 1,303,090
Federal Special Revenue Fund Group				
3170	415620	Disability Determination	$ 97,579,095	$ 97,579,095
3790	415616	Federal - Vocational Rehabilitation	$ 103,160,426	$ 103,150,102
3L10	415601	Social Security Personal Care Assistance	$ 3,370,000	$ 3,370,000
3L10	415605	Social Security Community Centers for the Deaf	$ 772,000	$ 772,000
3L10	415608	Social Security Special Programs/Assistance	$ 1,521,406	$ 1,520,184
3L40	415612	Federal Independent Living Centers or Services	$ 652,222	$ 652,222
3L40	415615	Federal - Supported Employment	$ 929,755	$ 929,755
3L40	415617	Independent Living/Vocational Rehabilitation Programs	$ 2,137,338	$ 2,137,338
TOTAL FED Federal Special Revenue Fund Group			$ 210,122,242	$ 210,110,696
State Special Revenue Fund Group				
4680	415618	Third Party Funding	$ 10,802,589	$ 10,802,589
4L10	415619	Services for Rehabilitation	$ 3,700,000	$ 3,700,000
4W50	415606	Program Management Expenses	$ 11,636,730	$ 11,587,201
TOTAL SSR State Special Revenue Fund Group			$ 26,139,319	$ 26,089,790
TOTAL ALL BUDGET FUND GROUPS			$ 250,781,061	$ 250,714,645

INDEPENDENT LIVING COUNCIL

The foregoing appropriation item 415402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council and to support state independent living centers and independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106

Stat. 4344, 29 U.S.C. 796d.

Of the foregoing appropriation item 415402, Independent Living Council, $67,662 in each fiscal year shall be used as state matching funds for vocational rehabilitation innovation and expansion activities.

ASSISTIVE TECHNOLOGY

The total amount of the foregoing appropriation item 415406, Assistive Technology, shall be provided to Assistive Technology of Ohio to provide grants and assistive technology services for people with disabilities in the State of Ohio.

OFFICE FOR PEOPLE WITH BRAIN INJURY

The foregoing appropriation item 415431, Office for People with Brain Injury, shall be used to plan and coordinate head-injury-related services provided by state agencies and other government or private entities, to assess the needs for such services, and to set priorities in this area.

Of the foregoing appropriation item 415431, Office for People with Brain Injury, $44,067 in each fiscal year shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

VOCATIONAL REHABILITATION SERVICES

The foregoing appropriation item 415506, Services for People with Disabilities, shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

At the request of the Chancellor of the Board of Regents, the Director of Budget and Management may transfer any unexpended, unencumbered appropriation in fiscal year 2012 or fiscal year 2013 from appropriation item 235502, Student Support Services, to appropriation item 415506, Services for People with Disabilities. Any appropriation so transferred shall be used by the Ohio Rehabilitation Services Commission to obtain additional federal matching funds to serve disabled students.

SERVICES FOR THE DEAF

The foregoing appropriation item 415508, Services for the Deaf, shall be used to provide grants to community centers for the deaf.

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS

The foregoing appropriation item 415617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs.

SOCIAL SECURITY REIMBURSEMENT FUNDS

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful

employment shall be expended from the Social Security Reimbursement Fund (Fund 3L10), to the extent funds are available, as follows:

(A) Appropriation item 415601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;

(B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and

(C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87.

PROGRAM MANAGEMENT EXPENSES

The foregoing appropriation item 415606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.

SECTION 377.10. RCB RESPIRATORY CARE BOARD

General Services Fund Group						
4K90	872609	Operating Expenses	$	528,624	$	523,013
TOTAL GSF General Services Fund Group			$	528,624	$	523,013
TOTAL ALL BUDGET FUND GROUPS			$	528,624	$	523,013

SECTION 379.10. RDF REVENUE DISTRIBUTION FUNDS

Volunteer Firefighters' Dependents Fund						
7085	800985	Volunteer Firemen's Dependents Fund	$	300,000	$	300,000
TOTAL 085 Volunteer Firefighters' Dependents Fund			$	300,000	$	300,000
Agency Fund Group						
4P80	001698	Cash Management Improvement Fund	$	3,100,000	$	3,100,000
5JG0	110633	Gross Casino Revenue County Fund	$	5,778,617	$	138,882,294
5JH0	110634	Gross Casino Revenue County Student Fund	$	3,852,412	$	92,588,196
5JJ0	110636	Gross Casino Revenue Host City Fund	$	566,531	$	13,615,911
5JK0	875610	Ohio State Racing	$	339,919	$	8,169,547

		Commission Fund		
5JL0	038629	Problem Casino Gambling and Addictions Fund	$ 226,612	$ 5,446,364
5JN0	055654	Ohio Law Enforcement Training Fund	$ 226,612	$ 5,446,364
6080	001699	Investment Earnings	$ 50,000,000	$ 150,000,000
7062	110962	Resort Area Excise Tax	$ 1,000,000	$ 1,000,000
7063	110963	Permissive Tax Distribution	$ 1,904,500,000	$ 1,980,700,000
7067	110967	School District Income Tax	$ 317,000,000	$ 330,000,000
TOTAL AGY Agency Fund Group			$ 2,286,590,703	$ 2,728,948,676
Holding Account Redistribution				
R045	110617	International Fuel Tax Distribution	$ 40,000,000	$ 40,000,000
TOTAL 090 Holding Account Redistribution Fund				
Revenue Distribution Fund Group			$ 40,000,000	$ 40,000,000
7049	038900	Indigent Drivers Alcohol Treatment	$ 2,200,000	$ 2,200,000
7050	762900	International Registration Plan Distribution	$ 30,000,000	$ 30,000,000
7051	762901	Auto Registration Distribution	$ 539,000,000	$ 539,000,000
7054	110954	Local Government Property Tax Replacement - Utility	$ 16,000,000	$ 11,000,000
7060	110960	Gasoline Excise Tax Fund	$ 393,000,000	$ 395,000,000
7065	110965	Public Library Fund	$ 354,000,000	$ 345,000,000
7066	800966	Undivided Liquor Permits	$ 14,100,000	$ 14,100,000
7068	110968	State and Local Government Highway Distribution	$ 193,000,000	$ 196,000,000
7069	110969	Local Government Fund	$ 577,000,000	$ 348,000,000
7081	110981	Local Government Property Tax Replacement-Business	$ 291,000,000	$ 181,000,000
7082	110982	Horse Racing Tax	$ 100,000	$ 100,000
7083	700900	Ohio Fairs Fund	$ 1,400,000	$ 1,400,000
TOTAL RDF Revenue Distribution Fund Group			$ 2,410,800,000	$ 2,062,800,000
TOTAL ALL BUDGET FUND GROUPS			$ 4,737,690,703	$ 4,832,048,676

ADDITIONAL APPROPRIATIONS

Appropriation items in this section shall be used for the purpose of administering and distributing the designated revenue distribution funds according to the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

GENERAL REVENUE FUND TRANSFERS

Notwithstanding any provision of law to the contrary, in fiscal year 2012 and fiscal year 2013, the Director of Budget and Management may transfer from the General Revenue Fund to the Local Government Tangible Property Tax Replacement Fund (Fund 7081) in the Revenue Distribution Fund Group, those amounts necessary to reimburse local taxing units under

section 5751.22 of the Revised Code. Also, in fiscal year 2012 and fiscal year 2013, the Director of Budget and Management may make temporary transfers from the General Revenue Fund to ensure sufficient balances in the Local Government Tangible Property Tax Replacement Fund (Fund 7081) and to replenish the General Revenue Fund for such transfers.

SECTION 381.10. SAN BOARD OF SANITARIAN REGISTRATION

General Services Fund Group					
4K90	893609	Operating Expenses	$ 141,839	$	126,850
TOTAL GSF General Services Fund Group			$ 141,839	$	126,850
TOTAL ALL BUDGET FUND GROUPS			$ 141,839	$	126,850

SECTION 383.10. OSB OHIO STATE SCHOOL FOR THE BLIND

General Revenue Fund					
GRF	226100	Personal Services	$ 6,593,546	$	6,593,546
GRF	226200	Maintenance	$ 619,528	$	619,528
GRF	226300	Equipment	$ 65,505	$	65,505
TOTAL GRF General Revenue Fund			$ 7,278,579	$	7,278,579
General Services Fund Group					
4H80	226602	Education Reform Grants	$ 60,086	$	60,086
TOTAL GSF General Services Fund Group			$ 60,086	$	60,086
Federal Special Revenue Fund Group					
3100	226626	Coordinating Unit	$ 2,527,104	$	2,527,104
3DT0	226621	Ohio Transition Collaborative	$ 1,800,000	$	1,800,000
3P50	226643	Medicaid Professional Services Reimbursement	$ 50,000	$	50,000
TOTAL FED Federal Special Revenue Fund Group			$ 4,377,104	$	4,377,104
State Special Revenue Fund Group					
4M50	226601	Work Study and Technology Investment	$ 698,521	$	698,521
TOTAL SSR State Special Revenue Fund Group			$ 698,521	$	698,521
TOTAL ALL BUDGET FUND GROUPS			$ 12,414,290	$	12,414,290

SECTION 385.10. OSD OHIO SCHOOL FOR THE DEAF

General Revenue Fund					
GRF	221100	Personal Services	$ 7,842,339	$	7,842,339
GRF	221200	Maintenance	$ 814,532	$	814,532
GRF	221300	Equipment	$ 70,786	$	70,786
TOTAL GRF General Revenue Fund			$ 8,727,657	$	8,727,657
General Services Fund Group					
4M10	221602	Education Reform Grants	$ 74,903	$	74,903

TOTAL GSF General Services Fund Group			$ 74,903	$ 74,903
Federal Special Revenue Fund Group				
3110	221625	Coordinating Unit	$ 2,460,135	$ 2,460,135
3R00	221684	Medicaid Professional Services Reimbursement	$ 35,000	$ 35,000
3Y10	221686	Early Childhood Grant	$ 300,000	$ 300,000
TOTAL FED Federal Special Revenue Fund Group			$ 2,795,135	$ 2,795,135
State Special Revenue Fund Group				
4M00	221601	Educational Program Expenses	$ 190,000	$ 190,000
5H60	221609	Even Start Fees and Gifts	$ 126,750	$ 126,750
TOTAL SSR State Special Revenue Fund Group			$ 316,750	$ 316,750
TOTAL ALL BUDGET FUND GROUPS			$ 11,914,445	$ 11,914,445

SECTION 387.10. SFC SCHOOL FACILITIES COMMISSION

General Revenue Fund				
GRF	230908	Common Schools General Obligation Debt Service	$ 150,604,900	$ 341,919,400
TOTAL GRF General Revenue Fund			$ 150,604,900	$ 341,919,400
State Special Revenue Fund Group				
5E30	230644	Operating Expenses	$ 8,950,000	$ 8,550,000
TOTAL SSR State Special Revenue Fund Group			$ 8,950,000	$ 8,550,000
TOTAL ALL BUDGET FUND GROUPS			$ 159,554,900	$ 350,469,400

SECTION 387.20. COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 230908, Common Schools General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, for obligations issued under sections 151.01 and 151.03 of the Revised Code.

OPERATING EXPENSES

The foregoing appropriation item 230644, Operating Expenses, shall be used by the Ohio School Facilities Commission to carry out its responsibilities under this section and Chapter 3318. of the Revised Code.

In both fiscal years 2012 and 2013, the Executive Director of the Ohio School Facilities Commission shall certify on a quarterly basis to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 7032), the Public School Building Fund (Fund 7021), and the Educational

Facilities Trust Fund (Fund N087) to the Ohio School Facilities Commission Fund (Fund 5E30). The amount transferred from the School Building Assistance Fund (Fund 7032) may not exceed investment earnings credited to the fund, less any amount required to be paid for federal arbitrage rebate purposes.

If the Executive Director of the Ohio School Facilities Commission determines that transferring cash from interest earnings is insufficient to support operations and carry out its responsibilities under this section and Chapter 3318. of the Revised Code, the Commission may, with the approval of the Controlling Board, transfer cash not generated from interest from the Public School Building Fund (Fund 7021) and the Educational Trust Fund (Fund N087) to the Ohio School Facilities Commission Fund (Fund 5E30).

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION

At the request of the Executive Director of the Ohio School Facilities Commission, the Director of Budget and Management may cancel encumbrances for school district projects from a previous biennium if the district has not raised its local share of project costs within thirteen months of receiving Controlling Board approval under section 3318.05 or 3318.41 of the Revised Code. The Executive Director of the Ohio School Facilities Commission shall certify the amounts of the canceled encumbrances to the Director of Budget and Management on a quarterly basis. The amounts of the canceled encumbrances are hereby appropriated.

SECTION 387.30. AMENDMENT TO PROJECT AGREEMENT FOR MAINTENANCE LEVY

The Ohio School Facilities Commission shall amend the project agreement between the Commission and a school district that is participating in the Accelerated Urban School Building Assistance Program on the effective date of this section, if the Commission determines that it is necessary to do so in order to comply with division (B)(3)(c) of section 3318.38 of the Revised Code.

SECTION 387.40. CANTON CITY SCHOOL DISTRICT PROJECT

(A) The Ohio School Facilities Commission may commit up to thirty-five million dollars to the Canton City School District for construction of a facility described in this section, in lieu of a high school that would otherwise be authorized under Chapter 3318. of the Revised Code. The Commission shall not commit funds under this section unless all of the

following conditions are met:

(1) The District has entered into a cooperative agreement with a state-assisted technical college;

(2) The District has received an irrevocable commitment of additional funding from nonpublic sources; and

(3) The facility is intended to serve both secondary and postsecondary instructional purposes.

(B) The Commission shall enter into an agreement with the District for the construction of the facility authorized under this section that is separate from and in addition to the agreement required for the District's participation in the Classroom Facilities Assistance Program under section 3318.08 of the Revised Code. Notwithstanding that section and sections 3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following:

(1) The Commission shall not have any oversight responsibilities over the construction of the facility.

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission.

(3) The Commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code.

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code.

SECTION 387.50. Notwithstanding any other provision of law to the contrary, the Ohio School Facilities Commission may determine the amount of funding available for disbursement in a given fiscal year for any project approved under sections 3318.01 to 3318.20 of the Revised Code in order to keep aggregate state capital spending within approved limits and may take actions including, but not limited to, determining the schedule for design or bidding of approved projects, to ensure appropriate and supportable cash flow.

SECTION 387.60. Notwithstanding division (B) of section 3318.40 of the Revised Code, the Ohio School Facilities Commission may provide assistance to at least one joint vocational school district each fiscal year for the acquisition of classroom facilities in accordance with sections 3318.40 to 3318.45 of the Revised Code.

SECTION 387.70. (A) As used in this section, "equity list" means the school district percentile rankings calculated under section 3318.011 of the Revised Code.

(B) Not later than thirty days after the effective date of this section, the Department of Education shall create an alternate equity list for fiscal year 2011, for use in funding projects for fiscal year 2012, by recalculating each school district's percentile ranking under section 3318.011 of the Revised Code and shall certify the alternate equity list to the Ohio School Facilities Commission. For this purpose, the Department shall recalculate each school district's percentile ranking using the district's "average taxable value" as that term is defined in the version of section 3318.011 of the Revised Code, as it results from the amendments to that section enacted by this act.

(C) The Commission shall use the alternate equity list certified under division (B) of this section to determine the priority for assistance under sections 3318.01 to 3318.20 of the Revised Code for fiscal year 2012 for each school district that has not previously been offered funding under those sections. However, no district that already has been offered assistance under those sections for fiscal year 2011 prior to the Commission's receipt of the alternate equity list shall be denied the opportunity for assistance under those sections for that fiscal year.

(D) Notwithstanding any provision of Chapter 3318. of the Revised Code to the contrary, for each school district that receives the Commission's conditional approval of the district's project under sections 3318.01 to 3318.20 of the Revised Code for fiscal year 2012, the district's portion of the basic project cost shall be the lesser of the following:

(1) The amount required under section 3318.032 of the Revised Code calculated using the percentile in which the district ranks on the alternate equity list certified under division (B) of this section;

(2) The amount required under section 3318.032 of the Revised Code calculated using the percentile in which the district ranks on the original equity list for fiscal year 2011.

SECTION 389.10. SOS SECRETARY OF STATE

General Revenue Fund						
GRF	050321	Operating Expenses	$	2,144,030	$	2,144,030
GRF	050407	Pollworkers Training	$	234,196	$	234,196
TOTAL GRF General Revenue Fund			$	2,378,226	$	2,378,226
General Services Fund Group						
4120	050609	Notary Commission	$	475,000	$	475,000
4130	050601	Information Systems	$	49,000	$	49,000
4140	050602	Citizen Education Fund	$	25,000	$	25,000
4S80	050610	Board of Voting Machine Examiners	$	7,200	$	7,200
5FG0	050620	BOE Reimbursement and Education	$	100,000	$	100,000
TOTAL General Services Fund Group			$	656,200	$	656,200
Federal Special Revenue Fund Group						
3AH0	050614	Election Reform/Health and Human Services	$	800,000	$	800,000
3AS0	050616	Help America Vote Act (HAVA)	$	3,000,000	$	3,000,000
TOTAL FED Federal Special Revenue Fund Group			$	3,800,000	$	3,800,000
State Special Revenue Fund Group						
5990	050603	Business Services Operating Expenses	$	14,385,400	$	14,385,400
TOTAL SSR State Special Revenue Fund Group			$	14,385,400	$	14,385,400
Holding Account Redistribution Fund Group						
R001	050605	Uniform Commercial Code Refunds	$	30,000	$	30,000
R002	050606	Corporate/Business Filing Refunds	$	85,000	$	85,000
TOTAL 090 Holding Account Redistribution Fund Group			$	115,000	$	115,000
TOTAL ALL BUDGET FUND GROUPS			$	21,334,826	$	21,334,826

POLLWORKER TRAINING

The foregoing appropriation item 050407, Pollworkers Training, shall be used to reimburse county boards of elections for pollworker training pursuant to section 3501.27 of the Revised Code. At the end of fiscal year 2012, an amount equal to the unexpended, unencumbered portion of appropriation item 050407, Pollworkers Training, is hereby reappropriated in fiscal year 2013 for the same purpose.

BOARD OF VOTING MACHINE EXAMINERS

The foregoing appropriation item 050610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine

Examiners Fund, which is created in section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting equipment for examination. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

HAVA FUNDS

An amount equal to the unexpended, unencumbered portion of appropriation item 050616, Help America Vote Act (HAVA) Voting Machines, at the end of fiscal year 2012 is reappropriated for the same purpose in fiscal year 2013.

An amount equal to the unexpended, unencumbered portion of appropriation item 050614, Election Reform/Health and Human Services, at the end of fiscal year 2012 is reappropriated for the same purpose in fiscal year 2013.

The Director of Budget and Management shall credit the ongoing interest earnings from the Election Reform/Health and Human Services Fund (Fund 3AH0), the Help America Vote Act (HAVA) Voting Machines Fund (Fund 3AS0), and the Election Data Collection Grant Fund (Fund 3AC0) to the respective funds and distribute these earnings in accordance with the terms of the grant under which the money is received.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 050605, Uniform Commercial Code Refunds, and 050606, Corporate/Business Filing Refunds, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

ABOLITION OF THE TECHNOLOGY IMPROVEMENTS FUND

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Technology Improvements Fund (Fund 5N90) to the Business Services Operating Expenses Fund (Fund 5990). The Director shall cancel any existing encumbrances against appropriation item 050607, Technology Improvements, and re-establish them against appropriation item 050603, Business Services Operating Expenses. The re-established encumbered amounts are hereby appropriated. Upon completion of the transfer, Fund 5N90 is abolished.

SECTION 391.10. SEN THE OHIO SENATE

General Revenue Fund

GRF	020321	Operating Expenses	$ 10,911,095	$	10,911,095
TOTAL GRF General Revenue Fund			$ 10,911,095	$	10,911,095

General Services Fund Group					
1020	020602	Senate Reimbursement	$ 852,001	$	852,001
4090	020601	Miscellaneous Sales	$ 34,497	$	34,497
TOTAL GSF General Services Fund Group			$ 886,498	$	886,498
TOTAL ALL BUDGET FUND GROUPS			$ 11,797,593	$	11,797,593

OPERATING EXPENSES

On July 1, 2011, or as soon as possible thereafter, the Clerk of the Senate may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 020321, Operating Expenses, at the end of fiscal year 2011 to be reappropriated to fiscal year 2012. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2012.

On July 1, 2012, or as soon as possible thereafter, the Clerk of the Senate may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 020321, Operating Expenses, at the end of fiscal year 2012 to be reappropriated to fiscal year 2013. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2013.

SECTION 393.10. CSV COMMISSION ON SERVICE AND VOLUNTEERISM

General Revenue Fund					
GRF	866321	CSV Operations	$ 129,998	$	126,664
TOTAL GRF General Revenue Fund			$ 129,998	$	126,664
General Services Fund					
5GN0	866605	Serve Ohio Support	$ 67,500	$	67,500
TOTAL GSF General Services Fund			$ 67,500	$	67,500
Federal Special Revenue Fund Group					
3R70	866617	AmeriCorps Programs	$ 8,279,290	$	8,272,110
TOTAL FED Federal Special Revenue Fund Group			$ 8,279,290	$	8,272,110
State Special Revenue Fund Group					
6240	866604	Volunteer Contracts and Services	$ 49,130	$	47,870
TOTAL SSR State Special Revenue Fund Group			$ 49,130	$	47,870
TOTAL ALL BUDGET FUND GROUPS			$ 8,525,918	$	8,514,144

SECTION 395.10. CSF COMMISSIONERS OF THE SINKING FUND

Debt Service Fund Group					
7070	155905	Third Frontier Research and Development Bond Retirement Fund	$ 29,323,300	$	63,640,300

7072	155902	Highway Capital Improvement Bond Retirement Fund	$ 143,176,000	$	150,789,300
7073	155903	Natural Resources Bond Retirement Fund	$ 5,375,300	$	25,209,100
7074	155904	Conservation Projects Bond Retirement Fund	$ 24,556,800	$	29,297,300
7076	155906	Coal Research and Development Bond Retirement Fund	$ 7,861,100	$	5,577,700
7077	155907	State Capital Improvement Bond Retirement Fund	$ 113,306,600	$	215,571,100
7078	155908	Common Schools Bond Retirement Fund	$ 150,604,900	$	341,919,400
7079	155909	Higher Education Bond Retirement Fund	$ 108,262,500	$	201,555,000
7080	155901	Persian Gulf, Afghanistan, and Iraq Conflicts Bond Retirement Fund	$ 5,497,700	$	10,112,100
7090	155912	Job Ready Site Development Bond Retirement Fund	$ 9,859,200	$	15,680,500
TOTAL DSF Debt Service Fund Group			$ 597,823,400	$	1,059,351,800
TOTAL ALL BUDGET FUND GROUPS			$ 597,823,400	$	1,059,351,800

ADDITIONAL APPROPRIATIONS

Appropriation items in this section are for the purpose of paying debt service and financing costs on bonds or notes of the state issued under the Ohio Constitution and acts of the General Assembly. If it is determined that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

SECTION 397.10. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY DEVELOPMENT FOUNDATION

Tobacco Master Settlement Agreement Fund Group

5M90	945601	Operating Expenses	$ 436,500	$	426,800
TOTAL TMF Tobacco Master Settlement Agreement Fund Group			$ 436,500	$	426,800
TOTAL ALL BUDGET FUND GROUPS			$ 436,500	$	426,800

SECTION 399.10. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY

General Services Fund Group

4K90	886609	Operating Expenses	$ 477,490	$	472,260
TOTAL GSF General Services Fund Group			$ 477,490	$	472,260
TOTAL ALL BUDGET FUND GROUPS			$ 477,490	$	472,260

SECTION 401.10. BTA BOARD OF TAX APPEALS

General Revenue Fund

GRF	116321	Operating Expenses	$	1,600,000	$	1,700,000
TOTAL GRF General Revenue Fund			$	1,600,000	$	1,700,000
TOTAL ALL BUDGET FUND GROUPS			$	1,600,000	$	1,700,000

SECTION 403.10. TAX DEPARTMENT OF TAXATION

General Revenue Fund

GRF	110321	Operating Expenses	$	73,500,000	$	73,550,000
GRF	110404	Tobacco Settlement Enforcement	$	200,000	$	200,000
GRF	110412	Child Support Administration	$	15,804	$	15,804
GRF	110901	Property Tax Allocation - Taxation	$	610,900,000	$	616,000,000
TOTAL GRF General Revenue Fund			$	684,615,804	$	689,765,804

General Services Fund Group

2280	110628	Tax Reform System Implementation	$	13,638,008	$	13,642,176
4330	110602	Tape File Account	$	197,802	$	197,878
5AP0	110632	Discovery Project	$	2,445,799	$	2,445,657
5BW0	110630	Tax Amnesty Promotion and Administration	$	2,500,000	$	0
5CZ0	110631	Vendor's License Application	$	250,000	$	250,000
5N50	110605	Municipal Income Tax Administration	$	339,798	$	339,975
5N60	110618	Kilowatt Hour Tax Administration	$	150,000	$	150,000
5V80	110623	Property Tax Administration	$	12,195,733	$	12,099,303
5W40	110625	Centralized Tax Filing and Payment	$	200,000	$	200,000
5W70	110627	Exempt Facility Administration	$	50,000	$	50,000
TOTAL GSF General Services Fund Group			$	31,967,140	$	29,374,989

State Special Revenue Fund Group

4350	110607	Local Tax Administration	$	19,028,339	$	19,225,941
4360	110608	Motor Vehicle Audit	$	1,474,081	$	1,474,353
4370	110606	Litter/Natural Resource Tax Administration	$	20,000	$	20,000
4380	110609	School District Income Tax	$	5,859,041	$	5,860,650
4C60	110616	International Registration Plan	$	689,296	$	689,308
4R60	110610	Tire Tax Administration	$	245,462	$	246,660
5V70	110622	Motor Fuel Tax Administration	$	5,384,254	$	5,086,236
6390	110614	Cigarette Tax Enforcement	$	1,384,217	$	1,384,314
6420	110613	Ohio Political Party Distributions	$	500,000	$	500,000
6880	110615	Local Excise Tax Administration	$	782,630	$	782,843

TOTAL SSR State Special Revenue Fund Group			$ 35,367,320	$ 35,270,305
Agency Fund Group				
4250	110635	Tax Refunds	$ 1,546,800,000	$ 1,546,800,000
7095	110995	Municipal Income Tax	$ 21,000,000	$ 21,000,000
TOTAL AGY Agency Fund Group			$ 1,567,800,000	$ 1,567,800,000
Holding Account Redistribution Fund Group				
R010	110611	Tax Distributions	$ 50,000	$ 50,000
R011	110612	Miscellaneous Income Tax Receipts	$ 50,000	$ 50,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 100,000	$ 100,000
TOTAL ALL BUDGET FUND GROUPS			$ 2,319,850,264	$ 2,322,311,098

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK

The foregoing appropriation item 110901, Property Tax Allocation - Taxation, is hereby appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation item 110901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, which are determined to be necessary for these purposes, are hereby appropriated.

TAX AMNESTY PROMOTION AND ADMINISTRATION

The foregoing appropriation item 110630, Tax Amnesty Promotion and Administration, shall be used to pay expenses incurred to promote and administer the tax amnesty program to be conducted from May 1, 2012, through June 15, 2012, by the Department of Taxation pursuant to Section 757.40 of this act.

MUNICIPAL INCOME TAX

The foregoing appropriation item 110995, Municipal Income Tax, shall

be used to make payments to municipal corporations under section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make such payments, such amounts are hereby appropriated.

TAX REFUNDS

The foregoing appropriation item 110635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

INTERNATIONAL REGISTRATION PLAN AUDIT

The foregoing appropriation item 110616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT

Of the foregoing appropriation item 110607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.

CENTRALIZED TAX FILING AND PAYMENT FUND

The Director of Budget and Management, under a plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the General Revenue Fund to the credit of the Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers of cash shall not exceed $400,000 in the biennium.

TOBACCO SETTLEMENT ENFORCEMENT

The foregoing appropriation item 110404, Tobacco Settlement Enforcement, shall be used by the Tax Commissioner to pay costs incurred in the enforcement of divisions (F) and (G) of section 5743.03 of the Revised Code.

SECTION 403.20. FUND TRANSFERS TO TAX AMNESTY PROGRAM

Notwithstanding any provision of law to the contrary, not later than thirty days following the effective date of this section, the Director of Budget and Management shall transfer $2,500,000 from the General Revenue Fund to the Tax Amnesty Promotion and Administration Fund

(5BW0), which is hereby created in the state treasury. The funds shall be used by the Department of Taxation to pay expenses incurred in promoting and administering the tax amnesty program that is to be conducted from May 1, 2012, through June 15, 2012, pursuant to section 757.40 of this act.

SECTION 405.10. DOT DEPARTMENT OF TRANSPORTATION

General Revenue Fund

GRF	775451	Public Transportation - State	$ 7,300,000	$ 7,300,000
GRF	776465	Ohio Rail Development Commission	$ 2,000,000	$ 2,000,000
GRF	777471	Airport Improvements - State	$ 750,000	$ 750,000
TOTAL GRF General Revenue Fund			$ 10,050,000	$ 10,050,000
TOTAL ALL BUDGET FUND GROUPS			$ 10,050,000	$ 10,050,000

SECTION 407.10. TOS TREASURER OF STATE

General Revenue Fund

GRF	090321	Operating Expenses	$ 7,743,553	$ 7,743,553
GRF	090401	Office of the Sinking Fund	$ 502,304	$ 502,304
GRF	090402	Continuing Education	$ 377,702	$ 377,702
GRF	090524	Police and Fire Disability Pension Fund	$ 7,900	$ 7,900
GRF	090534	Police and Fire Ad Hoc Cost of Living	$ 87,000	$ 87,000
GRF	090554	Police and Fire Survivor Benefits	$ 600,000	$ 600,000
GRF	090575	Police and Fire Death Benefits	$ 20,000,000	$ 20,000,000
TOTAL GRF General Revenue Fund			$ 29,318,459	$ 29,318,459

General Services Fund Group

4E90	090603	Securities Lending Income	$ 4,829,441	$ 4,829,441
5770	090605	Investment Pool Reimbursement	$ 550,000	$ 550,000
5C50	090602	County Treasurer Education	$ 170,057	$ 170,057
6050	090609	Treasurer of State Administrative Fund	$ 135,000	$ 135,000
TOTAL GSF General Services Fund Group			$ 5,684,498	$ 5,684,498

Agency Fund Group

4250	090635	Tax Refunds	$ 6,000,000	$ 6,000,000
TOTAL Agency Fund Group			$ 6,000,000	$ 6,000,000
TOTAL ALL BUDGET FUND GROUPS			$ 41,002,957	$ 41,002,957

SECTION 407.20. OFFICE OF THE SINKING FUND

The foregoing appropriation item 090401, Office of the Sinking Fund, shall be used for costs incurred by or on behalf of the Commissioners of the Sinking Fund and the Ohio Public Facilities Commission with respect to

State of Ohio general obligation bonds or notes, and the Treasurer of State with respect to State of Ohio general obligation and special obligation bonds or notes, including, but not limited to, printing, advertising, delivery, rating fees and the procurement of ratings, professional publications, membership in professional organizations, and other services referred to in division (D) of section 151.01 of the Revised Code. The General Revenue Fund shall be reimbursed for such costs relating to the issuance and administration of Highway Capital Improvement bonds or notes authorized under Ohio Constitution, Article VIII, Section 2m and Chapter 151. of the Revised Code. That reimbursement shall be made from appropriation item 155902, Highway Capital Improvement Bond Retirement Fund, by intrastate transfer voucher pursuant to a certification by the Office of the Sinking Fund of the actual amounts used. The amounts necessary to make such a reimbursement are hereby appropriated from the Highway Capital Improvement Bond Retirement Fund created in section 151.06 of the Revised Code.

POLICE AND FIRE DEATH BENEFIT FUND

The foregoing appropriation item 090575, Police and Fire Death Benefits, shall be disbursed quarterly by the Treasurer of State at the beginning of each quarter of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. The Treasurer of State shall certify such amounts quarterly to the Director of Budget and Management. By the twentieth day of June of each fiscal year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this appropriation item but not disbursed.

TAX REFUNDS

The foregoing appropriation item 090635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If the Director of Budget and Management determines that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

SECTION 409.10. VTO VETERANS' ORGANIZATIONS

General Revenue Fund

		VAP AMERICAN EX-PRISONERS OF WAR		
GRF	743501	State Support	$ 28,910	$ 28,910
		VAN ARMY AND NAVY UNION, USA, INC.		
GRF	746501	State Support	$ 63,539	$ 63,539
		VKW KOREAN WAR VETERANS		
GRF	747501	State Support	$ 57,118	$ 57,118

VJW JEWISH WAR VETERANS

GRF	748501	State Support	$	34,321	$	34,321

VCW CATHOLIC WAR VETERANS

GRF	749501	State Support	$	66,978	$	66,978

VPH MILITARY ORDER OF THE PURPLE HEART

GRF	750501	State Support	$	65,116	$	65,116

VVV VIETNAM VETERANS OF AMERICA

GRF	751501	State Support	$	214,776	$	214,776

VAL AMERICAN LEGION OF OHIO

GRF	752501	State Support	$	349,189	$	349,189

VII AMVETS

GRF	753501	State Support	$	332,547	$	332,547

VAV DISABLED AMERICAN VETERANS

GRF	754501	State Support	$	249,836	$	249,836

VMC MARINE CORPS LEAGUE

GRF	756501	State Support	$	133,947	$	133,947

V37 37TH DIVISION VETERANS' ASSOCIATION

GRF	757501	State Support	$	6,868	$	6,868

VFW VETERANS OF FOREIGN WARS

GRF	758501	State Support	$	284,841	$	284,841
TOTAL GRF General Revenue Fund			$	1,887,986	$	1,887,986
TOTAL ALL BUDGET FUND GROUPS			$	1,887,986	$	1,887,986

RELEASE OF FUNDS

The Director of Budget and Management may release the foregoing appropriation items 743501, 746501, 747501, 748501, 749501, 750501, 751501, 752501, 753501, 754501, 756501, 757501, and 758501, State Support.

SECTION 411.10. DVS DEPARTMENT OF VETERANS SERVICES

General Revenue Fund

GRF	900321	Veterans' Homes	$	27,369,946	$	27,369,946
GRF	900402	Hall of Fame	$	107,075	$	107,075
GRF	900408	Department of Veterans Services	$	1,901,823	$	1,901,823
GRF	900901	Persian Gulf, Afghanistan, and Iraq Compensation Debt Service	$	5,486,600	$	10,112,100
TOTAL GRF General Revenue Fund			$	34,865,444	$	39,490,944

General Services Fund Group

4840	900603	Veterans' Homes Services	$	305,806	$	312,458
TOTAL GSF General Services Fund Group			$	305,806	$	312,458

Federal Special Revenue Fund Group

3680	900614	Veterans Training	$	769,500	$	754,377
3740	900606	Troops to Teachers	$	136,786	$	133,461
3BX0	900609	Medicare Services	$	2,500,000	$	2,490,169
3L20	900601	Veterans' Homes Operations -	$	23,455,379	$	23,476,269

		Federal		
TOTAL FED Federal Special Revenue Fund Group			$ 26,861,665	$ 26,854,276
State Special Revenue Fund Group				
4E20	900602	Veterans' Homes Operating	$ 10,117,680	$ 10,319,078
6040	900604	Veterans' Homes Improvement	$ 347,598	$ 398,731
TOTAL SSR State Special Revenue Fund Group			$ 10,465,278	$ 10,717,809
Persian Gulf, Afghanistan, and Iraq Compensation Fund Group				
7041	900615	Veteran Bonus Program - Administration	$ 1,605,410	$ 1,147,703
7041	900641	Persian Gulf, Afghanistan, and Iraq Compensation	$ 25,425,000	$ 24,300,000
TOTAL 041 Persian Gulf, Afghanistan, and Iraq Compensation Fund Group			$ 27,030,410	$ 25,447,703
TOTAL ALL BUDGET FUND GROUPS			$ 99,528,603	$ 102,823,190

PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 900901, Persian Gulf, Afghanistan and Iraq Compensation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for Persian Gulf, Afghanistan and Iraq Conflicts Compensation purposes under sections 151.01 and 151.12 of the Revised Code.

SECTION 413.10. DVM STATE VETERINARY MEDICAL BOARD

General Services Fund Group				
4K90	888609	Operating Expenses	$ 322,375	$ 319,857
5BU0	888602	Veterinary Student Loan Program	$ 30,000	$ 30,000
TOTAL GSF General Services Fund Group			$ 352,375	$ 349,857
TOTAL ALL BUDGET FUND GROUPS			$ 352,375	$ 349,857

SECTION 415.10. DYS DEPARTMENT OF YOUTH SERVICES

General Revenue Fund				
GRF	470401	RECLAIM Ohio	$ 168,716,967	$ 162,362,228
GRF	470412	Lease Rental Payments	$ 10,221,800	$ 27,230,100
GRF	470510	Youth Services	$ 16,702,728	$ 16,702,728
GRF	472321	Parole Operations	$ 10,830,019	$ 10,583,118
GRF	477321	Administrative Operations	$ 12,222,051	$ 11,855,389
TOTAL GRF General Revenue Fund			$ 218,693,565	$ 228,733,563
General Services Fund Group				
1750	470613	Education Reimbursement	$ 8,160,277	$ 8,151,056
4790	470609	Employee Food Service	$ 150,000	$ 150,000

4A20	470602	Child Support	$ 450,000	$ 400,000
4G60	470605	General Operational Funds	$ 125,000	$ 125,000
5BN0	470629	E-Rate Program	$ 535,000	$ 535,000
TOTAL GSF General Services Fund Group			$ 9,420,277	$ 9,361,056
Federal Special Revenue Fund Group				
3210	470601	Education	$ 1,774,469	$ 1,517,840
3210	470603	Juvenile Justice Prevention	$ 300,000	$ 300,000
3210	470606	Nutrition	$ 1,747,432	$ 1,704,022
3210	470610	Rehabilitation Programs	$ 36,000	$ 36,000
3210	470614	Title IV-E Reimbursements	$ 6,000,000	$ 6,000,000
3BY0	470635	Federal Juvenile Programs FFY 07	$ 56,471	$ 2,000
3BZ0	470636	Federal Juvenile Programs FFY 08	$ 82,000	$ 1,618
3CP0	470638	Federal Juvenile Programs FFY 09	$ 500,000	$ 300,730
3CR0	470639	Federal Juvenile Programs FFY 10	$ 800,000	$ 479,900
3FB0	470641	Federal Juvenile Programs FFY 11	$ 135,000	$ 600,000
3FC0	470642	Federal Juvenile Programs FFY 12	$ 0	$ 135,000
3V50	470604	Juvenile Justice/Delinquency Prevention	$ 2,010,000	$ 2,000,000
TOTAL FED Federal Special Revenue Fund Group			$ 13,441,372	$ 13,077,110
State Special Revenue Fund Group				
1470	470612	Vocational Education	$ 762,126	$ 758,210
TOTAL SSR State Special Revenue Fund Group			$ 762,126	$ 758,210
TOTAL ALL BUDGET FUND GROUPS			$ 242,317,340	$ 251,929,939

COMMUNITY PROGRAMS

For purposes of implementing juvenile sentencing reforms, and notwithstanding any provision of law to the contrary, the Department of Youth Services may use up to forty-five per cent of the unexpended, unencumbered balance of the portion of appropriation item 470401, RECLAIM Ohio, that is allocated to juvenile correctional facilities in each fiscal year to expand Targeted RECLAIM, the Behavioral Health Juvenile Justice Initiative, and other evidence-based community programs.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 470412, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made for the period from July 1, 2011, through June 30, 2013, by the Department of Youth Services to the Ohio Building Authority under the leases and agreements for facilities made under Chapter 152. of the Revised Code. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

EDUCATION REIMBURSEMENT

The foregoing appropriation item 470613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item may be used for capital expenses related to the education program.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from reimbursements for state surplus property.

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES

In collaboration with the county family and children first council, the juvenile court of that county that receives allocations from one or both of the foregoing appropriation items 470401, RECLAIM Ohio, and 470510, Youth Services, may transfer portions of those allocations to a flexible funding pool as authorized by the section of this act titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL."

SECTION 501.10. All items set forth in this section are hereby appropriated for fiscal year 2012 out of any moneys in the state treasury to the credit of the Administrative Building Fund (Fund 7026) that are not otherwise appropriated.

CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD

C87416	Statehouse Boiler Replacement	$	900,000
Total Capitol Square Review and Advisory Board		$	900,000
TOTAL Administrative Building Fund		$	900,000

SECTION 501.20. All items set forth in this section are hereby appropriated for fiscal year 2012 out of any moneys in the state treasury to the credit of the Parks and Recreation Improvement Fund (Fund 7035) that are not otherwise appropriated. The appropriations made in this act are in addition to any other appropriations or reappropriations made for the fiscal year 2011-fiscal year 2012 biennium.

DNR DEPARTMENT OF NATURAL RESOURCES

C725E2	Local Parks Projects	$	2,000,000
Total Department of Natural Resources		$	2,000,000
TOTAL Parks and Recreation Improvement Fund		$	2,000,000

Of the foregoing appropriation item C725E2, Local Parks Projects,

$2,000,000 in fiscal year 2012 shall be used for Grand Lake St. Marys improvements.

SECTION 501.30. The Treasurer of State is hereby authorized to issue and sell, in accordance with Section 2i of Article VIII, Ohio Constitution, and Chapter 154. of the Revised Code, particularly section 154.22 of the Revised Code, original obligations in an aggregate principal amount not to exceed $2,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay the costs of capital facilities for parks and recreation as defined in section 154.01 of the Revised Code.

SECTION 503.10. PERSONAL SERVICE EXPENSES

Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public employees' retirement, workers' compensation, disabled workers' relief, and insurance programs; and the costs of centralized financial services, centralized payroll processing, and related reports and services; centralized human resources services, including affirmative action and equal employment opportunity programs; the Office of Collective Bargaining; the Employee Assistance Program; centralized information technology management services; administering the enterprise resource planning system; and administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with the appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item 070601, Public Audit Expense - Intra-State, may be exempted from the requirements of this section.

SECTION 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS AGAINST THE STATE

Except as otherwise provided in this section, an appropriation in this act or any other act may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or by any other court of competent jurisdiction in connection with civil actions against the state. This authorization does not apply to appropriations to be applied to or used for payment of guarantees by or on

behalf of the state, or for payments under lease agreements relating to, or debt service on, bonds, notes, or other obligations of the state. Notwithstanding any other statute to the contrary, this authorization includes appropriations from funds into which proceeds of direct obligations of the state are deposited only to the extent that the judgment, settlement, or administrative award is for, or represents, capital costs for which the appropriation may otherwise be used and is consistent with the purpose for which any related obligations were issued or entered into. Nothing contained in this section is intended to subject the state to suit in any forum in which it is not otherwise subject to suit, and is not intended to waive or compromise any defense or right available to the state in any suit against it.

SECTION 503.30. CAPITAL PROJECT SETTLEMENTS

This section specifies an additional and supplemental procedure to provide for payments of judgments and settlements if the Director of Budget and Management determines, pursuant to division (C)(4) of section 2743.19 of the Revised Code, that sufficient unencumbered moneys do not exist in the fund to support a particular appropriation to pay the amount of a final judgment rendered against the state or a state agency, including the settlement of a claim approved by a court, in an action upon and arising out of a contractual obligation for the construction or improvement of a capital facility if the costs under the contract were payable in whole or in part from a state capital projects appropriation. In such a case, the Director may either proceed pursuant to division (C)(4) of section 2743.19 of the Revised Code or apply to the Controlling Board to increase an appropriation or create an appropriation out of any unencumbered moneys in the state treasury to the credit of the capital projects fund from which the initial state appropriation was made. The amount of an increase in appropriation or new appropriation approved by the Controlling Board is hereby appropriated from the applicable capital projects fund and made available for the payment of the judgment or settlement.

If the Director does not make the application authorized by this section or the Controlling Board disapproves the application, and the Director does not make application under division (C)(4) of section 2743.19 of the Revised Code, the Director shall for the purpose of making that payment make a request to the General Assembly as provided for in division (C)(5) of that section.

SECTION 503.40. RE-ISSUANCE OF VOIDED WARRANTS

In order to provide funds for the reissuance of voided warrants under section 126.37 of the Revised Code, there is hereby appropriated, out of moneys in the state treasury from the fund credited as provided in section 126.37 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

SECTION 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

(A) An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is hereby reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

(1) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells, for a period of not more than five months from the end of the fiscal year;

(2) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

(3) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(4) For an encumbrance for any other expense, for such period as the Director approves, provided such period does not exceed two years.

(B) Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year by division (A)(2) of this section shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. The report shall be updated on a quarterly basis for encumbrances remaining open.

(C) Upon the expiration of the reappropriation period set out in division (A) of this section, a reappropriation made by this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following

the expiration of the reappropriation period.

(D) Notwithstanding division (C) of this section, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July by this section for a period specified in division (A)(3) or (4) of this section and that remains encumbered at the close of the fiscal biennium is hereby reappropriated on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable period specified in division (A)(3) or (4) of this section and shall remain available only for the purpose of discharging the encumbrance.

(E) The Director of Budget and Management may correct accounting errors committed by the staff of the Office of Budget and Management, such as re-establishing encumbrances or appropriations cancelled in error, during the cancellation of operating encumbrances in November and of nonoperating encumbrances in December.

(F) If the Controlling Board approved a purchase, that approval remains in effect so long as the appropriation used to make that purchase remains encumbered.

SECTION 503.60. APPROPRIATIONS RELATED TO CASH TRANSFERS AND RE-ESTABLISHMENT OF ENCUMBRANCES

Any cash transferred by the Director of Budget and Management under section 126.15 of the Revised Code is hereby appropriated. Any amounts necessary to re-establish appropriations or encumbrances under section 126.15 of the Revised Code are hereby appropriated.

SECTION 503.70. INCOME TAX DISTRIBUTION TO COUNTIES

There are hereby appropriated out of any moneys in the state treasury to the credit of the General Revenue Fund, which are not otherwise appropriated, funds sufficient to make any payment required by division (B)(2) of section 5747.03 of the Revised Code.

SECTION 503.80. EXPENDITURES AND APPROPRIATION INCREASES APPROVED BY THE CONTROLLING BOARD

Any money that the Controlling Board approves for expenditure or any increase in appropriation that the Controlling Board approves under sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is hereby appropriated for the period ending June 30, 2013.

SECTION 503.90. FUNDS RECEIVED FOR USE OF GOVERNOR'S RESIDENCE

If the Governor's Residence Fund (Fund 4H20) receives payment for use of the residence pursuant to section 107.40 of the Revised Code, the amounts so received are hereby appropriated to appropriation item 100604, Governor's Residence Gift.

SECTION 503.93. PENSION SHIFT REPLACEMENT

The Director of Budget and Management may authorize additional expenditures from various General Revenue Fund and non-General Revenue Fund appropriation items in order to fully fund the employer's share of public retirement system contributions for state employees who are paid directly by warrant of the Director of Budget and Management. Any additional expenditures authorized by the Director of Budget and Management under this paragraph are hereby appropriated.

SECTION 503.95. EMERGENCY CAPITAL APPROPRIATIONS AND AUTHORIZATION TO ISSUE OBLIGATIONS

Notwithstanding any provision of law to the contrary, the Director of Budget and Management may establish a process for, and receive from state agencies or institutions, applications for funding emergency or critical capital facilities needs that may be paid from the funds identified in this section. Upon review of any such application, if determined necessary to address emergency or critical capital needs identified in an application, the director may request Controlling Board approval to establish additional capital appropriations, from the following funds in an aggregate amount not to exceed $50,000,000 for the FY 2011 - FY 2012 capital biennium: the Administrative Building Fund (Fund 7026), the Adult Correctional Building Fund (Fund 7027), the Juvenile Correctional Building Fund (Fund 7028), the Ohio Cultural Facilities Fund (Fund 7030), the Ohio Parks and Natural Resources Fund (Fund 7031), the Mental Health Facilities Improvement Fund (Fund 7033), the Parks and Recreation Improvement Fund (Fund 7035), and any other capital fund from which emergency capital facilities funding is deemed necessary by the Director as a result of any natural disaster occurring between July 1, 2010, and September 30, 2010, that resulted in damages to a facility of a state-assisted institution of higher education. Reference is made to Section 221.20.30 of Am. Sub. H.B. 562 (as

to Fund 7026), Section 223.11 of Am. Sub. H.B. 562 (as to Fund 7027), Section 225.11 of Am. Sub. H.B. 562 (as to Fund 7028), Section 227.11 of Am. Sub. H.B. 562 (as to Fund 7030), Section 229.11 of Am. Sub. H.B. 562 (as to Fund 7031), Section 231.40.10 of Am. Sub. H.B. 562 (as to Fund 7033), Section 233.60.30 of Am. Sub. H.B. 562 (as to Fund 7034), and Section 235.12 of Am. Sub. H.B. 562 (as to Fund 7035), each of which authorizes the issuance and sale of original obligations, pursuant to the applicable constitutional and statutory authority indicated therein, in a principal amount indicated therein. In addition to those amounts previously authorized for each of those purposes, the Ohio Public Facilities Commission or the Treasurer of State, as applicable, are each hereby authorized to issue and sell additional original obligations, pursuant to the applicable constitutional and statutory authority, in an aggregate principal amount equal to any additional capital appropriations approved by the Controlling Board under the authority of this section for that purpose, plus amounts necessary to cover the costs of issuance of those additional original obligations. Sections 518.10 and 518.20 of Am. Sub. H.B. 153 of the 129th General Assembly apply to the debt service on any additional obligations issued and sold under this paragraph.

SECTION 506.10. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS

Unless the agency and nuclear electric utility mutually agree to a higher amount by contract, the maximum amounts that may be assessed against nuclear electric utilities under division (B)(2) of section 4937.05 of the Revised Code and deposited into the specified funds are as follows:

Fund	User	FY 2012	FY 2013
Utility Radiological Safety Fund (Fund 4E40)	Department of Agriculture	$ 131,785	$ 131,785
Radiation Emergency Response Fund (Fund 6100)	Department of Health	$ 930,525	$ 930,576
ER Radiological Safety Fund (Fund 6440)	Environmental Protection Agency	$ 279,838	$ 279,966
Emergency Response Plan Fund (Fund 6570)	Department of Public Safety	$1,415,945	$ 1,415,945

SECTION 512.10. TRANSFERS TO THE GENERAL REVENUE FUND

OF INTEREST EARNED

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, through June 30, 2013, may transfer interest earned by any state fund to the General Revenue Fund. This section does not apply to funds whose source of revenue is restricted or protected by the Ohio Constitution, federal tax law, or the "Cash Management Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501 et seq., as amended.

SECTION 512.30. CASH TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-GRF FUNDS

Notwithstanding any provision of law to the contrary, the Director of Budget and Management may transfer up to $60,000,000 in each fiscal year in cash from non-General Revenue Funds that are not constitutionally restricted to the General Revenue Fund in order to ensure that available General Revenue Fund receipts and balances are sufficient to support General Revenue Fund appropriations in each fiscal year. The Director shall not make transfers from any non-General Revenue Fund if more than thirty per cent of the total fund value consists of cash from donations.

SECTION 512.40. FISCAL YEAR 2011 GENERAL REVENUE FUND ENDING BALANCE

Notwithstanding divisions (B) and (C) of section 131.44 of the Revised Code, the Director of Budget and Management shall determine the surplus General Revenue Fund revenue that existed on June 30, 2011, in excess of the amount required under division (A)(3) of section 131.44 of the Revised Code, and transfer from the General Revenue Fund, to the extent of the amount so determined, the following:

(A) To the Disaster Services Fund (Fund 5E20), a cash amount up to $25,000,000;

(B) To the Controlling Board Emergency Purposes Fund (Fund 5KM0), a cash amount of up to $20,000,000.

SECTION 512.60. NATURAL RESOURCES PUBLICATIONS

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management, at the request of the Director of Natural Resources, shall transfer the remaining cash balance in the Natural Resources Publications and Promotional Materials Fund (Fund 5080) to the Departmental Projects Fund (Fund 1550) and the Geological Mapping Fund

(Fund 5110) in such amounts as determined by the Director of Budget and Management after consultation with the Director of Natural Resources. The Director of Budget and Management shall cancel all existing encumbrances against appropriation item 725684, Natural Resources Publications, and reestablish them against appropriation item 725601, Departmental Projects, and appropriation item 725646, Ohio Geological Mapping. Upon completion of the transfer, the Natural Resources Publications and Promotional Materials Fund is hereby abolished. Beginning July 1, 2011, all moneys from the sale of books, bulletins, maps, or other publications and promotional materials shall be credited to the Departmental Projects Fund (Fund 1550) or the Geological Mapping Fund (Fund 5110) as determined by the Director of Natural Resources.

SECTION 512.70. On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Penalty Enforcement Fund (Fund 5K70) to the Labor Operating Fund (Fund 5560). The Director shall cancel any existing encumbrances against appropriation item 800621, Penalty Enforcement, and re-establish them against appropriation item 800615, Industrial Compliance. The re-established encumbrance amounts are hereby appropriated. Upon completion of the transfer, Fund 5K70 is abolished.

SECTION 512.80. ABOLISHMENT OF PASSPORT FUND

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the PASSPORT Fund (Fund 4U90) to the Nursing Home Franchise Permit Fee Fund (Fund 5R20). Upon completion of the transfer, Fund 4U90 is abolished. The Director shall cancel any existing encumbrances against appropriation item 490602, PASSPORT Fund, and reestablish them against appropriation item 600613, Nursing Facility Bed Assessments. The reestablished encumbrance amounts are hereby appropriated.

SECTION 512.90. DIESEL EMISSIONS REDUCTION GRANT PROGRAM

There is established in the Highway Operating Fund (Fund 7002) in the Department of Transportation a Diesel Emissions Reduction Grant Program. The Director of Environmental Protection shall administer the program and shall solicit, evaluate, score, and select projects submitted by public and

private entities that are eligible for the federal Congestion Mitigation and Air Quality (CMAQ) Program. The Director of Transportation shall process Federal Highway Administration-approved projects as recommended by the Director of Environmental Protection.

In addition to the allowable expenditures set forth in section 122.861 of the Revised Code, Diesel Emissions Reduction Grant Program funds also may be used to fund projects involving the purchase or use of hybrid and alternative fuel vehicles that are allowed under guidance developed by the Federal Highway Administration for the CMAQ Program.

Public entities eligible to receive funds under section 122.861 of the Revised Code and CMAQ shall be reimbursed from the Department of Transportation's Diesel Emissions Reduction Grant Program.

Private entities eligible to receive funds under section 122.861 of the Revised Code and CMAQ shall be reimbursed through transfers of cash from the Department of Transportation's Diesel Emissions Reduction Grant Program to the Diesel Emissions Reduction Fund (Fund 3FH0), which is hereby created and to be used by the Environmental Protection Agency.

Appropriation item 715693, Diesel Emissions Reduction Grants, is established with an appropriation of $10,000,000 in FY 2012 and $10,000,000 in FY 2013. Total expenditures between both the Environmental Protection Agency and the Department of Transportation shall not exceed the amounts appropriated in this section.

On or before June 30, 2012, any unencumbered balance of the foregoing appropriation item 715693, Diesel Emissions Reduction Grants, for fiscal year 2012 is appropriated for the same purposes in fiscal year 2013.

Any cash transfers or allocations under this section represent CMAQ program moneys within the Department of Transportation for use by the Diesel Emissions Reduction Grant Program by the Environmental Protection Agency. These allocations shall not reduce the amount of such moneys designated for metropolitan planning organizations.

The Director of Environmental Protection, in consultation with the Directors of Development and Transportation, shall develop guidance for the distribution of funds and for the administration of the Diesel Emissions Reduction Grant Program. The guidance shall include a method of prioritization for projects, acceptable technologies, and procedures for awarding grants.

SECTION 515.20. (A) On the effective date of the amendment of the statutes creating the Division of Oil and Gas Resources Management in the Department of Natural Resources by this act, the functions, assets, and

liabilities of the Division of Mineral Resources Management in the Department of Natural Resources with respect to oil and gas are transferred to the Division of Oil and Gas Resources Management. The Division of Oil and Gas Resources Management is successor to, assumes the obligations and authority of, and otherwise continues the Division of Mineral Resources Management with respect to oil and gas. No right, privilege, or remedy, and no duty, liability, or obligation, accrued under the Division of Mineral Resources Management with respect to oil and gas is impaired or lost by reason of the transfer and shall be recognized, administered, performed, or enforced by the Division of Oil and Gas Resources Management.

(B) Business commenced but not completed by the Division of Mineral Resources Management or by the Chief of the Division of Mineral Resources Management with respect to oil and gas shall be completed by the Division of Oil and Gas Resources Management or the Chief of the Division of Oil and Gas Resources Management in the same manner, and with the same effect, as if completed by the Division of Mineral Resources Management or by the Chief of the Division of Mineral Resources Management.

(C) All of the Division of Mineral Resources Management's rules, orders, and determinations with respect to oil and gas continue in effect as rules, orders, and determinations of the Division of Oil and Gas Resources Management until modified or rescinded by the Division of Oil and Gas Resources Management. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the Division of Mineral Resources Management's rules with respect to oil and gas to reflect their transfer to the Division of Oil and Gas Resources Management.

(D) The Director of Budget and Management shall determine the amount of unexpended balances in the appropriation accounts that pertain to the Division of Mineral Resources Management with respect to oil and gas and shall recommend to the Controlling Board their transfer to the appropriation accounts that pertain to the Division of Oil and Gas Resources Management. The Chief of the Division of Mineral Resources Management shall provide full and timely information to the Controlling Board to facilitate the transfer.

(E) Whenever the Division of Mineral Resources Management or the Chief of the Division of Mineral Resources Management is referred to in a statute, contract, or other instrument with respect to oil and gas, the reference is deemed to refer to the Division of Oil and Gas Resources

Management or to the Chief of the Division of Oil and Gas Resources Management, whichever is appropriate in context.

(F) No pending action or proceeding being prosecuted or defended in court or before an agency with respect to oil and gas by the Division of Mineral Resources Management or the Chief of the Division of Mineral Resources Management is affected by the transfer and shall be prosecuted or defended in the name of the Division of Oil and Gas Resources Management or the Chief of the Division of Oil and Gas Resources Management, whichever is appropriate. Upon application to the court or agency, the Division of Oil and Gas Resources Management or the Chief of the Division of Oil and Gas Resources Management shall be substituted as a party.

SECTION 515.23. On the effective date of the amendments to section 1517.03 of the Revised Code by this act, the terms of office of members appointed to the Ohio Natural Areas Council under section 1517.03 of the Revised Code prior to its amendment by this act are terminated.

SECTION 515.30. (A) On the effective date of the amendment of the statutes governing the Ohio Coal Development Office by this act, the Ohio Coal Development Office and all of its functions, together with its assets and liabilities, are transferred from within the Ohio Air Quality Development Authority to within the Department of Development. The Ohio Coal Development Office in the Department of Development assumes the obligations of and otherwise constitutes the continuation of the Ohio Coal Development Office in the Ohio Air Quality Development Authority.

(B) Any business commenced but not completed by the Ohio Coal Development Office in the Ohio Air Quality Development Authority or the Director of that office on the effective date of the amendment of the statutes governing that Office by this act shall be completed by the Ohio Coal Development Office in the Department of Development or the Director of that Office in the same manner, and with the same effect, as if completed by the Ohio Coal Development Office in the Ohio Air Quality Development Authority or the Director of that Office. Any validation, cure, right, privilege, remedy, obligation, or liability is not lost or impaired by reason of the transfer required by this section and shall be administered by the Ohio Coal Development Office in the Department of Development.

(C) All of the rules, orders, and determinations of the Ohio Coal Development Office in the Ohio Air Quality Development Authority or of

the Ohio Air Quality Development Authority in relation to that Office continue in effect as rules, orders, and determinations of the Ohio Coal Development Office in the Department of Development until modified or rescinded by that Office or by the Department of Development in relation to that Office. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber rules of the Ohio Air Quality Development Authority in relation to the Ohio Coal Development Office in the Ohio Air Quality Development Authority to reflect the transfer to the Department of Development.

(D) Subject to the lay-off provisions of sections 124.321 to 124.328 of the Revised Code, all of the employees of the Ohio Coal Development Office in the Ohio Air Quality Development Authority are transferred to the Ohio Coal Development Office in the Department of Development and retain their positions and all the benefits accruing thereto.

(E) Whenever the Ohio Coal Development Office in the Ohio Air Quality Development Office or the Authority in relation to that Office is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Ohio Coal Development Office in the Department of Development or the Director of Development in relation to that Office, whichever is appropriate in context.

(F) Any action or proceeding pending on the effective date of the amendment of the statutes governing the Ohio Coal Development Office by this act is not affected by the transfer of that Office and shall be prosecuted or defended in the name of the Department of Development or the Ohio Coal Development Office in that Department. In all such actions and proceedings, the Department of Development or the Ohio Coal Development Office in that Department, upon application to the court, shall be substituted as a party.

SECTION 515.40. (A) On the effective date of this section, the building and facility operations and management functions of the Ohio Building Authority (OBA) under Chapter 152. of the Revised Code, and the related functions, assets, and liabilities, including, but not limited to, funds, accounts, records, regardless of form or medium, leases, agreements, and contracts of the OBA are transferred to the Department of Administrative Services. Notwithstanding Chapters 123., 124., 125., 126., and 153. of the Revised Code, the Department is thereupon and thereafter successor to, assumes the powers and obligations of, and otherwise constitutes the continuation of the building and facilities operations and management

functions of the OBA as provided in the applicable sections of Chapter 152. of the Revised Code or in any agreements relating to building and facility operation and management functions to which the Ohio Building Authority is a party, including the invoicing and collection of rent from local government tenants in state office buildings. All statutory references to OBA with regard to building and facility operations and management functions are deemed to be references to the Department of Administrative Services.

(B) Any business relating to its building and facility operations and management functions commenced but not completed by the OBA by the date of transfer shall be completed by the Department of Administrative Services, in the same manner, and with the same effect, as if completed by the OBA. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered by the Department of Administrative Services. All of the OBA's rules, orders, and determinations related to building and facility operations and management functions continue in effect as rules, orders, and determinations of the Department of Administrative Services, until modified or rescinded by the Department of Administrative Services. If necessary to ensure the integrity of the Administrative Code rule numbering system, the Director of the Legislative Service Commission shall renumber the OBA's rules related to the OBA's building and facility operations and management functions to reflect their transfer to the Department of Administrative Services.

(C) Employees of the OBA designated as building and facility operations and management staff may be transferred to the Department of Administrative Services as the Department determines to be necessary for successful implementation of this section, to the extent possible, with no loss of service credit.

(D) No judicial or administrative action or proceeding to which the OBA is a party that is pending on the effective date of this section or such later date as may be established by an authorized officer of the OBA and the Director of Administrative Services, and related to its building and facility operations and management functions, is affected by the transfer of functions. Any such action or proceeding shall be prosecuted or defended in the name of the Director of Administrative Services. On application to the court or agency, the Director of Administrative Services shall be substituted for the OBA or an authorized officer of the OBA as a party to the action or proceeding.

(E) On and after the effective date of this section, notwithstanding any provision of the law to the contrary, if requested by the Director of Administrative Services, the Director of Budget and Management shall make the budget changes made necessary by the transfer, if any, including administrative reorganization, program transfers, the creation of new funds, and the consolidation of funds as authorized by this section. The Director of Budget and Management may, if necessary, establish encumbrances or parts of encumbrances as needed in fiscal year 2012 in the appropriate fund and appropriation item for the same purpose and for payment to the same vendor. The established encumbrances plus any additional amounts determined to be necessary for the Department of Administrative Services to perform the building and facility operation and management functions of the Ohio Building Authority are hereby appropriated.

(F) Not later than thirty days after the transfer of the building and facility operation and management functions of the Ohio Building Authority to the Department of Administrative Services, an authorized officer of the Ohio Building Authority shall certify to the Director of Administrative Services the unexpended balance and location of any funds and accounts designated for building and facility operation and management functions and custody of such funds and accounts shall be transferred to the Department of Administrative Services.

(G) Notwithstanding any other provisions of this section, the Ohio Building Authority may, subsequent to the effective date of this section, meet for the purpose of better accomplishing the transfer of the building and facility operation and management functions described in this section. At any such meeting, the Ohio Building Authority may take necessary or appropriate actions to effect an orderly transition relating to the transfer of such functions.

(H) Not later than August 1, 2011, employees of the Ohio Building Authority designated as building and facility operation and management staff shall be eligible to participate in group health plans offered to state employees pursuant to sections 124.81 or 124.82 of the Revised Code.

SECTION 515.60. Effective July 1, 2011, the School Employees Health Care Board is abolished. All equipment, assets, and records of the Board are transferred to the Department of Administrative Services. The Department of Administrative Services shall designate the positions, if any, to be transferred to the Department of Administrative Services.

The Department of Administrative Services and the Department of Education shall enter into an interagency agreement to transfer to the

Department of Administrative Services any designated positions and all equipment, assets, and records of the Board by July 1, 2011, or as soon as possible thereafter. The interagency agreement may include provisions to transfer property and any other provisions necessary for the continued administration of Board activities under section 9.901 of the Revised Code.

Any positions of the Board that the Department of Administrative Services designates for transfer, and any equipment assigned to those positions, are transferred to the Department of Administrative Services. Any employees of the Board in positions so transferred retain the rights specified in sections 124.321 to 124.328 of the Revised Code, and any employee transferred to the Department of Administrative Services retains the employee's respective classification, but the Department of Administrative Services may reassign and reclassify the employee's position and compensation as the Department determines to be in the interest of office administration.

Effective July 1, 2011, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 200458, School Employees Health Care Board, and re-establish them against appropriation item 100403, Public Employees Health Care Program. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 200458, School Employees Health Care Board, by July 1, 2011, shall be completed under appropriation item 100403, Public Employees Health Care Program, in the same manner, and with the same effect, as if completed with regard to appropriation item 200458, School Employees Health Care Board. All of the rules, orders, and determinations associated with the Board continue in effect as rules, orders, and determinations associated with the Department of Administrative Services until modified or rescinded by the Director of Administrative Services. If necessary to ensure the integrity of the Administrative Code rule numbering system, the Director of the Legislative Service Commission shall renumber the rules relating to the Board to reflect their transfer to the Department of Administrative Services. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered with regard to appropriation item 100403, Public Employees Health Care Program. On and after July 1, 2011, if the School Employees Health Care Board is referred to in any statute, rule, contract, grant, or other document, the reference is deemed to refer to the Department of Administrative Services.

SECTION 518.10. GENERAL OBLIGATION DEBT SERVICE

PAYMENTS

Certain appropriations are in this act for the purpose of paying debt service and financing costs on general obligation bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SECTION 518.20. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE

Certain appropriations are in this act for the purpose of making lease rental payments pursuant to leases and agreements relating to bonds or notes issued by the Ohio Building Authority or the Treasurer of State, or previously by the Ohio Public Facilities Commission, pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SECTION 518.30. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS

The Office of Budget and Management shall process payments from general obligation and lease rental payment appropriation items during the period from July 1, 2011, through June 30, 2013, relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 2n, 2o, 2p, 2q, 2r, and 15 of Article VIII, Ohio Constitution, and Chapters 151. and 154. of the Revised Code. Payments shall be made upon certification by the Treasurer of State of the dates and the amounts due on those dates.

SECTION 518.40. AUTHORIZATION FOR OHIO BUILDING AUTHORITY AND OBM TO EFFECTUATE CERTAIN LEASE RENTAL PAYMENTS

The Office of Budget and Management shall process payments from lease rental payment appropriation items during the period from July 1, 2011, through June 30, 2013, pursuant to the lease agreements entered into relating to bonds or notes issued under Section 2i of Article VIII, Ohio Constitution, and Chapter 152. of the Revised Code. Payments shall be made upon certification by the Ohio Building Authority of the dates and the amounts due on those dates.

SECTION 521.10. STATE AND LOCAL REBATE AUTHORIZATION

There is hereby appropriated, from those funds designated by or pursuant to the applicable proceedings authorizing the issuance of state obligations, amounts computed at the time to represent the portion of investment income to be rebated or amounts in lieu of or in addition to any rebate amount to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those state obligations under section 148(f) of the Internal Revenue Code.

Rebate payments shall be approved and vouchered by the Office of Budget and Management.

SECTION 521.20. STATEWIDE INDIRECT COST RECOVERY

Whenever the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient to provide for the recovery of statewide indirect costs under section 126.12 of the Revised Code, the amount required for such purpose is hereby appropriated from the available receipts of such fund.

SECTION 521.30. TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT COST ALLOCATION PLAN

The total transfers made from the General Revenue Fund by the Director of Budget and Management under this section shall not exceed the amounts transferred into the General Revenue Fund under section 126.12 of the Revised Code.

The director of an agency may certify to the Director of Budget and Management the amount of expenses not allowed to be included in the Statewide Indirect Cost Allocation Plan under federal regulations, from any fund included in the Statewide Indirect Cost Allocation Plan, prepared as required by section 126.12 of the Revised Code.

Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may transfer from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared under section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required.

The director of an agency may certify to the Director of Budget and Management the amount of expenses paid in error from a fund included in the Statewide Indirect Cost Allocation Plan. The Director of Budget and Management may transfer cash from the fund from which the expenditure should have been made into the fund from which the expenses were erroneously paid, up to the amount of the certification.

SECTION 521.30.10. OGRIP FUNDS TRANSFER TO THE GENERAL REVENUE FUND

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management may transfer cash in the amount of $15,072.03 from the Federal Grants OGRIP Fund (Fund 3H60) to the General Revenue Fund. This amount represents residual funds from old federal grants for the state's OGRIP program that have been closed by the federal awarding agency.

SECTION 521.30.20. TRANSFER OF FEDERAL FUNDS

On July 1, 2011, or as soon as possible thereafter, the Director of Environmental Protection shall certify to the Director of Budget and Management the cash balance in the DOE Monitoring and Oversight Fund (Fund 3N40). The Director of Budget and Management shall transfer the certified amount from Fund 3N40 to the Federally Supported Response Fund (Fund 3F30). Upon completion of the transfer, Fund 3N40 is abolished. The Director shall cancel any existing encumbrances against appropriation item 715657, DOE Monitoring and Oversight, and re-establish them against appropriation item 715632, Federally Supported Response. The re-established encumbrance amounts are hereby appropriated.

On July 1, 2011, or as soon as possible thereafter, the Director of Environmental Protection shall certify to the Director of Budget and Management the cash balance in the DOD Monitoring and Oversight Fund (Fund 3K40). The Director of Budget and Management shall transfer the certified amount from Fund 3K40 to the Federally Supported Response Fund (Fund 3F30). Upon completion of the transfer, Fund 3K40 is abolished. The Director shall cancel any existing encumbrances against appropriation item 715634, DOD Monitoring and Oversight, and re-establish them against appropriation item 715632, Federally Supported Response. The re-established encumbrance amounts are hereby appropriated.

SECTION 521.40. FEDERAL GOVERNMENT INTEREST REQUIREMENTS

Notwithstanding any provision of law to the contrary, on or before the first day of September of each fiscal year, the Director of Budget and Management, in order to reduce the payment of adjustments to the federal government, as determined by the plan prepared under division (A) of section 126.12 of the Revised Code, may designate such funds as the Director considers necessary to retain their own interest earnings.

SECTION 521.50. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT

Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management may cancel and re-establish all or part of encumbrances in like amounts within the funds identified by the plan. The amounts necessary to re-establish all or part of encumbrances are hereby appropriated.

SECTION 521.60. FISCAL STABILIZATION AND RECOVERY

To ensure the level of accountability and transparency required by federal law, the Director of Budget and Management may issue guidelines to any agency applying for federal money made available to this state for fiscal stabilization and recovery purposes, and may prescribe the process by which agencies are to comply with any reporting requirements established by the federal government.

SECTION 521.70. OVERSIGHT OF FEDERAL STIMULUS FUNDS

(A) The Office of Internal Auditing within the Office of Budget and Management shall, in connection with its duties under sections 126.45 to 126.48 of the Revised Code, monitor and measure the effectiveness of funds allocated to the state as part of the federal American Recovery and Reinvestment Act of 2009. As such, the Office of Internal Auditing shall review how funds allocated to each state agency are spent. For purposes of this section, "state agency" has the same meaning as in division (A) of section 126.45 of the Revised Code.

In addition to the reports required under section 126.47 of the Revised Code, the Office of Internal Auditing shall submit a report of its findings to

the President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, and the Chairs of the committees in the Senate and House of Representatives handling finance and appropriations. The report shall be submitted every six months at the following intervals:

(1) For the six-month period ending December 31, 2011, not later than February 1, 2012;

(2) For the six-month period ending June 30, 2012, not later than August 1, 2012;

(3) For the six-month period ending December 31, 2012, not later than February 1, 2013;

(4) For the six-month period ending June 30, 2013, not later than August 1, 2013.

(B) When, as part of its compliance with the federal American Recovery and Reinvestment Act of 2009 requirements to monitor and measure the effectiveness of funds for which the state of Ohio is the prime recipient, and for which reporting authority has not been delegated to a sub-recipient, the Office of Budget and Management submits quarterly reports to the federal government, the Office of Budget and Management shall also submit those reports to the President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, and Chairs and ranking members of the committees in the Senate and House of Representatives handling finance and appropriations. The Office of Budget and Management shall continue to submit quarterly reports to the legislature for the duration of the period in which the state of Ohio is required to make reports to the federal government concerning Ohio's use of the federal American Recovery and Reinvestment Act of 2009 funds.

SECTION 521.80. FEDERAL FUNDS FOR HISTORIC PRESERVATION LOAN GUARANTEE

(A) As used in this section:

(1) "Approved historic rehabilitation project" means a rehabilitation of a historic building that the Director of Development has approved for a rehabilitation tax credit under section 149.311 of the Revised Code.

(2) "Federal funds" means federal money available to states under the American Recovery and Reinvestment Act of 2009 or any other source of federal money available to the states, that may lawfully be used for the purposes of this section.

(3) "Owner" and "qualified rehabilitation expenditures" have the same

meanings as in section 149.311 of the Revised Code.

(B) There is hereby created in the state treasury the Ohio Historic Preservation Tax Credit Fund. The fund shall consist of money obtained by the Director of Development under division (C) of this section. Money in the fund shall be used to secure and pay guarantees of loans for approved historic rehabilitation projects as provided in this section.

(C) The Director of Development may undertake to secure $75,000,000 of federal funds for crediting to the Ohio Historic Preservation Tax Credit Fund. If the Director secures such funds, the Director, for the purpose of creating new jobs or preserving existing jobs and employment opportunities and improving the economic welfare of the people of this state, shall enter into loan guarantee contracts under section 166.06 of the Revised Code in connection with approved historic rehabilitation projects, except that the guarantees shall be secured solely by and be payable solely from the Ohio Historic Preservation Tax Credit Fund. Money deposited into the Ohio Historic Preservation Tax Credit Fund shall be prioritized by providing loan guarantees for approved historic rehabilitation projects from the first funding round of the Ohio Historic Preservation Tax Credit Program before being used to provide loan guarantees for approved historic rehabilitation projects approved in subsequent funding rounds. The amount of a loan guarantee provided under this section shall not exceed the amount of the credit to be awarded for the approved historic rehabilitation project. References to the loan guarantee fund in divisions (C) and (F) of section 166.06 of the Revised Code shall be construed as references to the Ohio Historic Preservation Tax Credit Fund for the purposes of loan guarantees authorized by this section, except that no transfer shall be made to the Ohio Historic Preservation Tax Credit Fund from the facilities establishment fund as may otherwise be required by that section.

(D) Nothing in this section is a determination by the General Assembly that federal funds are currently available for the purposes of this section. Rather, this section evidences a determination by the General Assembly that public purposes will be advanced by the use of current or future federal funds for the purposes of this section.

SECTION 605.10. That Section 5 of Am. Sub. H.B. 1 of the 129th General Assembly be amended to read as follows:

Sec. 5. The Director of Development, in consultation with the Director of Budget and Management, shall find within the Department of Development's total unexpended and unencumbered fiscal year 2011 General Revenue Fund appropriation an amount not to exceed $1,000,000 in

order to establish and operate the JobsOhio corporation established in Chapter 187. of the Revised Code. The Director of Development shall identify appropriation items within the General Revenue Fund that are to be reduced for this purpose, and any reduction in appropriations to these items pursuant to this section shall not collectively exceed $1,000,000. The amounts identified by the Director are hereby appropriated in General Revenue Fund appropriation item 195527, JobsOhio, for transition and start-up costs of the JobsOhio corporation, including, but not limited to, the costs of the incorporation and formation of the corporation. Nothing in this section shall be construed as increasing or decreasing the Department of Development's total fiscal year 2011 General Revenue Fund appropriation. Any unexpended and unencumbered balance in appropriation item 195527, JobsOhio, remaining at the end of fiscal year 2011 is hereby reappropriated for fiscal year 2012.

The Department of Development shall prepare and, not later than six months after the effective date of this section, submit to the Controlling Board a report detailing the use of the funds appropriated under this section. The Department of Development shall submit to the Controlling Board a report not later than every six months thereafter detailing the use of the funds appropriated under this section, until those funds have all been used.

SECTION 605.11. That existing Section 5 of Am. Sub. H.B. 1 of the 129th General Assembly is hereby repealed.

SECTION 610.10. That Section 205.10 of Am. Sub. H.B. 114 of the 129th General Assembly be amended to read as follows:

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY

State Highway Safety Fund Group

4W40	762321	Operating Expense - BMV	$ 80,003,146	$ 82,403,240
4W40	762410	Registrations Supplement	$ 28,945,176	$ 29,813,532
5V10	762682	License Plate Contributions	$ 2,100,000	$ 2,100,000
7036	761321	Operating Expense - Information and Education	$ 7,124,366	$ 7,338,097
7036	761401	Lease Rental Payments	$ 9,978,300	$ 2,315,700
7036	764033	Minor Capital Projects	$ 1,250,000	$ 1,250,000
7036	764321	Operating Expense - Highway Patrol	$ 260,744,934	$ 258,365,903
7036	764605	Motor Carrier Enforcement Expenses	$ 2,860,000	$ 2,860,000
8300	761603	Salvage and Exchange - Administration	$ 19,469	$ 20,053
8310	761610	Information and Education - Federal	$ 422,084	$ 434,746

8310	764610	Patrol - Federal	$	2,209,936	$	2,276,234
8310	764659	Transportation Enforcement - Federal	$	5,519,333	$	5,684,913
8310	765610	EMS - Federal	$	532,007	$	532,007
8310	769610	Food Stamp Trafficking Enforcement - Federal	$	1,546,319	$	1,546,319
8310	769631	Homeland Security - Federal	$	2,184,000	$	2,184,000
8320	761612	Traffic Safety - Federal	$	16,577,565	$	16,577,565
8350	762616	Financial Responsibility Compliance	$	5,457,240	$	5,549,068
8370	764602	Turnpike Policing	$	11,553,959	$	11,553,959
8380	764606	Patrol Reimbursement	$	50,000	$	50,000
83C0	764630	Contraband, Forfeiture, Other	$	622,894	$	622,894
83F0	764657	Law Enforcement Automated Data System	$	9,053,266	$	9,053,266
83G0	764633	OMVI Enforcement/Education	$	623,230	$	641,927
83J0	764693	Highway Patrol Justice Contraband	$	2,100,000	$	2,100,000
83M0	765624	Operating Expense - Trauma and EMS	$	2,632,106	$	2,711,069
83N0	761611	Elementary School Seat Belt Program	$	305,600	$	305,600
83P0	765637	EMS Grants	$	4,106,621	$	4,229,819
83R0	762639	Local Immobilization Reimbursement	$	450,000	$	450,000
83T0	764694	Highway Patrol Treasury Contraband	$	21,000	$	21,000
8400	764607	State Fair Security	$	1,256,655	$	1,294,354
8400	764617	Security and Investigations	$	6,432,686	$	6,432,686
8400	764626	State Fairgrounds Police Force	$	849,883	$	849,883
8400	769632	Homeland Security - Operating	$	737,791	$	737,791
8410	764603	Salvage and Exchange - Highway Patrol	$	1,339,399	$	1,339,399
8460	761625	Motorcycle Safety Education	$	3,185,013	$	3,280,563
8490	762627	Automated Title Processing Board	$	17,316,755	$	14,335,513
TOTAL HSF State Highway Safety Fund Group			$	490,110,733	$	481,261,100
General Services Fund Group						
4P60	768601	Justice Program Services	$	998,104	$	1,028,047
4S30	766661	Hilltop Utility Reimbursement	$	540,800	$	540,800
5ET0	768625	Drug Law Enforcement	$	3,780,000	$	3,893,400
5Y10	764695	Highway Patrol Continuing Professional Training	$	170,000	$	170,000
5Y10	767696	Investigative Unit Continuing Professional Training	$	15,000	$	15,000
TOTAL GSF General Services Fund Group			$	5,503,904	$	5,647,247
Federal Special Revenue Fund Group						
3290	763645	Federal Mitigation Program	$	10,110,332	$	10,413,642
3370	763609	Federal Disaster Relief	$	27,707,636	$	27,707,636

3390	763647	Emergency Management Assistance and Training	$	75,664,821	$	77,934,765
3CB0	768691	Federal Justice Grants - FFY06	$	200,000	$	50,000
3CC0	768609	Justice Assistance Grants - FFY07	$	583,222	$	310,000
3CD0	768610	Justice Assistance Grants – FFY08	$	310,000	$	150,000
3CE0	768611	Justice Assistance Grants – FFY09	$	865,000	$	1,200,000
3CV0	768697	Justice Assistance Grants Supplement – FFY08	$	2,000	$	0
3DE0	768612	Federal Stimulus - Justice Assistance Grants	$	1,015,000	$	1,015,000
3DH0	768613	Federal Stimulus - Justice Programs	$	150,000	$	150,000
3DU0	762628	BMV Grants	$	1,525,000	$	1,580,000
3EU0	768614	Justice Assistance Grants – FFY10	$	650,000	$	920,000
3L50	768604	Justice Program	$	11,400,000	$	11,400,000
3N50	763644	U.S. Department of Energy Agreement	$	31,672	$	31,672
TOTAL FED Federal Special Revenue Fund Group			$	130,214,683	$	132,862,715
State Special Revenue Fund Group						
4V30	763662	EMA Service and Reimbursement	$	4,368,369	$	4,499,420
5390	762614	Motor Vehicle Dealers Board	$	180,000	$	185,400
5B90	766632	Private Investigator and Security Guard Provider	$	1,562,637	$	1,562,637
5BK0	768687	Criminal Justice Services - Operating	$	400,000	$	400,000
5BK0	768689	Family Violence Shelter Programs	$	750,000	$	750,000
5CM0	767691	Federal Investigative Seizure	$	300,000	$	300,000
5DS0	769630	Homeland Security	$	1,414,384	$	1,414,384
5FF0	762621	Indigent Interlock and Alcohol Monitoring	$	2,000,000	$	2,000,000
5FL0	769634	Investigations	$	899,300	$	899,300
6220	767615	Investigative Contraband and Forfeiture	$	375,000	$	375,000
6570	763652	Utility Radiological Safety	$	1,415,945	$	1,415,945
6810	763653	SARA Title III HAZMAT Planning	$	262,438	$	262,438
8500	767628	Investigative Unit Salvage	$	90,000	$	92,700
TOTAL SSR State Special Revenue Fund Group			$	14,018,073	$	14,157,224
Liquor Control Fund Group						
7043	767321	Liquor Enforcement - Operating	$	~~11,897,178~~ 11,000,000	$	~~11,897,178~~ 11,000,000
TOTAL LCF Liquor Control Fund Group			$	~~11,897,178~~ 11,000,000	$	~~11,897,178~~ 11,000,000
Agency Fund Group						
5J90	761678	Federal Salvage/GSA	$	1,500,000	$	1,500,000

TOTAL AGY Agency Fund Group			$ 1,500,000	$	1,500,000
Holding Account Redistribution Fund Group					
R024	762619	Unidentified Motor Vehicle Receipts	$ 1,885,000	$	1,885,000
R052	762623	Security Deposits	$ 350,000	$	350,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 2,235,000	$	2,235,000
TOTAL ALL BUDGET FUND GROUPS			$ ~~655,479,571~~ 654,582,393	$	~~649,560,464~~ 648,663,286

MOTOR VEHICLE REGISTRATION

The Registrar of Motor Vehicles may deposit revenues to meet the cash needs of the State Bureau of Motor Vehicles Fund (Fund 4W40) established in section 4501.25 of the Revised Code, obtained under sections 4503.02 and 4504.02 of the Revised Code, less all other available cash. Revenue deposited pursuant to this paragraph shall support, in part, appropriations for operating expenses and defray the cost of manufacturing and distributing license plates and license plate stickers and enforcing the law relative to the operation and registration of motor vehicles. Notwithstanding section 4501.03 of the Revised Code, the revenues shall be paid into Fund 4W40 before any revenues obtained pursuant to sections 4503.02 and 4504.02 of the Revised Code are paid into any other fund. The deposit of revenues to meet the aforementioned cash needs shall be in approximately equal amounts on a monthly basis or as otherwise determined by the Director of Budget and Management pursuant to a plan submitted by the Registrar of Motor Vehicles.

CAPITAL PROJECTS

The Registrar of Motor Vehicles may transfer cash from the State Bureau of Motor Vehicles Fund (Fund 4W40) to the State Highway Safety Fund (Fund 7036) to meet its obligations for capital projects CIR-047, Department of Public Safety Office Building and CIR-049, Warehouse Facility.

OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS

The foregoing appropriation item 761401, Lease Rental Payments, shall be used for payments to the Ohio Building Authority for the period July 1, 2011, to June 30, 2013, under the primary leases and agreements for public safety related buildings financed by obligations issued under Chapter 152. of the Revised Code. Notwithstanding section 152.24 of the Revised Code, the Ohio Building Authority may, with approval of the Director of Budget and Management, lease capital facilities to the Department of Public Safety.

HILLTOP TRANSFER

The Director of Public Safety shall determine, per an agreement with the Director of Transportation, the share of each debt service payment made

out of appropriation item 761401, Lease Rental Payments, that relates to the Department of Transportation's portion of the Hilltop Building Project, and shall certify to the Director of Budget and Management the amounts of this share. The Director of Budget and Management shall transfer the amounts of such shares from the Highway Operating Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036).

CASH TRANSFERS TO TRAUMA AND EMERGENCY MEDICAL SERVICES FUND

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered cash balance in the Seat Belt Education Fund (Fund 8440) to the Trauma and Emergency Medical Services Fund (Fund 83M0). Upon completion of the transfer, Fund 8440 is abolished. The Director shall cancel any existing encumbrances against appropriation item 761613, Seat Belt Education Program, and reestablish them against appropriation item 765624, Operating Expense - Trauma and EMS. The reestablished encumbrance amounts are hereby appropriated.

CASH TRANSFERS BETWEEN FUNDS

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, upon the written request of the Director of Public Safety, may approve the transfer of cash between the following six funds: the Trauma and Emergency Medical Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), the Investigations Fund (Fund 5FL0), the Emergency Management Agency Service and Reimbursement Fund (Fund 4V30), the Justice Program Services Fund (Fund 4P60), and the State Bureau of Motor Vehicles Fund (Fund 4W40).

CASH TRANSFERS TO SECURITY, INVESTIGATIONS, AND POLICING FUND

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, upon the written request of the Director of Public Safety, may approve the transfer of cash from the Continuing Professional Training Fund (Fund 5Y10), the State Highway Patrol Contraband, Forfeiture, and Other Fund (Fund 83C0), and the Highway Safety Salvage and Exchange Highway Patrol Fund (Fund 8410) to the Security, Investigations, and Policing Fund (Fund 8400).

CASH TRANSFERS OF SEAT BELT FINE REVENUES

Notwithstanding any provision of law to the contrary, the Controlling Board, upon request of the Director of Public Safety, may approve the transfer of cash between the following four funds that receive fine revenues from enforcement of the mandatory seat belt law: the Trauma and

Emergency Medical Services Fund (Fund 83M0), the Elementary School Program Fund (Fund 83N0), and the Trauma and Emergency Medical Services Grants Fund (Fund 83P0).

STATE DISASTER RELIEF

The State Disaster Relief Fund (Fund 5330) may accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency disaster response costs and disaster program management costs, and may also be used for the following purposes:

(A) To accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency public assistance and mitigation program match costs to reimburse eligible local governments and private nonprofit organizations for costs related to disasters;

(B) To accept and transfer cash to reimburse the costs associated with Emergency Management Assistance Compact (EMAC) deployments;

(C) To accept disaster related reimbursement from federal, state, and local governments. The Director of Budget and Management may transfer cash from reimbursements received by this fund to other funds of the state from which transfers were originally approved by the Controlling Board.

(D) To accept transfers of cash and appropriations from Controlling Board appropriation items to fund the State Disaster Relief Program, for disasters that have been declared by the Governor, and the State Individual Assistance Program for disasters that have been declared by the Governor and the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

JUSTICE ASSISTANCE GRANT FUND

The federal payments made to the state for the Byrne Justice Assistance Grants Program under Title II of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Justice Assistance Grant Fund (Fund 3DE0), which is hereby created in the state treasury. All investment earnings of the fund shall be credited to the fund.

FEDERAL STIMULUS – JUSTICE PROGRAMS

The federal payments made to the state for the Violence Against Women Formula Grant under Title II of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Federal Stimulus – Justice Programs Fund (Fund 3DH0).

TRANSFER FROM STATE FIRE MARSHAL FUND TO

EMERGENCY MANAGEMENT AGENCY SERVICE AND REIMBURSEMENT FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer $200,000 in cash from the State Fire Marshal Fund (Fund 5460) to the Emergency Management Agency Service and Reimbursement Fund (Fund 4V30) to be distributed to the Ohio Task Force One – Urban Search and Rescue Unit and other urban search and rescue programs around the state.

FAMILY VIOLENCE PREVENTION FUND

Notwithstanding any provision of law to the contrary, in each of fiscal years 2012 and 2013, the first $750,000 received to the credit of the Family Violence Prevention Fund (Fund 5BK0) shall be appropriated to appropriation item 768689, Family Violence Shelter Programs, and the next $400,000 received to the credit of Fund 5BK0 in each of those fiscal years shall be appropriated to appropriation item 768687, Criminal Justice Services - Operating. Any moneys received to the credit of Fund 5BK0 in excess of the aforementioned appropriated amounts in each fiscal year shall, upon the approval of the Controlling Board, be used to provide grants to family violence shelters in Ohio.

SARA TITLE III HAZMAT PLANNING

The SARA Title III HAZMAT Planning Fund (Fund 6810) is entitled to receive grant funds from the Emergency Response Commission to implement the Emergency Management Agency's responsibilities under Chapter 3750. of the Revised Code.

COLLECTIVE BARGAINING INCREASES

Notwithstanding division (D) of section 127.14 and division (B) of section 131.35 of the Revised Code, except for the General Revenue Fund, the Controlling Board may, upon the request of either the Director of Budget and Management, or the Department of Public Safety with the approval of the Director of Budget and Management, increase appropriations for any fund, as necessary for the Department of Public Safety, to assist in paying the costs of increases in employee compensation that have occurred pursuant to collective bargaining agreements under Chapter 4117. of the Revised Code and, for exempt employees, under section 124.152 of the Revised Code.

CASH BALANCE FUND REVIEW

Not later than the first day of April in each fiscal year of the biennium, the Director of Budget and Management shall review the cash balances for each fund, except the State Highway Safety Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 4W40), in the State Highway Safety

Fund Group, and shall recommend to the Controlling Board an amount to be transferred to the credit of Fund 7036 or Fund 4W40, as appropriate.

SECTION 610.11. That existing Section 205.10 of Am. Sub. H.B. 114 of the 129th General Assembly is hereby repealed.

SECTION 610.20. That Section 211 of Sub. H.B. 123 of the 129th General Assembly be amended to read as follows:

Sec. 211. WCC WORKERS' COMPENSATION COUNCIL

~~5FV0~~	~~321600~~	~~Remuneration Expenses~~	~~$~~	~~471,200~~	~~$~~	~~471,200~~
~~TOTAL 5FV0 Workers' Compensation Council Remuneration Fund~~			~~$~~	~~471,200~~	~~$~~	~~471,200~~
~~TOTAL ALL BUDGET FUND GROUPS~~			~~$~~	~~471,200~~	~~$~~	~~471,200~~

~~WORKERS' COMPENSATION COUNCIL~~

~~The foregoing appropriation item 321600, Remuneration Expenses, shall be used to pay the payroll and fringe benefit costs for employees of the Workers' Compensation Council.~~

Upon the effective date of this section, or as soon as possible thereafter, the Workers' Compensation Council shall wind up its affairs. All of the records of the Council shall be transferred to the Legislative Service Commission, and all of its other assets and liabilities shall be transferred to the Bureau of Workers' Compensation. The Bureau of Workers' Compensation is thereupon and thereafter successor to, and assumes the obligations of, the Council.

Any business commenced, but not completed by the Council or the Director of the Council on the effective date of this section shall be completed by the Administrator of Workers' Compensation in the same manner, and with the same effect, as if completed by the Council or the Director of the Council. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required by this section and shall be administered by the Administrator.

All employees of the Council cease to hold their positions of employment on the effective date of this section, or as soon as possible thereafter.

Once the Workers' Compensation Council is abolished, the Director of Budget and Management shall transfer the unexpended and unencumbered cash balance in the Workers' Compensation Council Remuneration Fund (Fund 5FV0) to the State Insurance Fund (Fund 7023). Upon completion of the transfer, the Workers' Compensation Council Remuneration Fund is abolished. The Director shall cancel any existing encumbrances against

appropriation item 321600, Remuneration Expenses, and reestablish them against appropriation item 855409, Administrative Expenses. The amounts of the reestablished encumbrances are hereby appropriated.

Once the Workers' Compensation Council is abolished, the Treasurer of State shall transfer the unexpended and unencumbered cash balance in the Workers' Compensation Council Fund to the State Insurance Fund. Upon completion of the transfer, the fund is abolished.

Wherever the Director or the Council is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Administrator or the Bureau of Workers' Compensation, whichever is appropriate.

No action or proceeding pending on the effective date of this section is affected by the transfer, and any such action or proceeding shall be prosecuted or defended in the name of the Administrator or the Bureau. In all such actions and proceedings, the Administrator or the Bureau, upon application to the court, shall be substituted as a party.

SECTION 610.21. That existing Section 211 of Sub. H.B. 123 of the 129th General Assembly is hereby repealed.

SECTION 610.30. That Section 5 of Am. Sub. S.B. 2 of the 129th General Assembly be amended to read as follows:

Sec. 5. The enactment by this act of sections 107.51 to 107.55 and 121.81 to 121.83 of the Revised Code ~~first~~ and the amendment by this act of section 119.032 of the Revised Code applies to a proposed rule, the original ~~and any revised~~ version of which is filed with the Joint Committee on Agency Rule Review on or after January 1, 2012, and to any rule that is ~~scheduled for~~ subjected to review under section 119.032 of the Revised Code on or after January 1, 2012. ~~If rule-making proceedings are commenced and completed before January 1, 2012, sections~~ The enactment of sections 107.51 to 107.55 and 121.81 to 121.83 of the Revised Code and the amendment by this act of section 119.032 of the Revised Code do not apply to ~~the proceedings, and section 121.24 of the Revised Code applies to the proceedings instead. If rule-making proceedings are commenced but not completed before January 1, 2012, section 121.24 of the Revised Code applies to the original version of the proposed rule if it is filed with the Joint Committee before that date, and sections 107.51 to 107.55 and 121.81 to 121.83 of the Revised Code apply to any revised version of the~~ a proposed rule that is ~~filed~~ pending on ~~or after that date~~ January 1, 2012.

~~Section~~ Notwithstanding its repeal by this act, section 121.24 ~~and sections 107.51 to 107.55 and 121.81 to 121.83~~ of the Revised Code ~~do not~~ continues to apply to a proposed rule that is ~~deemed the original version of a proposed rule by the carry-over provisions in division (I)(2) of section 119.03 of the Revised Code. Whether section 121.24 or sections 107.51 to 107.55 and 121.81 to 121.83 of the Revised Code applied to such a proposed rule before its carry over, the results of that application are carried over with the proposed rule~~ pending on January 1, 2012, until the rule-making proceedings are completed.

SECTION 610.31. That existing Section 5 of Am. Sub. S.B. 2 of the 129th General Assembly is hereby repealed.

SECTION 620.10. That Section 125.10 of Am. Sub. H.B. 1 of the 128th General Assembly be amended to read as follows:

Sec. 125.10. Sections 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised Code are hereby repealed, effective October 1, ~~2011~~ 2013.

SECTION 620.11. That existing Section 125.10 of Am. Sub. H.B. 1 of the 128th General Assembly is hereby repealed.

SECTION 620.12. The seventh paragraph of Section 812.20 of Am. Sub. H.B. 1 of the 128th General Assembly, which refers to the taking effect of a repeal of sections 5112.40 to 5112.48 of the Revised Code, is repealed.

SECTION 620.13. The intent of Sections 620.10 to 620.12 of this act is to further delay the repeal of sections 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised Code from October 1, 2011, until October 1, 2013.

SECTION 620.20. That Section 753.60 of Am. Sub. H.B. 1 of the 128th General Assembly be amended to read as follows:

Sec. 753.60. (A) The Governor is authorized to execute a Governor's Deed in the name of the state conveying to the Dayton Public School District/Dayton Board of Education, ("grantee"), and its successors and

assigns, all of the state's right, title, and interest in the following described real estate:

STATE OF OHIO TO BOARD OF EDUCATION 45.3599 Acres

Situated in Section 26, Township 2, Range 7 of the Miami River Survey, the City of Dayton, the County of Montgomery, the State of Ohio, being a 2.2361 acre portion of a 15 acres 30 rods tract conveyed to the State of Ohio as recorded in Deed Book U-2, Page 40, and being a 22.5673 acre portion of a 24.36 acre tract of land conveyed to the Trustees of the Southern Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 233, being an 4.6813 acre portion of a 21.25 acre tract of land conveyed to the State of Ohio as recorded in Deed Book 169, Page 583, and being an 8.6742 acre portion of a 33.5 acre tract as conveyed to the State of Ohio as recorded in Deed Book 169, Page 585, being an 7.2010 acre portion of a 10.544 acre tract of land as conveyed to the State of Ohio as recorded in Deed Book 138, Page 125 and being a portion of City of Dayton Lot Number 61376 and all of Lot Number 61377 of the revised and consecutive numbers of lots on the plat of the City of Dayton and more particularly bounded and described as follows:

Beginning at a capped 5/8" Iron Pin found stamped "Woolpert" at the Southeast corner of a 2.881 acre tract being Parcel 2 of the Wilmington Woods Plat as recorded in Plat Book 134, Page 3A, said point also being the northeast corner of an 8.338 acre tract of land conveyed to the Barry K. Humphries as recorded in Microfiche 01-O590A04 and the TRUE POINT OF BEGINNING;

Thence with the east line of said 2.881 acre tract being Parcel 2 and the West line of a 24.36 acre tract of land conveyed to the Trustees of the Southern Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 233, North 00°32' 15" East a distance of 459.39 feet to a RR Spike set in the centerline of Wayne Avenue, passing a 5/8 inch iron pin set at the northeast corner of said 2.881 acre tract and the south right of way of Wayne Avenue at 429.39 feet;

Thence with the centerline of Wayne Ave and the north lines of said 24.36 acre tract and said 21.25 acre tract, South 89º18'28" East a distance of 790.80 feet to a RR spike set at the northwest comer of a 1.056 acre tract of land conveyed to the City of Dayton as recorded in M.F. No. 90-424 EO9;

Thence with the west line of said 1.056 acre tract and the east line of said 21.25 acre tract, South 01º17'05" West a distance of 230.89 feet to a 5/8 inch iron pin stamped "Riancho", passing a 5/8 inch iron set at the south right of way of Wayne Avenue at 30.00 feet;

Thence with the south line of said 1.056 acre tract and the south line of

a 1.056 acre tract of land conveyed to the City of Dayton as recorded in M.F. No. 78-725 B08, South 89º27' 55" East a distance of 400.00 feet to a found 5/8" iron pin and passing a 5/8 inch iron pin found stamped "Riancho" at 200.00 feet;

Thence with the east line of said 1.056 acre tract and the west line of said 33.5 acre tract as conveyed to the State of Ohio as recorded in Deed Book 169 Page 585, North 1°17'05" East a distance of 229.79 feet to a RR spike set, passing a 5/8 inch iron pin set at the south right of way of Wayne Avenue at 199.79 feet;

Thence with the centerline of Wayne Avenue and the north line of said 33.5 acre tract, South 89º18'28" East a distance of 270.78 feet to a RR spike set at the Intersection of the centerlines of Waterveliet Avenue and Wayne Avenue;

Thence with the centerline of Waterveliet Avenue and with the northerly line of said 33.5 acre tract, South 55º21'16" East a distance of 231.10 feet to a RR spike set;

Thence with the east line of said 33.5 acre tract and the west line of a 13.00 acre tract conveyed to the Board of Education of the Dayton City School District as recorded in Deed Book 1522, Page 341, South 00º48' 28" West a distance of 709.51 feet to a 5/8 inch iron pin set;

Thence with a new division line, North 89º11'12" West, a distance of 468.08 feet to a 5/8 inch iron pin set, in the west line of said 33.5 acre tract and the east line of said 21.25 acre tract, to a 5/8 inch iron pin set;

Thence with the west line of said 33.5 acre tract and the east line of said 21.25 acre tract, North 01°07'55" East a distance of 141.74 feet to a 5/8 inch iron pin set;

Thence with a new division line, North 89°15'53" West, passing the west line of said 21.25 acre tract and the east line of said 24.36 acre tract conveyed to The Trustees of the Southern Ohio Lunatic Asylum as recorded in Deed Book N~3, Page 233 at a distance of 425.35 feet, for a total distance of 507.35 feet to a 5/8 inch iron pin set;

Thence with a new division line South 01°07'00" West passing the south line of 24.36 acre tract conveyed to The Trustees of the Southern Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 233 and the north line of said 10.544 acre tract at a distance of 627.92 feet, for a total distance of 1,013.05 feet to a 5/8 inch iron pin set in the south line of said 10.544 acre tract;

Thence with the south line of said 10.544 acre tract and the north line a 20.3 acre tract conveyed to the State of Ohio Department of Public Works for the use of the Department of Public Welfare, Dayton State Hospital as

recorded in Deed Book 1326, Page 247, North 88°52'07" West a distance of 808.89 feet to a 5/8 inch iron pin set in the east line of a 11.579 acre tract of land conveyed to the Hospice of Dayton as recorded in Microfiche 94-0448C08;

Thence with the east line of said 11.579 acre tract of land, the east line of said 8.338 acre tract as conveyed to Barry K. Humphries as recorded in M.F. number 01-0590 A04, the west line of said 10.544 acre tract, and the west line of said 2.36 acre tract, North 03°24 '08" West a distance of 956.68 feet to a 5/8 inch iron pin set;

Thence with an easterly line of said 8.338 acre tract, the westerly line of said 24.36 acre tract, and the north line of said 2.36 acre tract, North 49º49'38" East a distance of 275.99 feet to a capped 5/8 inch Iron Pin found stamped "LJB";

Thence with the east line of said 8.338 acre tract and the west line of a 24.36 acre tract, North 00°32'15" East a distance of 108.09 feet to a capped 5/8" Iron Pin stamped "Woolpert" and the TRUE POINT OF BEGINNING, containing 45.3599 acres more or less. Subject to all easements, agreements and right of ways of record.

The basis of bearings for this description is the easterly line of Parcel 2, South 00°32'15 West, as recorded in the Wilmington Woods Plat as recorded in Plat Book 134, Page 3A;

All iron pins set in the above boundary description are 5/8" (O.D.) 30" long with a plastic cap stamped "LJB"

(B)(1) Consideration for conveyance of the real estate described in division (A) of this section is the transfer to the state at no cost of 8.9874 acres adjacent to the remaining Twin Valley Behavioral Healthcare/Dayton Campus, subject to the following conditions:

(a) Within one hundred eighty days after conveyance of the real estate described in division (A) of this section, grantee at its own cost shall complete construction of a new western extension off of Mapleview Avenue to provide a new entrance roadway to the remaining Twin Valley Behavioral Healthcare/Dayton Campus and provide an easement to the state for full utilization of the roadway for the benefit of the remaining Twin Valley Behavioral Healthcare/Dayton Campus until the property described in division (B)(1) of this section is transferred to the state.

(b) Within three hundred forty days after the occupancy of the New Belmont High School, grantee shall demolish and environmentally restore the 8.9874 acres being transferred to the state.

(2) In lieu of the transfer of the 8.9874 acres, if the Director of Mental Health determines that the grantee has insufficiently performed its

construction, demolition, and environmental restoration obligations specified in division (B)(1) of this section, the grantee, as consideration, shall pay a purchase price of $1,175,000.00 to the state, which is the appraised value of the 45.3599 acres described in division (A) of the section less the cost of demolition, site, and utility work.

(C) The real estate described in division (A) of this section shall be conveyed as an entire tract and not in parcels.

(D) Upon transfer of the 8.9874 acres to the state or payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate described in division (A) of this section. The deed shall state the consideration and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Montgomery County Recorder.

(E) The grantee shall pay all costs associated with conveyance of the real estate described in division (A) of this section, including recordation costs of the deed.

(F) If the payment of $1,175,000.00 is made in lieu of the transfer of the 8.9874 acres to the state, the proceeds of the conveyance of the real estate described in division (A) of this section shall be deposited into the state treasury to the credit of the Department of Mental Health Trust Fund created by section 5119.18 of the Revised Code and the easement described in division (B)(1)(a) of this section shall become a permanent easement.

(G) The grantee shall not, during any period that any bonds issued by the state to finance or refinance all or a portion of the real estate described in division (A) of this section are outstanding, use any portion of the real estate for a private business use without the prior written consent of the state.

As used in this division:

"Private business use" means use, directly or indirectly, in a trade or business carried on by any private person other than use as a member of, and on the same basis as, the general public. Any activity carried on by a private person who is not a natural person shall be presumed to be a trade or business.

"Private person" means any natural person or any artificial person, including a corporation, partnership, limited liability company, trust, or other entity and including the United States or any agency or instrumentality of the United States, but excluding any state, territory, or possession of the United States, the District of Columbia, or any political subdivision thereof

that is referred to as a "State or local governmental unit" in Treasury Regulation § 1.103-1(a) and any person that is acting solely and directly as an officer or employee of or on behalf of any such governmental unit.

(H) This section expires ~~two years after its effective date~~ on October 16, 2013.

SECTION 620.21. That existing Section 753.60 of Am. Sub. H.B. 1 of the 128th General Assembly is hereby repealed.

SECTION 620.30. That Section 105.20 of Sub. H.B. 462 of the 128th General Assembly be amended to read as follows:

Sec. 105.20. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the School Building Program Assistance Fund (Fund 7032) that are not otherwise appropriated:

			Reappropriations
SFC SCHOOL FACILITIES COMMISSION			
C23002	School Building Program Assistance	$	523,091,925
C23005	Exceptional Needs	$	3,009,397
C23010	Vocation Facilities Assistance Program	$	12,203,057
C23011	Corrective Action Grants	$	23,336,491
C23012	School for the Blind/Deaf	$	12,321,269
Total School Facilities Commission		$	573,962,139
TOTAL School Building Program Assistance Fund		$	573,962,139

CONSTRUCTION OF NEW BLIND AND DEAF SCHOOLS

Notwithstanding sections 123.01 and 123.15 of the Revised Code and in addition to its powers under Chapter 3318. of the Revised Code, the Ohio School Facilities Commission shall administer the project appropriated in C23012, School for the Blind/Deaf, pursuant to the memorandum of understanding that the Ohio State School for the Blind, the Ohio School for the Deaf, and the Ohio School Facilities Commission signed on October 31, 2007. The project shall comply to the fullest extent possible with the specifications and policies set forth in the Ohio School Facilities Design Manual and shall not be considered a part of any program created under Chapter 3318. of the Revised Code. Upon issuance by the Commission of a certificate of completion of the project, the Commission's participation in the project shall end.

The Executive Director of the Ohio School Facilities Commission shall comply with the procedures and guidelines established in Chapter 153. of the Revised Code. Upon the release of funds for the project by the Controlling Board or the Director of Budget and Management, the Commission may administer the project without the supervision, control, or

approval of the Director of Administrative Services. Any references to the Director of Administrative Services in the Revised Code, with respect to the administration of the project, shall be read as if they referred to the Director of the Ohio School Facilities Commission.

CORRECTIVE ACTION GRANTS

The foregoing appropriation item C23011, Corrective Action Grants, for fiscal year 2011, may be used to provide funding to bring facilities up to Ohio School Design Manual standards for a project funded pursuant to sections 3318.01 to 3318.20 or 3318.40 to 3318.45 of the Revised Code for the correction of work found during or after project close-out to be defective, or for the remediation of work found during or after project close-out to be omitted. Funding shall only be provided for work if the impacted school district notifies the Executive Director of the Ohio School Facilities Commission within five years of project close-out. The Commission may provide funding assistance necessary to take corrective measures after evaluating defective or omitted work. If the work to be corrected or remediated is part of a project not yet completed, the Commission may amend the project agreement to increase the project budget and use corrective action funding to provide the local share of the amendment. If the work to be corrected or remediated was part of a completed project and funds were retained or transferred pursuant to division (C) of section 3318.12 of the Revised Code, the Commission may enter into a new agreement to address the necessary corrective action. The Commission shall assess responsibility for the defective or omitted work and seek cost recovery from responsible parties, if applicable. Any funds recovered shall be deposited into the School Building Program Assistance Fund (Fund 7032).

The foregoing appropriation item C23011, Corrective Action Grants, for fiscal year 2012, may be used to provide funding to school districts under the Corrective Action Program in accordance with section 3318.49 of the Revised Code.

SECTION 620.31. That existing Section 105.20 of Sub. H.B. 462 of the 128th General Assembly is hereby repealed.

SECTION 620.40. That Section 105.45.70 of Sub. H.B. 462 of the 128th General Assembly, as amended by Am. Sub. H.B. 114 of the 129th General Assembly, be amended to read as follows:

Reappropriations

Sec. 105.45.70. CCC CUYAHOGA COMMUNITY COLLEGE

C37800	Basic Renovations	$	4,406,772
C37803	Technology Learning Center - Western	$	43,096
C37807	Cleveland Art Museum - Improvements	$	3,100,000
C37812	Building A Expansion Module - Western	$	124,332
C37816	College-Wide Wayfinding Signage System	$	145,893
C37817	College-Wide Asset Protection & Building	$	631,205
C37818	Healthcare Technology Building - Eastern	$	13,464,866
C37821	Hospitality Management Program	$	2,452,728
C37822	Theater Renovations	$	2,243,769
C37824	Rock and Roll Hall of Fame Archive	$	18,000
C37826	CW Roof Replacement	$	190,735
C37829	College of Podiatric Medicine	$	250,000
C37830	Auto Lab Improvements	$	240
C37831	Visiting Nurse Association	$	150,000
C37832	Western Reserve Hospice Center	$	1,500
C37833	Cleveland Zoological Society	$	150,000
C37834	Museum of Contemporary Art Cleveland	$	450,000
C37835	Western Reserve Historical Society	$	2,800,000
Total Cuyahoga Community College		$	30,623,136

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall cancel ~~any~~ existing encumbrances against appropriation item C371A9, Western Reserve Historical Society, totaling $2,800,000 and reestablish them against the foregoing appropriation item C37835, Western Reserve Historical Society.

SECTION 620.41. That existing Section 105.45.70 of Sub. H.B. 462 of the 128th General Assembly, as amended by Am. Sub. H.B. 114 of the 129th General Assembly, is hereby repealed.

SECTION 620.51. That Section 5 of Sub. S.B. 162 of the 128th General Assembly be amended to read as follows:

Sec. 5. (A) There is hereby created the Select Committee on Telecommunications Regulatory Reform consisting of the following members:

(1) The chairperson and ranking minority member of the committee in the Senate to which legislation pertaining to public utilities is referred;

(2) The chairperson and ranking minority member of the committee in the House of Representatives to which legislation pertaining to public utilities is referred;

(3) The chairperson of the Public Utilities Commission or an officer or employee of the Commission who shall serve as the chairperson's designee;

(4) The Consumers' Counsel or an officer or employee of the Office of the Consumers' Counsel who shall serve as the designee of the Consumers'

Counsel;

(5) One member appointed by the Governor, who is a member of the Governor's staff;

(6) One member appointed by the Governor who is a representative of the telecommunications industry.

(B) The Governor shall make appointments to the Committee not later than ~~sixty days after the effective date of this section~~ November 12, 2010. Vacancies on the Committee shall be filled in the manner provided for original appointments.

(C) The members who serve as chairpersons of the House and Senate committees to which public utility legislation is referred shall serve as co-chairpersons of the Select Committee on Telecommunications Regulatory Reform. The Committee shall meet at the call of the co-chairpersons who shall determine the time, meeting location, and agenda for each meeting of the Committee.

(D) The Committee shall study the impacts of Sub. S.B. 162 as enacted by the 128th General Assembly. The Committee's study shall include, but shall not be limited to, a review of both the economic benefits of the act and the act's impact on jobs, telephone company rates, telephone company quality of service, lifeline program customers, rural markets, rural broadband deployment, and carrier access to private property. ~~The Committee's study shall also include a report on the Community voicemail Service Pilot Program created in S.B. 162 of the 128th General Assembly.~~ The Public Utilities Commission shall cooperate with the Committee as it performs its duties and shall provide reports and any other information requested by the Committee.

(E) The Committee may request assistance from the Legislative Service Commission.

(F) Not later than ~~four years after the effective date of this section~~ September 13, 2014, the Committee shall submit a written report of its findings and recommendations to the General Assembly and the Governor. Upon submission of its report, the Committee shall cease to exist.

SECTION 620.52. That existing Section 5 of Sub. S.B. 162 of the 128th General Assembly is hereby repealed.

SECTION 620.53. That Section 6 of Sub. S.B. 162 of the 128th General Assembly is hereby repealed.

SECTION 630.10. That Section 5 of Sub. H.B. 125 of the 127th General Assembly, as most recently amended by Sub. H.B. 198 of the 128th General Assembly, be amended to read as follows:

Sec. 5. (A) As used in this section and Section 6 of Sub. H.B. 125 of the 127th General Assembly:

(1) "Most favored nation clause" means a provision in a health care contract that does any of the following:

(a) Prohibits, or grants a contracting entity an option to prohibit, the participating provider from contracting with another contracting entity to provide health care services at a lower price than the payment specified in the contract;

(b) Requires, or grants a contracting entity an option to require, the participating provider to accept a lower payment in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;

(c) Requires, or grants a contracting entity an option to require, termination or renegotiation of the existing health care contract in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;

(d) Requires the participating provider to disclose the participating provider's contractual reimbursement rates with other contracting entities.

(2) "Contracting entity," "health care contract," "health care services," "participating provider," and "provider" have the same meanings as in section 3963.01 of the Revised Code, as enacted by Sub. H.B. 125 of the 127th General Assembly.

(B) ~~With respect to a contracting entity and a provider other than a hospital, no~~ No health care contract ~~that includes~~ shall contain a most favored nation clause ~~shall be entered into, and no health care contract at the instance of a contracting entity shall be amended or renewed to include a most favored nation clause, for a period of three years after the effective date of Sub. H.B. 125 of the 127th General Assembly~~.

(C) ~~With respect to a contracting entity and a hospital, no health care contract that includes a most favored nation clause shall be entered into, and no health care contract at the instance of a contracting entity shall be amended or renewed to include a most favored nation clause, for a period of three years after the effective date of Sub. H.B. 125 of the 127th General Assembly, subject to extension as provided in Section 6 of Sub. H.B. 125 of the 127th General Assembly.~~

~~(D)~~ This section does not apply to and does not prohibit the continued

use of a most favored nation clause in a health care contract that is between a contracting entity and a hospital and that is in existence on the effective date of Sub. H.B. 125 of the 127th General Assembly ~~even if the health care contract is materially amended with respect to any provision of the health care contract other than the most favored nation clause during the two-year period specified in this section or during any extended period of time as provided in Section 6 of Sub. H.B. 125 of the 127th General Assembly~~. This section applies to such contract if that contract is amended, or to any extension or renewal of that contract.

SECTION 630.11. That existing Section 5 of Sub. H.B. 125 of the 127th General Assembly, as most recently amended by Sub. H.B. 198 of the 128th General Assembly, is hereby repealed.

SECTION 630.12. That Section 5 of Sub. H.B. 2 of the 127th General Assembly is hereby repealed.

SECTION 640.10. That Section 6 of Am. Sub. S.B. 124 of the 128th General Assembly be amended to read as follows:

Sec. 6. A prosecuting attorney or treasurer of a county with a population greater than eight hundred thousand but less than nine hundred thousand may determine that the amount of money appropriated to the respective office from the county Delinquent Tax and Assessment Collection Fund under division (A) of section 321.261 of the Revised Code exceeds the amount required to be used by that office as prescribed by division (A)(1) of that section. If a prosecuting attorney or treasurer of a county with that population makes such a determination, the prosecuting attorney or treasurer may expend up to fifty per cent of the excess so determined to pay the expenses of operating the respective office that otherwise would be payable from appropriations from the county general fund, notwithstanding section 321.261 of the Revised Code.

This section expires December 31, ~~2011~~ 2012.

SECTION 640.11. That existing Section 6 of Am. Sub. S.B. 124 of the 128th General Assembly is hereby repealed.

SECTION 690.10. That Section 153 of Am. Sub. H.B. 117 of the 121st

General Assembly, as most recently amended by Am. Sub. H.B. 1 of the 128th General Assembly, be amended to read as follows:

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code are hereby repealed, effective October 16, ~~2011~~ 2013.

(B) Any money remaining in the Legislative Budget Services Fund on October 16, ~~2011~~ 2013, the date that section 5112.19 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.

SECTION 690.11. That existing Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 1 of the 128th General Assembly, is hereby repealed.

SECTION 701.10. The Department of Administrative Services shall post on the Department's Internet web site the form for the contract documents that a public authority contracting for services with a construction manager at risk or a design-build firm must use on and after the date of the posting and until the rules adopted under section 153.503 of the Revised Code are implemented.

SECTION 701.13. (A) The Director of Administrative Services shall adopt rules in accordance with Chapter 119. of the Revised Code to establish guidelines for the provision of surety bonds by construction managers at risk, as required under section 9.333 of the Revised Code, and design-build firms, as required under section 153.70 of the Revised Code.

(B) Except as provided in division (C) of this section, the amendment or enactment of sections 9.33, 9.331, 9.332, 9.333, 9.334, 9.335, 123.011, 126.141, 153.01, 153.03, 153.07, 153.08, 153.50, 153.501, 153.502, 153.503, 153.51, 153.52, 153.53, 153.54, 153.55, 153.56, 153.581, 153.65, 153.66, 153.67, 153.69, 153.692, 153.693, 153.694, 153.70, 153.71, 153.72, 153.73, 153.80, 3313.46, 3353.04, 3354.16, 3357.16, 4113.61, 5540.03, and 6115.20 of the Revised Code and Section 701.10 of this act modifying the

laws governing the permissible methods of construction delivery for the construction of public improvements shall apply only to public improvement projects commencing on or after the date the rules adopted under division (A) of this section become effective.

(C) The provisions of the sections listed in division (B) of this section that are amended or enacted by this act that apply the provisions of section 7.16 of the Revised Code, as enacted by this act, are not subject to the delayed application provisions of that division.

SECTION 701.20. Not later than July 1, 2012, the Department of Administrative Services shall submit a report to the General Assembly, in accordance with section 101.68 of the Revised Code, on the feasibility of all of the following regarding health care plans to cover persons employed by political subdivisions, public school districts, as defined in section 9.901 of the Revised Code, and state institutions of higher education, as defined in section 3345.011 of the Revised Code:

(A) Designing multiple health care plans that achieve an optimal combination of coverage, cost, choice, and stability, which plans include both state and regional preferred provider plans, set employee and employer premiums, and set employee plan copayments, deductibles, exclusions, limitations, formularies, and other responsibilities;

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

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

(D) Coordinating contracts for services related to the health care plans;

(E) Voluntary and mandatory participation by political subdivisions, public school districts, and institutions of higher education;

(F) The potential impacts of any changes to the existing purchasing structure on existing health care pooling and consortiums;

(G) Removing barriers to competition and access to health care pooling.

No action shall be taken regarding health care coverage for employees of political subdivisions, public school districts, and state institutions of higher education without the enactment of law by the General Assembly.

SECTION 701.30. EXEMPT EMPLOYEE CONSENT TO CERTAIN DUTIES

As used in this section, "appointing authority" has the same meaning as in section 124.01 of the Revised Code, and "exempt employee" has the same

meaning as in section 124.152 of the Revised Code.

Notwithstanding section 124.181 of the Revised Code, in cases where no vacancy exists, an appointing authority may, with the written consent of an exempt employee, assign duties of a higher classification to that exempt employee for a period of time not to exceed two years, and that exempt employee shall receive compensation at a rate commensurate with the duties of the higher classification.

SECTION 701.40. (A) There is hereby created the Ohio Housing Study Committee with the purpose of formulating a comprehensive review of the policies and results of the Ohio Housing Finance Agency, its programs and its working relationships to ensure that all Agency programs are evaluated by an objective process to ensure all Ohioans receive optimal and measurable benefits afforded to them through the authority of the Agency.

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

(1) Perform a comprehensive review of Chapter 175. of the Revised Code to determine the relevance of the chapter and determine whether it should be formally reviewed or amended by the General Assembly, up to and including appropriate legislative oversight and accountability;

(2) Review the Agency's relationships to ensure an equitable and level playing field regarding its single- and multi-family housing programs;

(3) Review the Agency's policy leadership and the measurable economic impact and other effects of its programs;

(4) Review the Agency's Qualified Allocation Plan development process and underlying policies to understand whether objective and measurable results are achieved to fulfill clearly articulated public policy goals;

(5) Create a quantitative report measuring the economic benefits of the Agency's single- and multi-family programming over the last ten years;

(6) Evaluate the possible efficiencies of combining existing Ohio Department of Development housing-related programming with those of the Agency.

The Chairperson of the Committee may include other relevant areas of study as necessary.

(C) The Committee shall commence on the effective date of this act and shall provide a report expressing its findings and financial, policy, or legislative recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before March 31, 2012.

(D) The Committee shall be comprised of the Auditor of State, or the Auditor's designee, the Director of Commerce, or the Director's designee,

the Director of Development, or the Director's designee, and four members of the General Assembly. Two members shall be appointed by the Speaker of the House of Representatives and two members shall be appointed by the President of the Senate.

The Governor, Speaker of the House of Representatives, and the President of the Senate shall determine the chairperson of the Committee.

(E) The Committee shall meet on a reasonable basis at the discretion of the chairperson.

(F) All reasonable expenses incurred by the Committee in carrying out its responsibilities shall be paid by Ohio Housing Finance Agency funds. In addition to reasonable expenses, the Committee shall have the discretion to allocate Agency funds to contract with the Auditor of State for services rendered in relation to the Committee carrying out its responsibilities, including financial- and performance-based audits and other services. The Auditor of State may contract with an independent auditor.

The Committee may also contract with other independent entities for services rendered in relation to the Committee carrying out its responsibilities. Expenditures to pay for the services of the Auditor of State, independent auditor, or other services shall not exceed two hundred thousand dollars.

No entity contracting with the Committee for services rendered shall have a financial or vested interest in the Ohio Housing Finance Agency, its affiliates, or its nonprofit partners.

SECTION 701.50. (A) Except as otherwise provided in section 154.24 or 154.25 of the Revised Code, as enacted by this act, with respect to the functions of the Ohio Public Facilities Commission, the Treasurer of State shall, on the effective date of this section and as provided for in this section, supersede and replace the Ohio Building Authority (referred to in this section as the "Authority") as the issuing authority in all matters relating to the issuance of obligations for the financing of capital facilities for housing branches and agencies of state government as provided for in section 154.24 of the Revised Code or for community or technical colleges as provided for in section 154.25 of the Revised Code (together referred to in this section as "facilities for capital purposes"), as enacted by this act (all referred to in this section as "superseded matters").

(B)(1) With respect to superseded matters and facilities for capital purposes, the Treasurer of State shall:

(a) Succeed to and have and perform all of the duties, powers, obligations, and functions of the Authority and its members and officers

provided for by law or rule relating to the issuance of bonds, notes, or other obligations for the purpose of paying costs of facilities for capital purposes;

(b) Succeed to and have and perform all of the duties, powers, obligations, and functions, and have all of the rights of, the Authority and its members and officers provided for in or pursuant to resolutions, rules, agreements, trust agreements, and supplemental trust agreements (all referred to collectively in this section as "basic instruments"), and bonds, notes, and other obligations (all referred to collectively in this section as "financing obligations"), previously authorized, entered into, or issued by the Authority for facilities for capital purposes, which financing obligations shall be, or shall be deemed to be, obligations issued by and of the Treasurer of State; and

(c) Be bound by all agreements and covenants of the Authority, and basic instruments, relating to financing obligations.

(2) The transfer of superseded matters to the Treasurer of State pursuant to this section does not affect the validity of any agreement or covenant, basic instrument, or financing obligation, or any related document, authorized, entered into, or issued by the Authority under Chapter 152. of the Revised Code or other laws, and nothing in this section shall be applied or considered as impairing the obligations or rights under them.

(3) The Treasurer of State shall not issue any additional financing obligations pursuant to any basic instrument of the Authority, including financing obligations to refund financing obligations previously issued by the Authority.

(C) With respect to proceedings relating to superseded matters affected by this section:

(1) This section applies to any proceedings that are commenced after the effective date of this section, and to any proceedings that are pending, in progress, or completed on that date, notwithstanding the applicable law previously in effect or any provision to the contrary in a prior basic instrument, notice, or other proceeding.

(2) Any proceedings of the Authority that are pending on the effective date of this section shall be pursued and completed by and in the name of the Treasurer of State, and any financing obligations that are sold, issued, and delivered pursuant to those proceedings shall be deemed to have been authorized, sold, issued, and delivered in conformity with this section.

(3) Notwithstanding divisions (C)(1) and (2) of this section, the Authority may, subsequent to the effective date of this section, meet for the purpose of better accomplishing the transfer of superseded matters. At any such meeting the Authority may take necessary or appropriate actions to

effect an orderly transition relating to the issuance of financing obligations, such that all duties, powers, obligations, and functions of the Authority and its members and officers with respect to the superseded matters or under any leases and agreements between the Authority and a state agency for facilities for capital purposes shall terminate and be of no further force and effect as to the Authority.

(D) Notwithstanding any other provision of this section, this section shall not apply to the Authority's interests in or responsibilities for the operation and maintenance, or any lease or agreement relating to the operation and maintenance of, the James A. Rhodes State Office Tower (30 East Broad Street, Columbus), the Vern Riffe Center for Government and the Arts (77 South High Street, Columbus), the Frank J. Lausche State Office Building (615 West Superior Avenue, Cleveland), the Michael V. DiSalle Government Center (One Government Center, Toledo), the Oliver R. Ocasek Government Office Building (161 South High Street, Akron), and the State of Ohio Computer Center (1320 Arthur E. Adams Drive, Columbus).

(E) The Authority and the Treasurer of State shall prepare any necessary amendments of or supplements to documents or basic instruments pertaining to the duties, powers, obligations, functions, and rights relating to superseded matters to which the Treasurer of State succeeds pursuant to this section. The authorization by the Authority in its basic instruments relating to superseded matters for its officers to act in any manner on behalf of the Authority shall, on and after the effective date of this section, be authorization for the Treasurer of State, or the Treasurer of State's staff or employees to whom the Treasurer of State may delegate the function, to act in the circumstances, without necessity for amendment of or supplement to any such documents or basic instruments.

(F) No pending judicial or administrative action or proceeding in which the Authority, or its members or officers as such, are a party that pertains to superseded matters shall be affected by their transfer, but shall be prosecuted or defended in the name of the Treasurer of State and in any such action or proceeding the Treasurer of State, upon application to the court, shall be substituted as a party.

(G) In connection with the duties, powers, obligations, functions, and rights relating to superseded matters and provided for in this section, on the effective date of this section:

(1) Copies of all basic instruments, documents, books, papers, and records of the Authority shall be transferred to the Treasurer of State upon request, without necessity for assignment, conveyance, or other action by

the Authority.

(2) All appropriations previously made to or for the Authority for the purposes of the performance of the duties, powers, obligations, functions, and exercise of rights relating to superseded matters, to the extent of remaining unexpended or unencumbered balances, are hereby transferred to and made available for use and expenditure by the Treasurer of State for performing the same duties, powers, obligations, and functions and exercising the same rights for which originally appropriated, and payments for administrative expenses previously incurred in connection with them shall be made from the applicable administrative service fund on vouchers approved by the Treasurer of State.

(3) All leases and agreements between the Authority and a state agency for facilities for capital purposes made under Chapter 152. of the Revised Code shall, and shall be considered to, continue to bind that state agency. Nothing in this act shall be considered as impairing the obligations of any state agency under those leases and agreements.

(4) Any lease, grant, or conveyance made to the Authority pursuant to section 152.06 of the Revised Code shall be, and shall be deemed to be, made to the Ohio Public Facilities Commission pursuant to section 154.16 of the Revised Code, and the Ohio Public Facilities Commission shall succeed to and have and perform all of the duties, powers, obligations, and functions, and have all of the rights, of the Authority and its members and officers provided for in or pursuant to that lease, grant, or conveyance.

(H) Whenever the Authority, or any of its members or officers, is referred to in any contract or other document relating to those outstanding financing obligations, the reference shall be considered to be, as applicable, to the Ohio Public Facilities Commission or its appropriate officers or to the Treasurer of State or the appropriate staff of the Treasurer of State.

SECTION 701.60. Within thirty days after the effective date of this section, the Department of Administrative Services shall begin developing recommendations for a state government reorganization plan focused on increased efficiencies in the operation of state government and a reduced number of state agencies. The Department shall present its recommendations to the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate not later than June 30, 2013.

SECTION 701.63. Notwithstanding sections 124.14, 124.141, and 124.15 of the Revised Code, until January 1, 2014, the Director of Administrative Services may implement the provisions of sections 124.14, 124.141, and 124.15 of the Revised Code that otherwise would require the adoption of rules without adopting rules.

SECTION 715.10. (A) The Ohio Soil and Water Conservation Commission that is created in section 1515.02 of the Revised Code shall establish a Conservation Program Delivery Task Force to provide recommendations to the Director of Natural Resources regarding how soil and water conservation districts established under section 1515.03 of the Revised Code may advance effective and efficient operations while continuing to provide local program leadership. The Task Force shall examine methods for improving services and removing impediments to organizational management and explore opportunities for sharing services across all levels of government.

(B) The chairperson of the Commission in consultation with the Director shall appoint no more than nine members to the Task Force. The Task Force shall include members of the boards of supervisors of soil and water conservation districts and other individuals who represent diverse geographic areas of the state and may include members from the Ohio Federation of Soil and Water Conservation Districts, the Natural Resources Conservation Service in the United States Department of Agriculture, the County Commissioners' Association of Ohio, the Ohio Municipal League, and the Ohio Township Association. The Task Force may consult with those organizations and agencies.

(C) The chairperson of the Commission or another member of the Commission who is designated by the chairperson shall serve as chairperson of the Task Force.

(D) Members appointed to the Task Force shall serve without compensation and shall not be reimbursed for expenses. The Division of Soil and Water Resources shall provide technical and administrative support as needed by the Task Force.

(E) The Task Force shall hold its first meeting no later than September 1, 2011, and shall submit a final report of recommendations to the Director and the Commission no later than December 31, 2011. Upon submission of the final report, the Task Force shall cease to exist.

SECTION 733.10. (A) The Department of Education shall conduct and publicize a second Educational Choice Scholarship application period for the 2011-2012 school year to award for that year scholarships newly authorized by sections 3310.02 and 3310.03 of the Revised Code, as amended by this act. The second application period shall commence on the effective date of this section and shall end at the close of business on the first business day that is at least forty-five days after the effective date of this section.

(B) Not later than ten days after the effective date of this section, the Department shall do both of the following:

(1) Mail, to each person who applied for a scholarship during the first application period for the 2011-2012 school year but did not receive a scholarship, a notice announcing the second application period, the opportunity to re-apply, and the application deadline;

(2) Post prominently on its web site a list of school district-operated buildings that meet both of the following criteria:

(a) For at least two of the three school years from 2007-2008 through 2009-2010, ranked in the lowest ten per cent of school district buildings according to performance index score reported under section 3302.03 of the Revised Code;

(b) Were not declared to be excellent or effective under that section for the 2009-2010 school year.

Notwithstanding division (B)(1)(a) of section 3310.03 of the Revised Code, eligibility for scholarships for the 2011-2012 school year under division (B) of section 3310.03 of the Revised Code shall be based on a school building's performance index score rank among all other school district buildings for the requisite school years, as described in division (B)(2)(a) of this section, and shall not be based on a building's performance index score rank among all public school buildings for the requisite school years, as otherwise required under division (B)(1)(a) of section 3310.03 of the Revised Code.

(C) The Department shall award scholarships for the 2011-2012 school year from applications submitted during the second application period according to the order of priority listed in division (B) of section 3310.02 of the Revised Code, as amended by this act. The Department shall base its award determinations on the applicant students' status during the 2010-2011 school year.

(D) Notwithstanding any provision of sections 3310.01 to 3310.17 of the Revised Code, any rule of the State Board of Education, or any policy of

the Department to the contrary, the Department shall not deny a scholarship to a student for whom an application is submitted during the second application period solely because the student already has been admitted to a chartered nonpublic school for the 2011-2012 school year, if both of the following apply:

(1) A timely application was submitted on the student's behalf during the first application period for the 2011-2012 school year and the student was denied a scholarship solely because the number of applications exceeded the number of available scholarships.

(2) The student either:

(a) Was enrolled, through the final day of scheduled classes for the 2010-2011 school year, in the district school or community school indicated on the student's first application for the 2011-2012 school year;

(b) Is eligible to enroll in kindergarten for the 2011-2012 school year and was not enrolled in kindergarten in a nonpublic school in the 2010-2011 school year.

(E)(1) For purposes of determining eligibility under division (B) of section 3310.03 of the Revised Code for scholarships awarded for the 2012-2013 school year, the Department shall post prominently on its web site a list of school district buildings that meet both of the following criteria:

(a) For at least two of the three school years from 2008-2009 through 2010-2011, ranked in the lowest ten per cent of public school buildings according to performance index score;

(b) Were not declared to be excellent or effective under section 3302.03 of the Revised Code for the 2010-2011 school year.

(2) For purposes of determining eligibility under division (B) of section 3310.03 of the Revised Code for scholarships awarded for the 2013-2014 school year, the Department shall post prominently on its web site a list of school district buildings that meet both of the following criteria:

(a) For at least two of the three school years from 2009-2010 through 2011-2012, ranked in the lowest ten per cent of public school buildings according to performance index score;

(b) Were not declared to be excellent or effective under section 3302.03 of the Revised Code for the 2011-2012 school year.

(3) For purposes of determining eligibility under division (B) of section 3310.03 of the Revised Code for scholarships awarded for the 2014-2015 school year, the Department shall post prominently on its web site a list of school district buildings that meet both of the following criteria:

(a) For at least two of the three school years from 2010-2011 through 2012-2013, ranked in the lowest ten per cent of public school buildings

according to performance index score;

(b) Were not declared to be excellent or effective under section 3302.03 of the Revised Code for the 2012-2013 school year.

(F) As used in this section, "enrolled" has the same meaning as in division (E) of section 3317.03 of the Revised Code.

SECTION 733.20. (A)(1) Notwithstanding section 3305.03 of the Revised Code or any other provision of Chapter 3305. of the Revised Code, an alternative retirement plan established by a public institution of higher education prior to July 1, 2000, that is a qualified trust under section 401(a) of the Internal Revenue Code is hereby designated a provider for purposes of Chapter 3305. of the Revised Code.

(2) Other than the contributions required under division (D) of section 3305.06 of the Revised Code and interest on those contributions at a rate determined by the State Teachers Retirement Board, a public institution of higher education is not required to pay any contributions or interest due the State Teachers Retirement System for an employee who prior to July 1, 2000, made an election to participate in an alternative retirement plan designated under this section, from the date of the election as long as participation by the employee continues.

(B) Notwithstanding division (C) of section 3305.05 of the Revised Code, a public institution of higher education that failed to timely file with the State Teachers Retirement System a copy of an election of an employee described in division (A)(2) of this section may file the election not later than ninety days after the effective date of this section. The system shall accept the filing as though made in compliance with section 3305.05 of the Revised Code.

SECTION 733.30. Notwithstanding the dates prescribed by division (D) of section 3311.054 of the Revised Code, not later than July 1, 2012, the governing board of an educational service center established under that section shall redistrict the educational service center's territory into a number of subdistricts equal to the number of board members designated under division (B)(1) of that section, based on the results of the 2010 decennial census. At the regular municipal election held in November 2013, all elected governing board members shall again be elected from the subdistricts created under this section.

If a governing board fails to redistrict the territory of its educational service center in accordance with this section, the superintendent of public

instruction shall redistrict the service center not later than August 1, 2012.

SECTION 733.40. The amendment by this act of section 133.06 of the Revised Code applies to any proceedings commenced after the effective date of that section and, so far as the provisions of that section support the actions taken, also apply to any proceedings that on the effective date of that section are pending, in progress, or completed, and to any elections authorized, conducted, or certified and securities authorized or issued pursuant to those proceedings, notwithstanding any law, resolution, ordinance, order, advertisement, notice, or other proceeding in effect before that effective date. Any proceedings pending or in progress on, or completed by, that effective date, elections authorized, conducted, or certified, and securities sold, issued, and delivered, or validated, pursuant to those proceedings, are ratified with respect to, and shall be deemed to have been taken, authorized, conducted, certified, sold, issued, delivered, or validated in conformity with section 133.06 of the Revised Code so far as the provisions of that section support the actions taken. To the extent those proceedings are proper in all other respects, if the proceedings are filed with a board of elections in anticipation of the taking effect of the amendment of section 133.06 of the Revised Code and in a manner that would be valid if the amendment took effect on the date it became law, then that board of elections, so long as it received a confirmation stating an intention to proceed from or on behalf of the board of education within five business days after the effective date of the amendment shall accept the proceedings and take any actions or make any arrangements necessary for the submission of a question to the electors or otherwise required by the Revised Code.

SECTION 737.15. On the effective date of this section, the Public Health Council shall rescind all rules adopted under section 3733.22 of the Revised Code as that section existed prior to its repeal by this act.

SECTION 737.30. The authority provided in section 737.022 of the Revised Code as amended by this act is in addition and supplemental to provisions for the subject matter that may also be the subject of other laws, and is supplemental to and not in derogation of any similar authority provided by, derived from, or implied by, the Constitution of the state of Ohio or any other laws, including the law amended by this act, or any charter, order, resolution, or ordinance, and no inference shall be drawn to

negate the authority thereunder by reason of express provisions contained in section 737.022 of the Revised Code.

SECTION 747.40. (A) For members of the Residential Construction Advisory Committee serving terms beginning on July 1, 2011, such members' terms shall expire as follows:

(1) The terms of the members described in divisions (A)(3), (A)(6), and one of the members described in division (A)(1) of section 4740.14 of the Revised Code as amended by this act shall expire on June 30, 2012.

(2) The terms of the member described in division (A)(4), one of the members described in division (A)(1), and one of the members described in division (A)(2) of section 4740.14 of the Revised Code as amended by this act shall expire on June 30, 2013.

(3) The terms of the member described in division (A)(5), one of the members described in division (A)(1), and one of the members described in division (A)(2) of section 4740.14 of the Revised Code as amended by this act shall expire on June 30, 2014.

(B) The Director of Commerce shall determine which of the members appointed pursuant to division (A)(1) of section 4740.14 of the Revised Code as amended by this act will serve the term described in division (A)(1), which member will serve the term described in division (A)(2), and which member will serve the term described in division (A)(3) of this section, and shall determine which of the members appointed pursuant to division (A)(2) of section 4740.14 of the Revised Code as amended by this act will serve the term described in division (A)(2) and which member will serve the term described in division (A)(3) of this section.

(C) Upon the expiration of the terms described in division (A) of this section, all successive terms shall last for the period described in division (B) of section 4740.14 of the Revised Code as amended by this act.

SECTION 749.10. The Public Utilities Commission shall, on or before December 31, 2011, determine appropriate methods under which to ensure that the reduction in public utility assessments paid under section 4911.18 of the Revised Code for the Office of the Ohio Consumers' Counsel for fiscal year 2012 and fiscal year 2013 is distributed to the benefit of Ohio customers of those public utilities. The Commission shall implement its distribution methodology in a timely manner.

SECTION 753.10. (A) As used in this section, "contractor" and "facility" have the same meanings as in section 9.06 of the Revised Code, as amended by Sections 101.01 and 101.02 of this act.

(B)(1) The Director of Administrative Services and the Director of Rehabilitation and Correction are hereby authorized to award one or more contracts through requests for proposals for the operation and management by a contractor of one or more of the facilities described in divisions (C) to (G) of this section, pursuant to section 9.06 of the Revised Code, and for the transfer of the state's right, title, and interest in the real property on which the facility is situated and any surrounding land as described in those divisions.

(2) If the Director of Administrative Services and the Director of Rehabilitation and Correction award a contract of the type described in division (B)(1) of this section to a contractor regarding a facility described in division (C), (D), (E), (F), or (G) of this section, in addition to the requirements, statements, and authorizations that must be included in the contract pursuant to division (B) of section 9.06 of the Revised Code, the contract shall include all of the following regarding the facility that is the subject of the contract:

(a) An agreement for the sale to the contractor of the state's right, title, and interest in the facility, the land situated thereon, and specified surrounding land;

(b) A requirement that the contractor provide preferential hiring treatment to employees of the Department of Rehabilitation and Correction in order to retain staff displaced as a result of the transition of the operation and management of the facility and to meet the administrative, programmatic, maintenance, and security needs of the facility;

(c) Notwithstanding any provision of the Revised Code, authorization for the transfer to the contractor of any supplies, equipment, furnishings, fixtures, or other assets considered necessary by the Director of Rehabilitation and Correction and the Director of Administrative Services for the continued operation and management of the facility;

(d) A binding commitment that irrevocably grants to the state a right, upon the occurrence of any triggering event described in division (B)(2)(d)(i) or (ii) of this section and in accordance with the particular division, to repurchase the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract. The triggering

events and the procedures for a repurchase under the irrevocable grant described in this division are as follows:

(i) Before the contractor, or the contractor's successor in title, may resell or otherwise transfer the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract, the contractor or successor first must offer the state the opportunity to repurchase the facility, real property, and surrounding land that is to be resold or transferred for a price not greater than the purchase price paid to the state for that facility, real property, or surrounding land, less depreciation from the time of the conveyance of that facility, real property, or surrounding land to the contractor, plus the depreciated value of any capital improvements to that facility, real property, or surrounding land that were made to it and funded by anyone other than the state subsequent to the conveyance to the contractor. The repurchase opportunity described in this division must be offered to the state at least one hundred twenty days before the contractor intends to resell or otherwise transfer the facility, real property, or surrounding land that is to be resold or transferred. After being offered the repurchase opportunity, the state has the right to repurchase the facility, real property, and surrounding land that is to be resold or otherwise transferred for the price described in this division.

(ii) Upon the contractor's default of any financial agreement for the purchase of the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract, upon the contractor's default of any other term in the contract, or upon the contractor's financial insolvency or inability to meet its contractual obligations, the state has the right to repurchase the facility and real property, the surrounding land, or both the facility and real property and the surrounding land, for a price not greater than the purchase price paid to the state for that facility, real property, or surrounding land, less depreciation from the time of the conveyance of that facility, real property, or surrounding land to the contractor, plus the depreciated value of any capital improvements to that facility, real property, or surrounding land that were made to it and funded by anyone other than the state subsequent to the conveyance to the contractor.

(e) A requirement that if the operation and management portion of the contract is terminated the contractor's operation and management responsibilities be transferred to another contractor under the same terms and conditions and applied to the original contractor or to the Department of

Rehabilitation and Correction and authorization for the Department or new contractor, whichever is applicable, to enter into an agreement with the terminated contractor to purchase the terminated contractor's equipment, supplies, furnishings, and consumables.

(3)(a) If the Director of Administrative Services and the Director of Rehabilitation and Correction award a contract of the type described in division (B)(1) of this section to a contractor regarding a facility described in division (C), (D), (E), (F), or (G) of this section, notwithstanding any provision of the Revised Code and subject to division (B)(3)(b) of this section, the state may transfer to the contractor in accordance with the contract any supplies, equipment, furnishings, fixtures, or other assets considered necessary by the Director of Rehabilitation and Correction and the Director of Administrative Services for the continued operation and management of the facility. For purposes of this paragraph and the transfer authorized under this paragraph, any such supplies, equipment, furnishings, fixtures, or other assets shall not be considered supplies, excess supplies, or surplus supplies as defined in section 125.12 of the Revised Code and may be disposed of as part of the transfer of the facility to the contractor.

(b) If the Director of Administrative Services and the Director of Rehabilitation and Correction award a contract of the type described in division (B)(1) of this section to a contractor regarding the facility described in division (D) of this section, the Director of Rehabilitation and Correction may transfer to another state correctional institution to be determined by the Director of Rehabilitation and Correction the Braille printing press and related accessories located at the facility described in division (D) of this section and all programs associated with the Braille printing press.

(4) Nothing in divisions (B)(1) to (3) or divisions (C) to (G) of this section restricts the department of rehabilitation and correction from contracting for only the private operation and management of any of the facilities described in divisions (C) to (G) of this section.

(C)(1) As used in division (C) of this section, "grantee" means an entity that has contracted under section 9.06 of the Revised Code to privately operate the Lake Erie Correctional Facility, if the contract includes the clauses described in division (B)(2) of this section for the purchase of that Facility.

(2) The Governor is authorized to execute a deed in the name of the state conveying to the grantee, its successors and assigns, all of the right, title, and interest of the state in the Lake Erie Correctional Facility, in the City of Conneaut, County of Ashtabula, State of Ohio, the land situated thereon, and any surrounding land, which totals approximately 119 acres.

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the property in conformity with the actual bounds of the real estate.

(3) Consideration for conveyance of the real estate shall be set forth in the contract awarded to the grantee and shall be paid in accordance with the terms of the contract.

(4)(a) The deed may contain any restriction that the Director of Administrative Services and the Director of Rehabilitation and Correction determine is reasonably necessary to protect the state's interest in neighboring state-owned land.

(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the correctional facility thereon, except in conformance with the restriction, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

(5) The real estate shall be sold as an entire tract and not in parcels.

(6) Upon payment of the purchase price as set forth in the contract awarded to the grantee, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Ashtabula County Recorder.

(7) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

(8) The proceeds of the conveyance of the real estate shall be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund and shall be used to redeem or defease bonds in accordance with section 5120.092 of the Revised Code, and any remaining moneys after such redemption or defeasance shall be transferred in accordance with that section to the General Revenue Fund.

(9) Division (C) of this section does not restrict the Department of Rehabilitation and Correction from contracting, not for the sale of, but only for the private operation and management of the Lake Erie Correctional Facility.

(10) Division (C) of this section expires two years after its effective date.

(D)(1) As used in division (D) of this section, "grantee" means an entity that has contracted under section 9.06 of the Revised Code to privately

operate the Grafton Correctional Institution, if the contract includes the clauses described in division (B)(2) of this section for the purchase of that Institution.

(2) The Governor is authorized to execute a deed in the name of the state conveying to the grantee, its successors and assigns, all of the right, title, and interest of the state in the Grafton Correctional Institution, in the City of Grafton, County of Lorain, State of Ohio, the land situated thereon, and any surrounding land, which totals approximately 148 acres.

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the property in conformity with the actual bounds of the real estate.

(3) Consideration for conveyance of the real estate shall be set forth in the contract awarded to the grantee and shall be paid in accordance with the terms of the contract.

(4)(a) The deed may contain any restriction that the Director of Administrative Services and the Director of Rehabilitation and Correction determine is reasonably necessary to protect the state's interest in neighboring state-owned land.

(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the correctional facility thereon, except in conformance with the restriction, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

(5) The real estate shall be sold as an entire tract and not in parcels.

(6) Upon payment of the purchase price as set forth in the contract awarded to the grantee, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Lorain County Recorder.

(7) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

(8) The proceeds of the conveyance of the real estate shall be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund and shall be used to redeem or defease bonds in accordance with section 5120.092 of the Revised Code, and any remaining moneys after such redemption or defeasance shall be transferred in accordance with that section to the General Revenue Fund.

(9) Division (D) of this section does not restrict the Department of Rehabilitation and Correction from contracting, not for the sale of, but only for the private operation and management of the Grafton Correctional Institution.

(10) Division (D) of this section expires two years after its effective date.

(E)(1) As used in division (E) of this section, "grantee" means an entity that has contracted under section 9.06 of the Revised Code to privately operate the North Coast Correctional Treatment Facility, if the contract includes the clauses described in division (B)(2) of this section for the purchase of that Facility.

(2) The Governor is authorized to execute a deed in the name of the state conveying to the grantee, its successors and assigns, all of the right, title, and interest of the state in the North Coast Correctional Treatment Facility, in the City of Grafton, County of Lorain, State of Ohio, the land situated thereon, and any surrounding land, which totals approximately 171 acres.

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the property in conformity with the actual bounds of the real estate.

(3) Consideration for conveyance of the real estate shall be set forth in the contract awarded to the grantee and shall be paid in accordance with the terms of the contract.

(4)(a) The deed may contain any restriction that the Director of Administrative Services and the Director of Rehabilitation and Correction determine is reasonably necessary to protect the state's interest in neighboring state-owned land.

(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the correctional facility thereon, except in conformance with the restriction, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

(5) The real estate shall be sold as an entire tract and not in parcels.

(6) Upon payment of the purchase price as set forth in the contract awarded to the grantee, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the

deed for recording in the Office of the Lorain County Recorder.

(7) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

(8) The proceeds of the conveyance of the real estate shall be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund and shall be used to redeem or defease bonds in accordance with section 5120.092 of the Revised Code, and any remaining moneys after such redemption or defeasance shall be transferred in accordance with that section to the General Revenue Fund.

(9) Division (E) of this section does not restrict the Department of Rehabilitation and Correction from contracting, not for the sale of, but only for the private operation and management of the North Coast Correctional Treatment Facility.

(10) Division (E) of this section expires two years after its effective date.

(F)(1) As used in division (F) of this section, "grantee" means an entity that has contracted under section 9.06 of the Revised Code to privately operate the North Central Correctional Institution, if the contract includes the clauses described in division (B)(2) of this section for the purchase of that Institution.

(2) The Governor is authorized to execute a deed in the name of the state conveying to the grantee, its successors and assigns, all of the right, title, and interest of the state in the North Central Correctional Institution, in the City of Marion, County of Marion, State of Ohio, the land situated thereon, and any surrounding land, which totals approximately 152 acres.

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the property in conformity with the actual bounds of the real estate.

(3) Consideration for conveyance of the real estate shall be set forth in the contract awarded to the grantee and shall be paid in accordance with the terms of the contract.

(4)(a) The deed may contain any restriction that the Director of Administrative Services and the Director of Rehabilitation and Correction determine is reasonably necessary to protect the state's interest in neighboring state-owned land.

(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the correctional facility thereon, except in conformance with the restriction, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

(5) The real estate shall be sold as an entire tract and not in parcels.

(6) Upon payment of the purchase price as set forth in the contract awarded to the grantee, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Marion County Recorder.

(7) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

(8) The proceeds of the conveyance of the real estate shall be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund and shall be used to redeem or defease bonds in accordance with section 5120.092 of the Revised Code, and any remaining moneys after such redemption or defeasance shall be transferred in accordance with that section to the General Revenue Fund.

(9) Division (F) of this section does not restrict the Department of Rehabilitation and Correction from contracting, not for the sale of, but only for the private operation and management of the North Central Correctional Institution.

(10) Division (F) of this section expires two years after its effective date.

(G)(1)(a) As used in division (G) of this section, "grantee" means an entity that has contracted under section 9.06 of the Revised Code to privately operate a facility at the North Central Correctional Institution Camp, if the contract includes the clauses described in division (B)(2) of this section for the purchase of that facility.

(b) Jurisdiction of the facility described in division (G)(1)(a) of this section, which is a vacated facility previously operated by the Department of Youth Services adjacent to the North Central Correctional Institution, is hereby transferred from the Department of Youth Services to the Department of Rehabilitation and Correction. The transfer of jurisdiction of that facility is hereby ratified and approved.

(2) The Governor is authorized to execute a deed in the name of the state conveying to the grantee, its successors and assigns, all of the right, title, and interest of the state in the North Central Correctional Institution Camp, in the City of Marion, County of Marion, State of Ohio, the land situated thereon, and any surrounding land, which totals approximately 106 acres.

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the property in conformity with the actual bounds of the real estate.

(3) Consideration for conveyance of the real estate shall be set forth in the contract awarded to the grantee and shall be paid in accordance with the terms of the contract.

(4)(a) The deed may contain any restriction that the Director of Administrative Services and the Director of Rehabilitation and Correction determine is reasonably necessary to protect the state's interest in neighboring state-owned land.

(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the correctional facility thereon, except in conformance with the restriction, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

(5) The real estate shall be sold as an entire tract and not in parcels.

(6) Upon payment of the purchase price as set forth in the contract awarded to the grantee, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Marion County Recorder.

(7) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

(8) The proceeds of the conveyance of the real estate shall be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund and shall be used to redeem or defease bonds in accordance with section 5120.092 of the Revised Code, and any remaining moneys after such redemption or defeasance shall be transferred in accordance with that section to the General Revenue Fund.

(9) Division (G) of this section does not restrict the Department of Rehabilitation and Correction from contracting, not for the sale of, but only for the private operation and management of the North Central Correctional Institution Camp.

(10) Division (G) of this section expires two years after its effective date.

SECTION 753.20. (A) The Governor is authorized to execute a deed in

the name of the state conveying to the Ripley Union Lewis Huntington School District, its successors and assigns, all of the state's right, title, and interest in the following described real estate:

I

Starting at a 5/8" iron pin found on the southerly right-of-way line of Outer Drive, the northeasterly line of Edward and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the northwesterly corner of L.J. Germann's Addition as recorded in Plat Book C-3, page 204, slide 213 in the Brown County, Ohio Recorder's Office;

Thence with the southerly right-of-way line of said Outer Drive and with the northerly line of said Farnbach and Pfeffer for the next four (4) courses;

South 63 degrees 34 minutes 18 seconds West a distance of 24.20 feet;

South 79 degrees 33 minutes 23 seconds West a distance of 92.60 feet;

South 75 degrees 58 minutes 20 seconds West a distance of 347.02 feet;

South 84 degrees 53 minutes 30 seconds West a distance of 10.54 feet;

Thence with a line through the land of said Farnbach and Pfeffer for the next two (2) courses:

South 21 degrees 11 minutes 23 seconds West a distance of 43.58 feet;

South 0 degrees 25 minutes 20 seconds West a distance of 586.49 feet to a point on the southerly line of said Farnbach and Pfeffer and on the northerly line of Michael Ray Schwallie;

Thence with a line through the land of said Schwallie for the next two (2) courses:

South 0 degrees 25 minutes 20 seconds West a distance of 227.62 feet;

South 35 degrees 47 minutes 10 seconds East a distance of 523.46 feet to a point on the southerly line of said Schwallie and on the northerly line of the State of Ohio;

Thence with a line through the land of said State of Ohio three (3) courses:

South 35 degrees 47 minutes 10 seconds East a distance of 29.17 feet;

South 6 degrees 22 minutes 58 seconds West a distance of 29.21 feet;

South 51 degrees 22 minutes 58 seconds West a distance of 583.46 feet and *the true point of beginning*;

Thence from said *true point of beginning* and through the land of said State of Ohio for the next five (5) courses:

On a curve to the left having a radius of 300.00 feet, an interior angle of 37 degrees 00 minutes 54 seconds, an arc length of 193.81 feet, a chord bearing of South 76 degrees 58 minutes 37 seconds East for a chord length

of 190.46 feet;

South 58 degrees 28 minutes 11 seconds East a distance of 284.98 feet;

On a curve to the left having a radius of 300.00 feet, an interior angle of 180 degrees 00 minutes 00 seconds, an arc length of 942.48 feet, a chord bearing of South 31 degrees 31 minutes 49 seconds West for a chord length of 600.00 feet;

North 58 degrees 28 minutes 11 seconds West a distance of 284.98 feet;

On a curve to the right having a radius of 300.00 feet, an interior angle of 142 degrees 59 minutes 08 seconds, an arc length of 748.67 feet, a chord bearing of North 13 degrees 01 minutes 23 seconds East for a chord length of 568.97 feet and CONTAINING 3.925 Acres

This description was prepared by Christopher S. Renshaw, P.S., Ohio Registration No. 8319 on 16 October 2009.

II

Starting at 5/8" iron pin found on the southerly right-of-way line of Outer Drive, the northeasterly corner of Edward and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the northwesterly corner of L.J. Germann's Addition as recorded in Plat Book C-3, page 204, slide 213 in the Brown County, Ohio Recorder's Office;

Thence with the southerly right-of-way line of Outer Drive and with the northerly line of Edward and Eva K. Farnbach, etal for the next three (3) courses:

South 63 degrees 34 minutes 18 seconds West a distance of 24.20 feet;

South 79 degrees 33 minutes 23 seconds West a distance of 92.60 feet;

South 75 degrees 58 minutes 20 seconds West a distance of 340.45 feet;

Thence through the land of said Farnbach for the next two (2) courses:

South 21 degrees 11 minutes 23 seconds West a distance of 49.42 feet;

South 0 degrees 25 minutes 20 seconds West a distance of 571.70 feet to a point on the southerly line of said Farnbach and on the northerly line of Michael Ray Schwallie;

Thence through the land of said Schwallie for the next two (2) courses:

South 0 degrees 25 minutes 20 seconds West a distance of 234.76 feet;

South 35 degrees 47 minutes 10 seconds East a distance of 518.08 feet to a point on the southerly line of said Schwallie and on the northerly line of the State of Ohio and *the true point of beginning*; said point being on the easterly line of said real estate;

Thence from said *the true point of beginning* and with a line through the land of said State of Ohio seven (7) courses:

South 35 degrees 47 minutes 10 seconds East a distance of 35.43 feet;

South 6 degrees 22 minutes 58 seconds West a distance of 41.21 feet;

South 51 degrees 22 minutes 58 seconds West a distance of 568.72 feet;

On a curve to the left having a radius of 300.00 feet, an interior angle of 20 degrees 37 minutes 27 seconds, an arc length of 107.99 feet, a chord bearing of South 79 degrees 07 minutes 37 seconds West for a chord length of 107.41 feet;

North 51 degrees 22 minutes 58 seconds East a distance of 643.06 feet;

North 6 degrees 22 minutes 57 seconds East a distance of 1.22 feet;

North 35 degrees 47 minutes 10 seconds West a distance of 14.58 feet to a point on the southerly line of said Schwallie and on the northerly line of said State of Ohio;

Thence with the southerly line of said Schwallie and on the northerly line of said State of Ohio North 52 degrees 24 minutes 43 seconds East a distance of 50.02 feet to the place of beginning and CONTAINING 0.740 Acres.

This description was prepared by Christopher S. Renshaw, P.S., Ohio Registration No. 8319 on 16 October 2009.

III

Starting at a 5/8" iron pin found on the southerly right-of-way line of Outer Drive, the northeasterly corner of Edward and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the northwesterly corner of L.J. Germann's Addition as recorded in Plat Book C-3, page 204, slide 213 in the Brown County, Ohio Recorder's Office;

Thence with the southerly right-of-way line of said Outer Drive and with the northerly line of said Farnbach and Pfeffer for the next four (4) courses:

South 63 degrees 34 minutes 18 seconds West a distance of 24.20 feet;

South 79 degrees 33 minutes 23 seconds West a distance of 92.60 feet;

South 75 degrees 58 minutes 20 seconds West a distance of 347.02 feet;

South 84 degrees 53 minutes 30 seconds West a distance of 10.54 feet;

Thence with a line through the land of said Farnbach and Pfeffer for the next two (2) courses:

South 21 degrees 11 minutes 23 seconds West a distance of 43.58 feet;

South 0 degrees 25 minutes 20 seconds West a distance of 586.49 feet to a point on the southerly line of said Farnbach Pfeffer and on the northerly line of Michael Ray Schwallie;

Thence with a line through the land of said Schwallie for the next two (2) courses:

South 0 degrees 25 minutes 20 seconds West a distance of 227.62 feet;

South 35 degrees 47 minutes 10 seconds East a distance of 523.46 feet to a point on the southerly line of said Schwallie and on the northerly line of

the State of Ohio and *the true point of beginning,* said beginning point being on the easterly line of said real estate;

Thence from said *the true point of beginning* and with a line through the land of said State of Ohio seven (7) courses:

South 35 degrees 47 minutes 10 seconds East a distance of 29.17 feet;

South 6 degrees 22 minutes 58 seconds West a distance of 29.21 feet;

South 51 degrees 22 minutes 58 seconds West a distance of 583.46 feet;

On a curve to the left having a radius of 300.00 feet, an interior angle of 7 degrees 49 minutes 53 seconds, an arc length of 41.01 feet, a chord bearing of South 80 degrees 35 minutes 59 seconds West for a chord length of 40.97 feet;

North 51 degrees 22 minutes 58 seconds East a distance of 610.94 feet;

North 6 degrees 22 minutes 58 seconds East a distance of 13.22 feet;

North 35 degrees 47 minutes 10 seconds West a distance of 20.83 feet to a point on the southerly line of said Schwallie and on the northerly line of said State of Ohio;

Thence with the southerly line of said Schwallie and on the northerly line of said State of Ohio North 52 degrees 24 minutes 43 seconds East a distance of 20.01 feet to the place of beginning and CONTAINING 0.295 Acres.

This description was prepared by Christopher S. Renshaw, P.S., Ohio Registration No. 8319 on 16 October 2009.

IV

Starting at a spike found in the centerline of U.S. Route No. 52, 62 & 68, at the southeasterly corner of Surgical Appliance Industries, Inc.'s 2.00 Acre tract as recorded in Deed Book 164, page 778 in the Brown County, Ohio Recorder's Office;

Thence with the line of said Surgical Appliance Industries, Inc. South 52 degrees 38 minutes 52 seconds West a distance of 80.00 feet to a point on the on the southerly right-of-way line of said U.S. Route No. 52, 62 & 68;

Thence with the southerly right-of-way line of said U.S. Route No. 52, 62 & 68 South 36 degrees 23 minutes 01 seconds East a distance of 19.72 feet to *the true point of beginning*;

South 52 degrees 41 minutes 03 seconds West a distance of 260.37 feet;

South 49 degrees 59 minutes 41 seconds West a distance of 179.65 feet;

On a curve to the left having a radius of 200.00 feet, an interior angle of 43 degrees 45 minutes 50 seconds, an arc length of 152.76 feet, a chord bearing of South 28 degrees 06 minutes 46 seconds West for a chord length of 149.08 feet;

South 6 degrees 13 minutes 51 seconds West a distance of 204.40 feet;

On a curve to the left having a radius of 100.00 feet, an interior angle of 44 degrees 44 minutes 55 seconds, an arc length of 78.10 feet, a chord bearing of South 16 degrees 08 minutes 36 seconds East for a chord length of 76.13 feet;

South 38 degrees 31 minutes 04 seconds East a distance of 266.21 feet;

On a curve to the left having a radius of 50.00 feet, an interior angle of 53 degrees 35 minutes 34 seconds, an arc length of 46.77 feet, a chord bearing of South 65 degrees 18 minutes 51 seconds East for a chord length of 45.08 feet;

North 87 degrees 53 minutes 23 seconds East a distance of 6.15 feet;

On a curve to the right having a radius of 12.50 feet, an interior angle of 143 degrees 13 minutes 01 seconds, an arc length of 31.25 feet, a chord bearing of South 20 degrees 30 minutes 07 seconds East for a chord length of 23.72;

South 51 degrees 40 minutes 10 seconds West a distance of 345.58 feet;

On a curve to the left having a radius of 125.00 feet, an interior angle of 43 degrees 33 minutes 25 seconds, an arc length of 95.03 feet, a chord bearing of South 29 degrees 53 minutes 28 seconds West for a chord length of 92.75 feet;

South 8 degrees 06 minutes 45 seconds West a distance of 65.53 feet;

On a curve to the right have a radius of 63.00 feet, an interior angle of 91 degrees 48 minutes 38 seconds, an arc length of 100.95 feet, a chord bearing of South 54 degrees 01 minutes 04 seconds West for a chord length of 90.49 feet;

North 80 degrees 04 minutes 37 seconds West a distance of 579.25 feet;

On a curve to the right having a radius of 150.00 feet, an interior angle of 26 degrees 20 minutes 16 seconds, an arc length of 68.95 feet, a chord bearing of North 66 degrees 54 minutes 29 seconds West for a chord length of 68.35 feet;

North 53 degrees 44 minutes 21 seconds West a distance of 229.52 feet;

North 46 degrees 10 minutes 36 seconds West a distance of 25.00 feet;

North 52 degrees 49 minutes 16 seconds West a distance of 55.12 feet;

On a curve to the left having a radius of 205.00 feet, an interior angle of 75 degrees 47 minutes 45 seconds, an arc length of 271.19 feet, a chord bearing of South 89 degrees 16 minutes 52 seconds West for a chord length of 251.85 feet;

South 51 degrees 22 minutes 58 seconds West a distance of 139.29 feet;

On a curve to the left having a radius of 55.00 feet, an interior angle of 105 degrees 02 minutes 01 seconds, an arc length of 100.83 feet, a chord

bearing of South 01 degrees 08 minutes 03 seconds East for a chord length of 87.29 feet;

South 53 degrees 39 minutes 03 seconds East a distance of 447.62 feet;

North 53 degrees 39 minutes 03 seconds West a distance of 447.62 feet;

On a curve to the right having a radius of 55.00 feet, an interior angle of 105 degrees 02 minutes 01 seconds, an arc length of 100.83 feet, a chord bearing of North 01 degrees 08 minutes 03 seconds West for a chord length of 87.29 feet;

North 51 degrees 22 minutes 58 seconds East a distance of 139.29 feet;

On a curve to the right having a radius of 205.00 feet, an interior angle of 75 degrees 47 minutes 45 seconds, an arc length of 271.19 feet, a chord bearing of North 89 degrees 16 minutes 52 seconds East for a chord length of 251.85 feet;

South 52 degrees 49 minutes 16 seconds East a distance of 55.12 feet;

South 46 degrees 10 minutes 36 seconds East a distance of 25.00 feet;

South 53 degrees 44 minutes 21 seconds East a distance of 229.52 feet;

On a curve to the left having a radius of 150.00 feet, an interior angle of 26 degrees 20 minutes 16 seconds, an arc length of 68.95 feet, a chord bearing of South 66 degrees 54 minutes 29 seconds East for a chord length of 68.35 feet;

South 80 degrees 04 minutes 37 seconds East a distance of 579.25 feet;

On a curve to the left having a radius of 63.00 feet, an interior angle of 91 degrees 48 minutes 38 seconds, an arc length of 100.95 feet, a chord bearing of North 54 degrees 01 minutes 04 seconds East for a chord length of 90.49 feet;

North 8 degrees 06 minutes 45 seconds East a distance of 65.53 feet;

On a curve to the right having a radius of 125.00 feet, an interior angle of 43 degrees 33 minutes 25 seconds, an arc length of 95.03 feet, a chord bearing of North 29 degrees 53 minutes 28 seconds East for a chord length of 92.75 feet;

North 51 degrees 40 minutes 10 seconds East a distance of 345.58 feet;

North 51 degrees 06 minutes 24 seconds East a distance of 242.53 feet;

On a curve to the left having a radius of 75.00 feet, an interior angle of 89 degrees 40 minutes 16 seconds, an arc length of 117.38 feet, a chord bearing of North 06 degrees 16 minutes 16 seconds East for a chord length of 105.76 feet;

North 38 degrees 33 minutes 52 seconds West a distance of 100.75 feet;

North 53 degrees 36 minutes 14 seconds East a distance of 396.32 feet.

This description was prepared by Christopher S. Renshaw, P.S., Ohio Registration No. 8319 on 16 October 2009.

(B) Consideration for conveyance of the real estate is the mutual benefit accruing to the state and the Ripley Union Lewis Huntington School District from the use of the real estate so that a water well may be constructed and operated.

(C) The Ripley Union Lewis Huntington School District shall use the real estate to construct and operate a water well. If the Ripley Union Lewis Huntington School District ceases to use the real estate to construct and operate a water well, all right, title, and interest in the real estate immediately reverts to the state without the need for any further action by the state.

(D) The Ripley Union Lewis Huntington School District shall pay the costs of the conveyance.

(E) Within thirty days after the effective date of this section, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and the condition. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the office of the Auditor of State for recording, and delivered to the Ripley Union Lewis Huntington School District. The Ripley Union Lewis Huntington School District shall present the deed for recording in the office of the Brown County Recorder.

(F) This section expires one year after its effective date.

SECTION 753.23. (A) The Governor is authorized to execute a deed in the name of the state (Kent State University) conveying to the Board of Township Trustees of Jackson Township in Stark County and its successors and assigns all of the state's right, title, and interest in the following described real estate:

Known as and being a part of the Southeast and Southwest Quarters of Section 13, Township 11 (Jackson) R-9, County of Stark, State of Ohio. Also being a part of tracts of land conveyed to the state of Ohio as recorded in Deed Volume 3109, Page 573 of the records of Stark County and being more fully bounded and described as follows:

Commencing at a hex head iron bar in a monument box (JAC 080), being the southeast corner of said Southwest Quarter of Section 13 and also being an angle point on the centerline of Dressler Road (C.R. 224) (Variable Width) as recorded in file 106 of the Stark County Engineers Office;

Thence, along the centerline of Dressler Road, N 1803'31" E a distance of 223.09 feet to the True Place of beginning for the parcel herein described;

1. Thence N 56°56'23" W a distance of 241.46 feet to a 5/8" rebar set,

said line passes over a 5/8" rebar set at 41.41 feet;

2. Thence N 01°44'30" W a distance of 230.40 feet to a 5/8" rebar set;

3. Thence N 67°27'21" E a distance of 150.00 feet to a 5/8" rebar set;

4. Thence S 63°25'06" E a distance of 199.60 feet to a point in the centerline of Dressler Road, said line passes over a 5/8" rebar set at 159.15 feet;

5. Thence, along the centerline of Dressler Road, S 18°03'31" W a distance of 347.32 feet to the true place of beginning and containing 2.025 acres of land, more or less of which 0.970 acres are located in the Southeast Quarter of Section 13 and 1.055 acres are located in the Southwest Quarter of Section 13.

The above described area is contained within the Stark County Auditor's Permanent Parcel Numbers 1680061 and 1680066.

The basis of bearings in this description is based on the Ohio North Zone, State Plane Coordinates NAD 83 (86).

The statement of "5/8" rebar Set" refers to a 5/8" x 30" Dia. Rebar set with a plastic i.d. cap stamped "SCE".

This description was prepared and reviewed by Daniel J. Houck, Professional Surveyor No. 7851 in March of 2010, of the Stark County Engineer's Office. This description is based on a survey made by the Stark County Engineer's Office in March of 2010, under the direction and supervision of Keith A. Bennett, Professional Surveyor No. 7615. (Attachment A)

(B) Consideration for conveyance of the real estate is the mutual benefit accruing to the state from Jackson Township's use of the real estate for a fire station.

(C) If the use of the real estate as a fire station is discontinued, the real estate reverts to Kent State University, and Jackson Township shall raze the building currently on the real estate and remove from the real estate any contaminants relating to the building's use as a fire station.

(D) The Board of Township Trustees of Jackson Township in Stark County shall pay the costs of the conveyance.

(E) The Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and the reverter. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the Board of Township Trustees of Jackson Township in Stark County. The Board of Township Trustees of Jackson Township in Stark County shall present the deed for recording in the Office of the Stark

County Recorder.

(F) This section expires one year after its effective date.

SECTION 753.25. (A) The Governor is authorized to execute a deed in the name of the state conveying to the Board of County Hospital Trustees of The MetroHealth System ("MetroHealth"), in the name of the County of Cuyahoga, State of Ohio, its successors and assigns, all of the state's right, title, and interest in the following listed parcels of real estate located in the County of Cuyahoga, State of Ohio: 00821- 008, 00821-009, 00821-010, 00821-011, 00821-012, 00821-013, 00821-014, 00821-015, 00821-016, and 00821-017.

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the real estate in conformity with the actual bounds of the real estate.

(B) Consideration for conveyance of the real estate shall be ten dollars.

(C) The state shall convey the real estate described in division (A) of this section together with the building situated upon it, along with the amount of $3,400,000 to demolish the building. Notwithstanding any provision of law to the contrary, the Director of Mental Health shall disburse $3,400,000 from appropriation item C58010, Campus Consolidation, as set forth in Sub. H.B. 462 of the 128th General Assembly, to the grantee within thirty days after the conveyance of the real estate. After the disbursement, the state shall, within four months, complete a physical inventory of assets, relocate assets that are to be removed from the building, and itemize assets that are to remain with the transferred real estate and building.

(D) The real estate described in division (A) of this section shall be sold as an entire tract and not in parcels.

(E) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including costs of any surveys and recordation costs of the deed.

(F) The grantee shall not, during any period that any bonds issued by the state to finance or refinance all or a portion of the real estate described in division (A) of this section are outstanding, use any portion of the real estate for a private business use without the prior written consent of the state. As used in this division:

(1) "Private business use" means use, directly or indirectly, in a trade or business carried on by any private person other than use as a member of, and on the same basis as, the general public. Any activity carried on by a private person who is not a natural person shall be presumed to be a trade or business.

(2) "Private person" means any natural person or any artificial person, including a corporation, partnership, limited liability company, trust, or other entity and including the United States or any agency or instrumentality of the United States, but excluding any state, territory, or possession of the United States, the District of Columbia, or any political subdivision thereof that is referred to as a "state or local governmental unit" in Treasury Regulation 1.103-1(a) and any person that is acting solely and directly as an officer or employee of or on behalf of such a governmental unit.

(G) The grantee shall not sell, convey, or transfer ownership of the real estate described in division (A) of this section before December 1, 2019, or before receiving written confirmation from the state that all of the state's bonded capital indebtedness associated with any of the buildings located on the real estate has been fully satisfied.

(H) The Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and the conditions and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Cuyahoga County Recorder.

(I) This section expires one year after its effective date.

SECTION 753.27. (A) The Governor is authorized to execute a deed in the name of the state, on behalf of Cleveland State University, conveying to a purchaser as yet to be determined (hereinafter the "grantee"), its heirs and assigns or its successors and assigns, all of the state's right, title, and interest in the real estate located at 21425 Shelburne Road, City of Shaker Heights, County of Cuyahoga, State of Ohio, such real estate consisting of the building formerly used as the residence for the President of Cleveland State University, and the land on which it is situated.

(B) In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the real estate in conformity with the actual bounds of the real estate.

(C) Consideration for conveyance of the real estate shall be as is agreed upon by Cleveland State University and the grantee.

(D) The deed may contain any condition or restriction that the Governor or Cleveland State University determines is reasonably necessary to protect the state's interests.

(E) The grantee shall pay all costs associated with the conveyance, including recordation costs of the deed.

(F) Upon payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and any conditions or restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Cuyahoga County Recorder.

(G) This section expires one year after its effective date.

SECTION 753.30. (A) The Governor is authorized to execute a deed in the name of the state conveying to a buyer or buyers to be determined in the manner provided in division (B) of this section all of the state's right, title, and interest in the real property of any facility under the management and control of the Department of Youth Services following the closure of that facility that the Director of Administrative Services determines is no longer required for state purposes. This section applies only to facilities that are closed before January 1, 2012.

(B)(1) The Director of Administrative Services shall offer the real estate, improvements and chattels of a facility sold pursuant to division (A) of this section for sale "as is" in its present condition according to the following process:

The real estate of the facility shall be sold as an entire parcel and not subdivided.

The Director of Administrative Services shall conduct a sealed bid sale and the real property of the facility shall be sold to the highest bidder at a price acceptable to both the Director of Administrative Services and the Director of Youth Services.

(2) The contract for sale of a facility pursuant to this section shall include a condition that requires the purchaser to provide preferential hiring treatment to employees or former employees of the Department of Youth Services in order to retain or rehire staff displaced as a result of the closure of the facility located on the property, to the extent the purchaser's use of the facility requires employees in the same or similar positions as those displaced as a result of the closure.

The contract for sale also shall include a binding commitment that irrevocably grants to the state a right, upon the occurrence of any triggering event described in division (B)(2)(a) or (b) of this section and in accordance with the particular division, to repurchase the facility and the real property on which it is situated, any surrounding land that is to be transferred under

the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract. The triggering events and the procedures for a repurchase under the irrevocable grant described in this division are as follows:

(a) Before the purchaser, or the purchaser's successor in title, may resell or otherwise transfer the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract, the purchaser or successor first must offer the state the opportunity to repurchase the facility, real property, and surrounding land that is to be resold or transferred for a price not greater than the purchase price paid to the state for that facility, real property, or surrounding land, less depreciation from the time of the conveyance of that facility, real property, or surrounding land to the purchaser, plus the depreciated value of any capital improvements to that facility, real property, or surrounding land that were made to it and funded by anyone other than the state subsequent to the conveyance to the purchaser. The repurchase opportunity described in this division must be offered to the state at least one hundred twenty days before the purchaser intends to resell or otherwise transfer the facility, real property, or surrounding land that is to be resold or transferred. After being offered the repurchase opportunity, the state has the right to repurchase the facility, real property, and surrounding land that is to be resold or otherwise transferred for the price described in this division.

(b) Upon the purchaser's default of any financial agreement for the purchase of the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract, upon the purchaser's default of any other term in the contract, or upon the purchaser's financial insolvency or inability to meet its contractual obligations, the state has the right to repurchase the facility and real property, the surrounding land, or both the facility and real property and the surrounding land, for a price not greater than the purchase price paid to the state for that facility, real property, or surrounding land, less depreciation from the time of the conveyance of that facility, real property, or surrounding land to the purchaser, plus the depreciated value of any capital improvements to that facility, real property, or surrounding land that were made to it and funded by anyone other than the state subsequent to the conveyance to the purchaser.

(3) The Director of Administrative Services shall advertise the sealed bid sale in a newspaper of general circulation within Scioto County once a

week for three consecutive weeks prior to the date of the sealed bid sale. The Director of Administrative Services may reject any and all bids from the sealed bid sale. The terms of sale shall be ten per cent of the purchase price in cash, bank draft, or certified check payable within five business days following written notification of the acceptance of the bid by the Director of Administrative Services, with the balance payable within sixty days after the date of the written notification of the acceptance of the bid by the Director of Administrative Services. A purchaser who does not complete the conditions of the sale as prescribed in this division shall forfeit the ten per cent of the purchase price paid to the state as liquidated damages. Should a purchaser not complete the conditions of sale as described in this division, the Director of Administrative Services is authorized to accept the next highest bid by collecting ten per cent of the revised purchase price from that bidder and to proceed to close the sale, provided that the secondary bid meets all other criteria provided for in this section. If the Director of Administrative Services rejects all bids from the sealed bid sale, the Director may repeat the sealed bid process described in this section or may use an alternate sale process acceptable to the Director of Youth Services.

Advertising costs and any other costs incident to the sale of a facility pursuant to this section shall be paid by the Department of Youth Services.

Upon notice from the Director of Administrative Services, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the facility to the purchaser identified by the Director of Administrative Services. The deed shall be executed by the Governor, countersigned by the Secretary of State, presented in the Office of the Auditor of State for recording, and delivered to the grantee at closing and upon the grantee's payment of the balance of the purchase price. The grantee shall present the deed for recording in the office of the recorder of the county in which the facility is located.

The grantee shall pay all costs associated with the purchase and conveyance of the facility, including the costs of recording the deed.

The net proceeds of the conveyance of the facility shall be deposited into the State Treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund and shall be used to offset bond indebtedness on state bonds issued for the facility that has been sold. The Director of Budget and Management may direct that any moneys remaining in the fund after the redemption or defeasance of the bonds issued for that facility be transferred to the General Revenue Fund.

(C) This section expires two years after its effective date.

SECTION 755.10. The Director of Transportation may enter into agreements as provided in this section with the United States or any department or agency of the United States, including, but not limited to, the United States Army Corps of Engineers, the United States Forest Service, the United States Environmental Protection Agency, and the United States Fish and Wildlife Service. An agreement entered into pursuant to this section shall be solely for the purpose of dedicating staff to the expeditious and timely review of environmentally related documents submitted by the Director of Transportation, as necessary for the approval of federal permits. The agreements may include provisions for advance payment by the Director of Transportation for labor and all other identifiable costs of the United States or any department or agency of the United States providing the services, as may be estimated by the United States, or the department or agency of the United States. The Director shall submit a request to the Controlling Board indicating the amount of the agreement, the services to be performed by the United States or the department or agency of the United States, and the circumstances giving rise to the agreement.

SECTION 755.20. (A) Until December 31, 2011, a transportation improvement district and any one or more governmental agencies may enter into an agreement providing for the joint financing, construction, acquisition, or improvement of any project. Any such agreement shall be approved by resolution or ordinance passed by the legislative authority of each of the parties to the agreement. The resolution or ordinance shall authorize the execution of the agreement by a designated official or officials of such party, and the agreement, when so approved and executed, shall be in full force and effect.

(B)(1) Subject to division (B)(2) of this section, any municipal corporation, county, or township that is a party to such an agreement may issue securities pursuant to Chapter 133. or other applicable provisions of the Revised Code to provide for the payment of its portion of the cost of the project and, notwithstanding any other provision of the Revised Code, a district may purchase directly from the municipal corporation, county, or township those securities as an investment or to provide for the payment of bond service charges on bonds issued by a district.

(2) For any project undertaken pursuant to an agreement entered into under this section for which a district purchases securities under division (A)(1) of this section, more than half of the property necessary for the

project shall be located within the territory of the district.

(C) Any term used in this section has the same meaning as in Chapter 5540. of the Revised Code unless the context clearly requires another meaning.

SECTION 755.30. The Ohio Public Transit Association, in consultation with the Ohio Municipal League, the County Commissioners Association of Ohio, and the Ohio Township Association, shall study regional transit authority expansion outside territorial boundaries and, not later than December 31, 2011, shall provide the General Assembly and the Governor a report that includes all of the following:

(A) A list of best practices on proper notification to political subdivisions outside the regional transit authority's territorial boundaries;

(B) A list of best practices on engaging community leaders to discuss common agreement and differences of opinion on service extensions outside territorial boundaries;

(C) A list of best practices on resolving areas of disagreement and dispute on extension of service outside territorial boundaries by a regional transit authority.

SECTION 757.10. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS

(A) On or before the tenth day of each month of the period beginning August 1, 2011, and ending June 30, 2013, the Tax Commissioner shall determine and certify to the Director of Budget and Management the amount to be credited during that month to the Local Government Fund and Public Library Fund pursuant to divisions (B) to (D) of this section.

(B) Notwithstanding any provision of section 131.51 of the Revised Code to the contrary, for each month in the period beginning August 1, 2011, and ending June 30, 2013:

(1) The amount credited first to the Local Government Fund shall be as provided in division (C) of this section;

(2) The amount credited next to the Public Library Fund shall be according to the schedule in division (D) of this section.

(C) Pursuant to division (B)(1) of this section, amounts shall be credited from revenue arising from the personal income tax levied under Chapter 5747. of the Revised Code to the Local Government Fund as follows:

(1)(a) In August 2011, seventy-five per cent of the amount credited in August 2010; in August 2012, fifty per cent of the amount credited in

August 2010;

(b) In September 2011, seventy-five per cent of the amount credited in September 2010; in September 2012, fifty per cent of the amount credited in September 2010;

(c) In October 2011, seventy-five per cent of the amount credited in October 2010; in October 2012, fifty per cent of the amount credited in October 2010;

(d) In November 2011, seventy-five per cent of the amount credited in November 2010; in November 2012, fifty per cent of the amount credited in November 2010;

(e) In December 2011, seventy-five per cent of the amount credited in December 2010; in December 2012, fifty per cent of the amount credited in December 2010;

(f) In January 2012, seventy-five per cent of the amount credited in January 2011; in January 2013, fifty per cent of the amount credited in January 2011;

(g) In February 2012, seventy-five per cent of the amount credited in February 2011; in February 2013, fifty per cent of the amount credited in February 2011;

(h) In March 2012, seventy-five per cent of the amount credited in March 2011; in March 2013, fifty per cent of the amount credited in March 2011;

(i) In April 2012, seventy-five per cent of the amount credited in April 2011; in April 2013, fifty per cent of the amount credited in April 2011;

(j) In May 2012, seventy-five per cent of the amount credited in May 2011; in May 2013, fifty per cent of the amount credited in May 2011;

(k) In June 2012, seventy-five per cent of the amount credited in June 2011; in June 2013, fifty per cent of the amount credited in June 2011;

(l) In July 2012, fifty per cent of the amount credited in July 2010.

(2) For each month in the period beginning August 1, 2011, and ending June 30, 2013, an amount sufficient to make the distributions required for that month under divisions (E)(2)(a), (b), and (c) of this section.

(3) For each month in the period beginning August 1, 2011, and ending June 30, 2012, an amount equal to one-eleventh of forty-nine million two hundred seventy thousand dollars.

(D) Pursuant to division (B)(2) of this section, amounts shall be credited from revenue arising from the kilowatt-hour tax and sales tax levied under section 5727.81 or 5739.02 of the Revised Code, respectively, to the Public Library Fund as follows:

(1) In August 2011 and in August 2012, ninety-five per cent of the

amount credited in August 2010;

(2) In September 2011 and in September 2012, ninety-five per cent of the amount credited in September 2010;

(3) In October 2011 and in October 2012, ninety-five per cent of the amount credited in October 2010;

(4) In November 2011 and in November 2012, ninety-five per cent of the amount credited in November 2010;

(5) In December 2011 and in December 2012, ninety-five per cent of the amount credited in December 2010;

(6) In January 2012 and in January 2013, ninety-five per cent of the amount credited in January 2011;

(7) In February 2012 and in February 2013, ninety-five per cent of the amount credited in February 2011;

(8) In March 2012 and in March 2013, ninety-five per cent of the amount credited in March 2011;

(9) In April 2012 and in April 2013, ninety-five per cent of the amount credited in April 2011;

(10) In May 2012 and in May 2013, ninety-five per cent of the amount credited in May 2011;

(11) In June 2012 and in June 2013, ninety-five per cent of the amount credited in June 2011;

(12) In July 2012, ninety-five per cent of the amount credited in July 2010.

(E) Notwithstanding any other provision of the Revised Code to the contrary, the total amount credited to the Local Government Fund in each month shall be distributed by the tenth day of that month in the following manner:

(1) The total amount credited to the Local Government Fund in each month for the period beginning August 1, 2011, and ending June 30, 2013, pursuant to division (C)(1) of this section shall be distributed as follows:

(a) Each county undivided local government fund shall receive a distribution from the Local Government Fund based on its proportionate share of the total amount received from the fund in that respective month in fiscal year 2011. As used in this section, "total amount received" does not include payments received in fiscal year 2011 under division (C) of section 5725.24 of the Revised Code.

(b) Each municipal corporation that received a direct distribution in fiscal year 2011 from the Local Government Fund under division (C) of section 5747.50 of the Revised Code shall receive a distribution based on its proportionate share of the total amount of direct distributions made to

municipal corporations from the fund in that respective month in fiscal year 2011.

(2) The total amount credited to the Local Government Fund in each month for the period beginning August 1, 2011, and ending June 30, 2013, pursuant to division (C)(2) of this section shall be distributed as follows:

(a) If a county undivided local government fund's total distribution in fiscal year 2011 was equal to or less than seven hundred fifty thousand dollars, the fund shall receive a distribution equal to the difference between the amount distributed to the fund in that respective month in fiscal year 2011 and the amount allocated to the fund for the month under divisions (E)(1)(a) and (3) of this section during fiscal year 2012, and division (E)(1)(a) of this section during fiscal year 2013.

(b) For each month in the period beginning August 1, 2011, and ending June 30, 2012, if a county undivided local government fund's total distribution in fiscal year 2011 exceeded seven hundred fifty thousand dollars and if the sum of the amount allocated to the fund in July 2011 and the amounts to be allocated to the fund between August 1, 2011, and June 30, 2012, under divisions (E)(1)(a) and (3) of this section is less than seven hundred fifty thousand dollars, the fund shall receive a distribution equal to one-eleventh of the difference between seven hundred fifty thousand dollars and that sum.

(c) For each month in the period beginning July 1, 2012, and ending June 30, 2013, if a county undivided local government fund's total distribution in fiscal year 2011 exceeded seven hundred fifty thousand dollars and if the total amount to be allocated to the fund in fiscal year 2013 under division (E)(1)(a) of this section is less than seven hundred fifty thousand dollars, the fund shall receive a distribution equal to one-twelfth of the difference between seven hundred fifty thousand dollars and the total amount to be allocated to the fund in fiscal year 2013 under division (E)(1)(a) of this section.

(3) The total amount credited to the Local Government Fund in each month for the period beginning August 1, 2011, and ending June 30, 2012, pursuant to division (C)(3) of this section shall be distributed to each county undivided local government fund based on each fund's proportionate share of the total amount received from the Local Government Fund in that respective month in fiscal year 2011. As used in this section, "total amount received" does not include payments received in fiscal year 2011 under division (C) of section 5725.24 of the Revised Code.

(F) Notwithstanding any other provision of the Revised Code to the contrary, by the tenth day of each month of the period beginning July 1,

2011, and ending December 31, 2011, each county undivided public library fund shall receive a distribution from the Public Library Fund equal to the product derived by multiplying the following amounts:

(1) The total amount credited to the Public Library Fund in that month;

(2) A percentage calculated by multiplying one hundred by the quotient obtained by dividing the sum of the county's distributions from the Public Library Fund during calendar year 2010 by the sum of distributions made to all counties from the Public Library Fund during calendar year 2010.

(G) Notwithstanding any other provision of the Revised Code to the contrary, by the tenth day of each month of the period beginning January 1, 2012, and ending June 30, 2013, each county undivided public library fund shall receive a distribution from the Public Library Fund equal to the product derived by multiplying the following amounts:

(1) The total amount credited to the Public Library Fund in that month;

(2) A percentage calculated by multiplying one hundred by the quotient obtained by dividing the sum of the county's distributions from the Public Library Fund during calendar year 2011 by the sum of distributions made to all counties from the Public Library Fund during calendar year 2011.

(H) For the 2012 and 2013 distribution years, the Tax Commissioner is not required to issue the certifications otherwise required by sections 5747.47, 5747.501, and 5747.51 of the Revised Code, but shall provide to each county auditor by July 20, 2011, and July 20, 2012, an estimate of the amounts to be received by the county in the ensuing year from the Public Library Fund and the Local Government Fund pursuant to this section and any other section of the Revised Code. The Tax Commissioner may report to each county auditor additional revised estimates of the 2011, 2012, or 2013 distributions at any time during fiscal years 2012 and 2013.

SECTION 757.20. A school district, joint vocational school district, or local taxing unit may appeal a levy classification or any amount used in the calculation of total resources as defined under division (A) of section 5727.84 or division (A) of section 5751.20 of the Revised Code. Such an appeal shall be filed in writing, including via electronic mail, with the Tax Commissioner. Upon receiving such an appeal, the Tax Commissioner shall make a determination of the merits of the appeal and, if the appeal is upheld, make necessary changes within the classifications or calculations. The determination of the Tax Commissioner is final and not subject to appeal. After June 30, 2013, no changes shall be made in the classifications or calculations.

SECTION 757.30. The Tax Commissioner shall conduct a review of the operations of the Board of Tax Appeals, and, not later than November 15, 2011, shall submit a written report to the Governor, Speaker of the House of Representatives, and President of the Senate providing an assessment of the Board's operations and recommendations for improvement. The Tax Commissioner's review shall include consultation with persons who have participated in or have had matters before the Board and are familiar with the Board's operations and procedures. The report shall include recommendations for improving the appeals process, internal operations, and other operational matters the Commissioner deems advisable. The Commissioner may designate an employee of the Department of Taxation to conduct the review.

SECTION 757.40. (A) As used in this section:

(1) "Qualifying delinquent taxes" means any tax levied under Chapters 5731., 5733., 5735., 5739., 5743., 5747., 5748., and 5751. of the Revised Code, including the taxes levied under sections 5707.03, 5727.24, 5733.41, and 5747.41 of the Revised Code, taxes required to be withheld under Chapters 5747. and 5748. of the Revised Code, and taxes required to be paid by a seller levied under Chapter 5741. of the Revised Code, which were due and payable from any person as of May 1, 2011, were unreported or underreported, and remain unpaid.

(2) "Qualifying delinquent taxes" does not include any tax for which a notice of assessment or audit has been issued, for which a bill has been issued, which relates to a tax period that ends after the effective date of this section, or for which an audit has been conducted or is currently being conducted.

(3) "Seller" has the same meaning as defined in section 5741.01 of the Revised Code.

(B) The Tax Commissioner shall establish and administer a tax amnesty program with respect to qualifying delinquent taxes. The program shall commence on May 1, 2012, and shall conclude on June 15, 2012. The Tax Commissioner shall issue forms and instructions and take other actions necessary to implement the program. The Tax Commissioner shall publicize the program so as to maximize public awareness and participation in the program. The Commissioner may contract with such parties as the Commissioner deems necessary for promotion, computer support, or administration of the program.

(C) During the program, if a person pays the full amount of qualifying delinquent taxes owed by that person and one-half of any interest that has accrued as a result of the person failing to pay those taxes in a timely fashion, the Tax Commissioner shall waive or abate all applicable penalties and one-half of any interest that accrued on the qualifying delinquent taxes.

(D) The Tax Commissioner may require a person participating in the program to file returns or reports, including amended returns and reports, in connection with the person's payment of qualifying delinquent taxes.

(E) A person who participates in the program and pays in full any outstanding qualifying delinquent tax and the interest payable on such tax in accordance with this section shall not be subject to any criminal prosecution or any civil action with respect to that tax, and no assessment shall thereafter be issued against that person with respect to that tax.

(F) Taxes and interest collected under the program shall be credited to the General Revenue Fund, except that:

(1) Qualifying delinquent taxes levied under section 5739.021, 5739.023, or 5739.026 of the Revised Code shall be distributed to the appropriate counties and transit authorities in accordance with section 5739.21 of the Revised Code during the next distribution required under that section;

(2) Qualifying delinquent taxes levied under section 5741.021, 5741.022, or 5741.023 of the Revised Code shall be distributed to the appropriate counties and transit authorities in accordance with section 5741.03 of the Revised Code during the next distribution required under that section;

(3) Qualifying delinquent taxes levied under Chapter 5748. of the Revised Code shall be credited to the school district income tax fund and then paid to the appropriate school district with the next payment required under division (D) of section 5747.03 of the Revised Code;

(4) Qualifying delinquent taxes levied under Chapter 5731. of the Revised Code shall be divided between the General Revenue Fund and the municipal corporation or township in which the tax originates in accordance with section 5731.48 of the Revised Code;

(5) Qualifying delinquent taxes levied under Chapter 5735. of the Revised Code shall be distributed according to the requirements of sections 5735.23, 5735.26, 5735.27, 5735.291, and 5735.30 of the Revised Code; and

(6) Qualifying delinquent taxes levied under section 5743.021, 5743.024, 5743.026, 5743.321, 5743.323, or 5743.324 of the Revised Code shall be distributed as required under sections 5743.021, 5743.024, and

5743.026 of the Revised Code.

SECTION 757.41. Section 757.40 of this act is hereby repealed, effective June 16, 2012. The repeal of Section 757.40 of this act does not affect, after the effective date of the repeal, the rights, remedies, or actions authorized under that section.

SECTION 757.42. (A) For the purposes of this section:

(1) "Use tax" means a tax levied under Chapter 5741. of the Revised Code.

(2) "Consumer" has the same meaning as defined in section 5741.01 of the Revised Code.

(3) "Audit" has the same meaning as defined in section 5703.50 of the Revised Code.

(B) The Tax Commissioner shall establish and administer a consumer use tax amnesty program independently from the amnesty program established in Section 757.40 of this act with respect to delinquent use taxes that are qualifying delinquent consumer taxes under that section. The program established under this section shall commence on October 1, 2011, and shall conclude on May 1, 2013. The Commissioner shall issue forms and instructions and take other actions necessary to implement the program and may adopt rules to administer the program. The Commissioner may contract with such parties as the Commissioner deems necessary for promotion, computer support, or administration of the program.

(C) If, during the program, a consumer pays the full amount of use tax for which the consumer has outstanding liability on or after January 1, 2009, that has accrued as a result of the consumer failing to pay those taxes in a timely fashion or a failure of the taxes to be remitted in a timely fashion, the Commissioner shall waive or abate all delinquent use tax owed by the consumer before January 1, 2009, and all applicable penalties and interest accrued before and after January 1, 2009. For any consumer that does not participate in the use tax amnesty program under this section, the Commissioner may audit and make an assessment against the consumer for all delinquent use tax due from that consumer on or after January 1, 2008, plus all applicable penalties and interest, as permitted by section 5703.58 of the Revised Code.

(D) As soon as practical after the effective date of this section, the Tax Commissioner shall implement and adopt rules to administer a payment plan program. Upon application by a consumer that participates in the use tax

amnesty program under this section, the Commissioner may enter into a payment plan with the consumer allowing the participant to pay the amount of use tax owed by the consumer over a time period of up to seven years. If the consumer fails to remit the unpaid use tax or fails to comply with the terms of a payment plan, the consumer is liable for interest, computed at the rate per annum prescribed by section 5703.47 of the Revised Code, on the amount of use tax owed by the consumer and payable under the payment plan, and the Commissioner shall certify to the Attorney General any remaining unpaid amount, including the interest charge, in accordance with section 131.02 of the Revised Code.

(E) A consumer against which the Tax Commissioner has issued an assessment on or before the effective date of this section is not eligible to participate in the use tax amnesty program established under this section.

(F) The Tax Commissioner shall not waive any interest or penalties due on use tax paid as allowed under the amnesty program authorized by this section by a consumer that registered with the Commissioner for the use tax on or before June 1, 2011.

(G) A person who participates in the program and pays the required outstanding delinquent tax in accordance with this section shall not be subject to any criminal prosecution or any civil action with respect to that tax, and no assessment shall thereafter be issued against that person with respect to that tax.

(H) Taxes and interest collected under the program shall be credited to the General Revenue Fund, except that delinquent taxes levied under section 5741.021, 5741.022, or 5741.023 of the Revised Code shall be distributed to the appropriate counties and transit authorities in accordance with section 5741.03 of the Revised Code during the next distribution required under that section.

SECTION 757.50. All inheritance tax files that still remain open under temporary order, or otherwise, for which the "ultimate succession" pursuant to former sections 5731.28 and 5731.29 of the Revised Code as those sections existed before their repeal by S.B. 326 of the 107th General Assembly (effective July 1, 1968), relating to the inheritance tax, has not been finalized and have not been submitted to the Department of Taxation as explained below, shall be considered to be closed as of January 1, 2013.

Notwithstanding the former sections of the Revised Code constituting the Ohio Inheritance Tax as those sections existed before their repeal by that act, all claims and inquiries must be received by the Department of Taxation, or postmarked on or before, December 31, 2012.

SECTION 757.60. The amendment by this act of division (OO) of section 5739.01 of the Revised Code is to clarify the General Assembly's intent of that section when enacted.

SECTION 757.80. The amendment by this act of section 5709.07 of the Revised Code applies to tax years 2011 and thereafter.

SECTION 757.90. For the purposes of this section, "proceedings" and "securities" have the same meaning as in section 133.01 of the Revised Code.

The amendment or enactment by this act of sections 145.56, 319.301, 3305.08, 3307.41, 3309.66, 3316.041, 3316.06, 3316.08, 3317.08, 5505.22, 5705.214, 5705.29, 5748.01, 5748.05, 5748.081, and 5748.09 of the Revised Code apply to any proceedings commenced after the effective date of sections 145.56, 3305.08, 3307.41, 3309.66, 3316.08, 5505.22, 5705.214, 5705.29, 5748.01, 5748.05, 5748.081, and 5748.09 of the Revised Code and, so far as their provisions support the actions taken, also apply to any proceedings that on that effective date are pending, in progress, or completed, and to any elections authorized, conducted, or certified and securities authorized or issued pursuant to those proceedings, notwithstanding any law, resolution, ordinance, order, advertisement, notice, or other proceeding in effect before that effective date. Any proceedings pending or in progress on, or completed by, that effective date, elections authorized, conducted, or certified, and securities sold, issued, and delivered, or validated, pursuant to those proceedings, are ratified with respect to, and shall be deemed to have been taken, authorized, conducted, certified, sold, issued, delivered, or validated in conformity with section 5748.09 of the Revised Code and the amended sections so far as their provisions support the actions taken. To the extent those proceedings are proper in all other respects, if the proceedings are filed with a board of elections in anticipation of the taking effect of those amendments and enactments and in a manner that would be valid if the amendments and enactments took effect on the date they became law, then that board of elections, so long as it received a confirmation stating an intention to proceed from or on behalf of the board of education within five business days after the effective date of the amendments and enactments shall accept the proceedings and take any actions or make any arrangements necessary

for the submission of a question to the electors or otherwise required by the Revised Code.

The amendment or enactment by this act of sections 145.56, 319.301, 3305.08, 3307.41, 3309.66, 3316.041, 3316.06, 3316.08, 3317.08, 5505.22, 5705.214, 5705.29, 5748.01, 5748.05, 5748.081, and 5748.09 of the Revised Code provide additional or supplemental provisions for subject matter that may also be the subject of other laws, and are intended to be supplemental to, and not in derogation of, any similar authority provided by, derived from, or implied by the Ohio Constitution, or any other law, including laws amended by this act, or any charter, order, resolution, or ordinance; and those amendments and enactments shall not be interpreted to negate the authority provided by, derived from, or implied by such constitution, laws, charters, orders, resolutions, or ordinances.

SECTION 757.93. The amendment by this act of division (C) of section 5733.351 of the Revised Code is intended to clarify the law as it existed before the enactment of this act and shall be construed accordingly.

SECTION 757.95. Section 5709.084 of the Revised Code, as amended by this act, is remedial in nature and applies to the tax years at issue in any application for exemption from taxation or any appeal from such an application pending before the Tax Commissioner, the Board of Tax Appeals, any Court of Appeals, or the Supreme Court on the effective date of this act and to the property that is the subject of any such application or appeal.

SECTION 801.20. As used in the uncodified law of this act, "American Recovery and Reinvestment Act of 2009" means the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115.

SECTION 801.30. REVENUE GENERATED BY TRANSFER OF LIQUOR ENTERPRISE TO JOBSOHIO

The revenue estimates for fiscal year 2012 assume receipt of $500,000,000 in cash from JobsOhio pursuant to section 4313.02 of the Revised Code, as enacted by this act, and the transfer of the enterprise acquisition project authorized therein.

SECTION 803.40. Sections 121.40, 121.401 to 121.404, 1501.40, 3301.70, 3333.043, and 4503.93 of the Revised Code continue to operate the same as they did before their amendment by this act, except for the name of the Ohio Community Service Council being changed to the Ohio Commission on Service and Volunteerism.

SECTION 803.60. Section 3903.301 of the Revised Code shall apply only to formal delinquency proceedings that commence under sections 3903.01 to 3903.59 of the Revised Code on or after the effective date of this act.

SECTION 803.70. The amendment by this act to section 119.032 of the Revised Code does not accelerate the taking effect of the amendment to that section by S.B. 2 of the 129th General Assembly, which takes effect January 1, 2012.

SECTION 806.10. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

SECTION 809.10. An item of law, other than an amending, enacting, or repealing clause, that composes the whole or part of an uncodified section contained in this act has no effect after June 30, 2013, unless its context clearly indicates otherwise.

SECTION 812.10. Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section is subject to the referendum under Ohio Constitution, Article II, section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified below, on that date.

The amendment or repeal of sections 9.231, 9.24, 127.16, 1751.01, 1751.04, 1751.11, 1751.111, 1751.12, 1751.13, 1751.15, 1751.17, 1751.20, 1751.31, 1751.34, 1751.60, 2744.05, 3111.04, 3113.06, 3119.54, 3901.3814,

3923.281, 3963.01, 4731.65, 4731.71, 5101.5211, 5101.5212, 5101.5213, 5101.5214, 5101.5215, 5101.5216, 5101.571, 5101.58, 5111.0112, and 5111.941 of the Revised Code takes effect October 1, 2011.

The amendment, enactment, or repeal of sections 120.40, 123.10, 154.11, 154.24, 154.25, 4731.15, 4731.16, 4731.17, 4731.171, 4731.18, 4731.19, 4731.222, 5120.105, 5707.031, 5725.151, 5725.24, and 5751.011 of the Revised Code and Section 701.50 of this act takes effect January 1, 2012.

The amendment of sections 131.44 and 131.51 of the Revised Code takes effect June 1, 2013.

SECTION 812.20. The amendment, enactment, or repeal by this act of the sections listed below is exempt from the referendum under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code and therefore takes effect immediately when this act becomes law or, if a later effective date is specified below, on that date.

Sections 9.06, 9.833, 9.90, 9.901, 101.532, 101.82, 111.12, 111.16, 111.18, 111.181, 111.28, 111.29, 117.13, 121.37, 124.09, 124.23, 124.231, 124.25, 124.26, 124.27, 124.31, 125.15, 125.18, 125.213, 125.28, 125.89, 126.04, 126.12, 126.24, 127.14, 149.091, 149.11, 149.311, 187.02, 187.03, 189.01, 189.02, 189.03, 189.04, 189.05, 189.06, 189.07, 189.08, 189.09, 189.10, 305.171, 306.35, 319.301, 505.60, 505.601, 505.603, 901.09, 924.52, 927.69, 1309.528, 1327.46, 1327.50, 1327.501, 1327.51, 1327.511, 1327.54, 1327.57, 1327.62, 1327.99, 1329.04, 1329.42, 1332.24, 1501.031, 1515.14, 1545.071, 1551.311, 1551.32, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1701.07, 1702.59, 1703.031, 1703.07, 1776.83, 1785.06, 3301.07, 3301.16, 3301.162, 3301.82, 3302.031, 3302.05, 3302.07, 3306.01, 3306.011, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3306.11, 3306.12 (3317.0212), 3306.13, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.29, 3306.291, 3306.292, 3307.31, 3307.64, 3309.41, 3309.48, 3309.51, 3310.02, 3310.03, 3310.05, 3310.08, 3310.41, 3311.05, 3311.059, 3311.0510, 3311.06, 3311.19, 3311.21, 3311.29, 3311.52, 3311.76, 3313.411, 3313.55, 3313.64, 3313.6410, 3313.843, 3313.88, 3313.978, 3313.981, 3314.012, 3314.08, 3314.085, 3314.087, 3314.088, 3314.091, 3314.102, 3314.11, 3314.111, 3314.13, 3314.35, 3315.01, 3316.041, 3316.06, 3316.20, 3317.011, 3317.013, 3317.014, 3317.016, 3317.017, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.0216, 3317.03, 3317.031, 3317.04, 3317.05, 3317.051, 3317.053, 3317.061, 3317.07,

3317.08, 3317.081, 3317.082, 3317.09, 3317.11, 3317.12, 3317.16, 3317.17, 3317.18, 3317.19, 3317.20, 3317.201, 3318.011, 3318.051, 3318.36, 3318.37, 3318.371, 3319.19, 3319.39, 3319.57, 3319.62, 3323.091, 3323.14, 3323.142, 3323.31, 3324.05, 3326.33, 3326.39, 3327.02, 3327.04, 3327.05, 3329.16, 3345.14, 3345.81, 3349.242, 3353.15, 3365.01, 3365.08, 3506.05, 3701.0211, 3704.06, 3704.14, 3734.901, 3745.015, 3745.016, 3793.04, 3793.21, 4115.101, 4121.03, 4121.12, 4121.121, 4121.125, 4121.128, 4121.44, 4121.75, 4121.76, 4121.77, 4121.78, 4121.79, 4123.341, 4123.342, 4123.35, 4141.08, 4141.11, 4301.43, 4511.191, 4725.34, 4731.054, 4733.15, 4733.151, 5111.0122, 5111.0213, 5111.0215, 5111.83, 5111.945, 5112.99, 5112.991, 5120.092, 5123.0419, 5126.0511, 5126.11, 5126.18, 5126.24, 5703.05, 5705.211, 5715.26, 5727.84, 5727.85, 5727.86, 5747.46, 5747.51, 5751.20, 5751.21, 5751.22, 5751.23, 5919.34, 5919.341, and 6109.21.

The amendment, enactment, or repeal of sections 109.572, 173.21, 173.35 (5119.69), 173.351 (5119.691), 173.36 (5119.692), 340.03, 340.05, 340.08, 340.091, 340.11, 2317.02, 2317.422, 2903.33, 3306.12 (3317.0212), 3313.65, 3318.49, 3326.11, 3701.07, 3701.74, 3721.02, 3721.50, 3721.51, 3721.511, 3721.512, 3721.513, 3721.52, 3721.53, 3721.531, 3721.532, 3721.533, 3721.55, 3721.56, 3721.561 (3721.56), 3721.58, 3722.01 (5119.70), 3722.011 (5119.701), 3722.021 (5119.711), 3722.022 (5119.712), 3722.03 (5119.72), 3722.04 (5119.73), 3722.041 (5119.731), 3722.05 (5119.74), 3722.06 (5119.75), 3722.07 (5119.76), 3722.08 (5119.77), 3722.09 (5119.78), 3722.10 (5119.79), 3722.11 (5119.80), 3722.12 (5119.81), 3722.13 (5119.82), 3722.14 (5119.83), 3722.15 (5119.84), 3722.151 (5119.85), 3722.16 (5119.86), 3722.17 (5119.87), 3722.18 (5119.88), 3722.99, 3737.83, 3737.841, 3769.08, 3769.20, 3769.26, 3781.183, 3791.043, 5101.35, 5101.60, 5101.61, 5111.023, 5111.025, 5111.113, 5111.222, 5111.231, 5111.24, 5111.244, 5111.25, 5111.254, 5111.911, 5111.912, 5111.913, 5112.30, 5112.31, 5112.37, 5112.371, 5112.39, 5119.18, 5119.61, 5119.613 (5119.614), 5119.62, 5119.621, 5119.622, 5119.623, 5119.693, 5119.99, 5122.15, 5701.13, and 5731.39 of the Revised Code takes effect July 1, 2011.

The amendment of sections 5112.40, 5112.41, and 5112.46 of the Revised Code takes effect October 1, 2011.

The repeal of section 5111.243 of the Revised Code takes effect July 1, 2012.

Sections of this act prefixed with section numbers in the 200's, 300's, 400's, 500's, and 600's, except for Sections 309.30.40, 501.10, 503.95, 515.20, 690.10, and 690.11 of this act and except for the amendment of Section 105.45.70 of Sub. H.B. 462 of the 128th General Assembly.

Sections 701.20, 733.10, 749.10, 753.10, 757.10, 757.20, and 757.30 of this act.

Sections 801.20, 812.10, 812.20, and 812.30 of this act.

SECTION 812.30. The sections that are listed in the left-hand column of the following table combine amendments by this act that are and that are not exempt from the referendum under Ohio Constitution, Article II, sections 1c and 1d and section 1.471 of the Revised Code.

The middle column identifies the amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified, on that date.

The right-hand column identifies the amendments to the listed sections that are exempt from the referendum under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date.

Section of law	Amendments subject to referendum	Amendments exempt from referendum
102.02	All amendments except as described in the right-hand column	The amendment in division (A) striking through "the director appointed by the workers' compensation council;"
109.57	All amendments except as described in the right-hand column	The amendment to division (G) takes effect July 1, 2011
173.14	All amendments except as described in the right-hand column	The amendments to divisions (A)(1)(d) and (f) take effect July 1, 2011
173.26	All amendments except as described in the right-hand column	The amendment to division (A)(4) takes effect July 1, 2011
173.40	All amendments except as described in the right-hand column	The amendment inserting division (D)
173.42	All amendments except as described in the right-hand	The amendment to division (I)(3) takes

	column	effect July 1, 2011
187.01	The amendment to division (I)	All amendments except as described in the middle column
1551.33	The amendment in division (C) striking through "1551.13,"	All amendments except as described in the middle column
3313.29	The amendment striking "149.41" and inserting "149.381"	The amendment striking "(I)" and inserting "(E)"
3314.10	The amendments to division (B)(1)	The amendments to division (B)(2)
3314.19	All amendments except amendments to division (A)	Amendments to division (A)
3314.22	All amendments except as described in the right-hand column	The amendments to division (A)(3) and (4) striking references to the office of community schools and inserting references to the department of education
3317.01	The amendment striking division (C)	All amendments except as described in the middle column
3317.06	The amendments to divisions (A)(2), (K), and (L) and the addition of division (O)	All amendments except as described in the middle column
3318.032	The amendment inserting "subject to a new project scope and estimated costs under section 3318.054 of the Revised Code,"	1. The amendment striking "one-year" and inserting "thirteen-month" 2. The amendment striking "year" and inserting "period"
3318.05	The amendment inserting ", subject to section 3318.054 of the Revised Code"	The amendment striking "one year" and inserting "thirteen months"

3318.41	The amendments to divisions (D)(2) and (H)	The amendment to division (D)(1)(b)
3319.17	All amendments except as described in the right-hand column	Amendment to division (A)
3721.01	All amendments except as described in the right-hand column	The amendment to division (A)(1)(c)(iv) takes effect July 1, 2011
3734.57	All amendments except amendments to division (A)	Amendments to division (A)
3745.11	The amendment inserting division (S)(3) and amendments in division (S)(1) relating thereto	All amendments except as described in the middle column
4115.10	All amendments except as described in the right-hand column	The amendment in division (A) striking "penalty enforcement" and inserting "labor operating" and striking ", which is hereby created in the state treasury
5111.873	1. The amendment to division (A) that inserts "subject to division (D) of this section" 2. All of division (D)	All amendments except as described in the middle column
5119.22	All amendments except as described in the right-hand column	The amendments to division (A)(1)(a) and the paragraph following division (A)(1)(d)(iii) take effect July 1, 2011
5123.19 (In Section 101.01)	All amendments except as described in the right-hand column	The amendment to division (B) takes effect July 1, 2011
5126.05	The amendment to division (D)	The amendment to division (A)(4)
Section 515.40 of	All provisions except as described in the right-hand	Division (H) takes effect July 1, 2011

this act	column take effect January 1, 2012

SECTION 812.40. The amendments to section 5101.26 of the Revised Code are subject to the referendum under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, and therefore take effect on the ninety-first day after this act is filed with the Secretary of State. However:

In section 5101.26 of the Revised Code, the amendment striking "and 5101.5211 to 5101.5216" takes effect on October 1, 2011.

SECTION 815.20. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 9.06 of the Revised Code as amended by Am. Sub. H.B. 130 of the 127th General Assembly and Am. Sub. H.B. 1 of the 128th General Assembly.

Section 121.37 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 123.01 of the Revised Code as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 124.23 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 124.27 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 124.34 of the Revised Code as amended by Am. Sub. H.B. 1 and Am. Sub. H.B. 16 of the 128th General Assembly.

Section 127.16 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 505.49 of the Revised Code as amended by both Am. Sub. H.B. 490 and Am. H.B. 515 of the 124th General Assembly.

Section 1533.111 of the Revised Code as amended by Am. Sub. H.B. 66 and H.B. 296 of the 126th General Assembly.

Section 1901.02 of the Revised Code as amended by both Am. Sub. H.B. 238 and Sub. H.B. 338 of the 128th General Assembly.

Section 2903.33 of the Revised Code as amended by Am. Sub. H.B. 1

and Sub. S.B. 79 of the 128th General Assembly.

Section 3301.07 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3311.054 as amended by Am. Sub. H.B. 601 and Am. Sub. S.B. 230 of the 121st General Assembly.

Section 3313.65 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3317.02 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3317.024 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3317.03 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3317.20 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3323.091 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3323.142 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3721.01 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3722.01 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 4115.04 of the Revised Code as amended by Sub. H.B. 443 and Am. Sub. H.B. 699 of the 126th General Assembly.

Section 4517.01 of the Revised Code as amended by Am. H.B. 9 and Am. Sub. H.B. 114 of the 129th General Assembly.

Section 5111.211 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5112.30 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5112.37 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5123.0412 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5123.0413 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5123.0417 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5123.19 of the Revised Code as amended by Am. Sub. H.B. 1

and Sub. S.B. 79 of the 128th General Assembly.

Section 5126.05 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5126.054 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5126.0512 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5126.24 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5705.19 of the Revised Code as amended by Am. Sub. H.B. 48 and Sub. H.B. 313 of the 128th General Assembly.

Section 5723.05 of the Revised Code as amended by Am. Sub. H.B. 387 and Am. Sub. H.B. 576 of the 118th General Assembly.

Section 5739.02 of the Revised Code as amended by Am. Sub. S.B. 181 and Am. Sub. S.B. 232 of the 128th General Assembly.

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Speaker _____ of the House of Representatives.

_____

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

_____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

_____

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____